



Llywodraeth Cymru
Welsh Government

PUBLICATION

Agricultural Advisory Panel meeting: 25 January 2022

Minutes of the meeting held online.

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Present

Chair – Dr Nerys Llewelyn Jones

Independent - Steve Hughson

Unite – Brian Troake, Ivan Monckton

FUW – Darren Williams

NFU Cymru – Dylan Morgan

Panel Legal Adviser - Helen Snow

Welsh Government - Ryan Davies (Panel Manager), Sian Hughes

Secretariat – Dan Ricketts

Apologies

Janatha Stout (Independent), Will Prichard (NFU Cymru)

Guest speaker

Vicky Jones (Head of Agriculture, Sustainable Development Division in Welsh Government).

Item 1 – Introduction from Vicky Jones - Head of Agriculture, Sustainable Development Division in Welsh Government

The Chair welcomed everyone to the meeting and introduced Vicky Jones. The Panel introduced themselves and Vicky gave an overview of her background and her role. She stated she was keen to work with the Panel and, in particular seeing how the processes in place and collaborative working can be improved to smooth the Order process.

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The Panel raised the following concerns:

- The continued lack of data
- The amount of time it took to finalise Agricultural Wages Orders
- Awareness of the Order

It was agreed these need to be considered to increase awareness of the Agricultural Minimum Wage, the work of the Panel and the consequences of not complying with the Order.

Brian Troake asked who enforced the Agricultural Wages Order and advised he was aware some individuals had contacted the Welsh Government helpline to be informed no one was able to assist. Ryan Davies stated Welsh Government enforce the Order and explained the process. He advised Welsh Government would investigate concerns regarding the helpline.

A request was made for a quarterly update on reported / alleged breaches and action taken to be provided. This would also help the Panel decide if awareness of particular areas needed to be increased.

Dylan Morgan asked whether the upcoming Agriculture Bill would be introducing new powers around Agricultural Wages resulting in Welsh Government having a greater say in the workings of the Panel (as per the White Paper in 2021). Vicky Jones stated that, for various reasons, the Bill is likely to be more streamlined and will focus on the Sustainable Farming Scheme. However, she would ensure the Panel are informed and given opportunity to comment at the earliest opportunity should any powers be included.

The Panel thanked Vicky for attending and looked forward to working with her over the coming months. Vicky then left the meeting.

Item 2 - Housekeeping / Apologies / Conflict of

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Interest

Janatha Stout sent her apologies for the meeting.

Will Prichard was also unable to attend but Dylan Morgan attended as the NFU Cymru representative.

Item 3 – Chair’s update

This was covered in the subsequent agenda items.

Item 4 - Outstanding Actions / Approval of Minutes from AAP 31

Action Point 9 – it was suggested all farming charities be added – RABI, Tir Dewi etc along with the Samaritans. It was also suggested those companies who responded to the recent ADAS survey were also added

ACTION POINT 1 – Farming Charities to be added to the Consultation Distribution List along with any other suggestions from Panel members.

Action Point 10 – a press release has been sent to the Farming Press. Further action is required and a suggestion was made of an article being submitted on the work of the Panel and the Wages Order.

The Chair suggested publicising the confirmed rates once the Order is in force to make as many people aware as possible – maybe as a flyer.

Welsh Government also publishes an update quarterly which is sent in hard copy to every holding in Wales. An article on agricultural wages has been pencilled in for the next Spring update. However the copy date is before it will be known whether the Minister has accepted the latest Order. If it is not possible to put anything in the Spring Update then an article will go in the Summer Update.

ACTION POINT 2 – Sian Hughes to look at publishing an article on agricultural wages in Welsh Government's Spring Update (dependant on copy dates) and / or Summer Update.

ACTION POINT 3 – Ryan Davies to explore ways to promote the Panel and the work it is undertaking within the wider farming press.

The minutes were approved by the Panel.

Item 5 - Update on the Agricultural Wages Order 2021

The Panel were given an outline of the changes Welsh Government Legal Services have made to the wording of the Order – mainly formatting / drafting changes. If the Panel were content with the changes – subject to a decision by the Counsel General with regards to the request for retrospectivity - the next stage would be to recommend to the Minister the Order be made.

Due to the Order being made in 2022 (despite it relating to 2021) it will now be called the Agricultural Wages Order 2022.

The Panel approved the amended Agricultural Wages Order.

The Panel were very unhappy the decision had not been made yet by the Counsel General. It was explained the Counsel General had been aware a

request would be forthcoming but the formal request could not be made for retrospectivity until the Order was formally submitted to the Minister – this was submitted by the Panel on 21 December. The delays could well now result in employers being asked to backdate wage rises by 12 months. A request was made for modelling work to be undertaken to ascertain the amount of back pay and potential overtime payments for each grade of worker and also for some communications to be published as many farmers were unaware of the situation.

ACTION POINT 4 – Sian Hughes to distribute calculations of potential back pay to all Panel members

ACTION POINT 5 – Nerys Llewelyn Jones to write to the Counsel General to emphasise the urgency of the retrospective decision

It was stated there was now a huge communications problem to try and explain to the farming industry two Orders which will be relatively close together and the impact for businesses, including retrospectivity. Sian Hughes said the article in the Spring Update would briefly explain the situation around retrospectivity and signpost to more detailed guidance on the Panel’s webpages.

ACTION POINT 6 – Nerys Llewelyn Jones to draft a “Lines to Take” document to outline the current position. Will be circulated to Panel members for comment before use by the respective organisations

Brian Troake stated the best way to avoid any complications going forward was to avoid the need for retrospectivity. The delays this year have been caused by radical changes being made to the Order and if substantial changes are to be made in the future it needs to be done in a more timely manner.

Updated Guidance Document

Some concerns were raised by Unite around the job re-evaluation process –

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especially around the appeals process - and also around the “fire and re-hire” reference. Sian Hughes stated that if a worker feels their grade does not reflect their skills or experience they can complain to Welsh Government who would investigate and undertake enforcement procedures if underpayments have been made. The worker could also seek redress in an Employment Tribunal. It was agreed the document would be amended to clarify the guidance.

It was also noted the “On Call” guidance approved in earlier meetings was not included in the main guidance.

ACTION POINT 7 – Helen Snow to amend the guidance documents and circulate to all Panel members via email for approval.

Item 6 - Update on the Agricultural Wages Order 2022

The Panel were advised the correct naming convention for the next Order will be the Agricultural Wages Order 2022 (2).

The consultation relating to this order is live until 7 February.

ACTION POINT 8 – Consultation responses to be sent to Panel via email once consultation closes

Proposed Amendments Document for 2022

This was circulated to Panel members before the meeting and will be sent to Welsh Government outlining the Panel discussions and the reasoning for decisions.

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The Panel approved the Proposed Amendments Document.

Item 7 - Collection of data and how to boost awareness of the Order

The collection of relevant data has been an issue for a long time and everyone continued to be frustrated with the matter. It was acknowledged the best place to collect such information would be on the replacement for the Single Application Form and for it to be a requirement of businesses claiming subsidies. This will be as a suggestion.

- What data is needed / desirable?
- How do we collect that data?

ACTION POINT 9 – Unite / FUW / NFU Cymru to write in to the Panel stating what information is required for discussion at the next meeting

Raising the awareness of the Order and the Panel is a major piece of work and does necessitate the development of a Communications Plan.

ACTION POINT 10 – Nerys Llewelyn Jones to draft a Communications Plan and circulate to Panel members.

Item 8 - Agriculture, horticulture and animal care qualifications review

The Panel agreed that Qualifications Wales would be invited to talk to the Skills Development & Training sub-committee. Some individual organisations have

already held discussions with them.

ACTION POINT 11 – Nerys Llewelyn Jones to invite Qualifications Wales to talk to the Skills Development & Training sub-committee.

Item 9 - Terms of Reference for Skills Development and Training Sub-Committee

These will be discussed at the sub-committee meeting scheduled for 8 February 2022

Next meeting

The next meeting is scheduled for Tuesday 8 March.

The Chair thanked everyone and closed the meeting.

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