



Llywodraeth Cymru
Welsh Government

PUBLICATION

Agricultural Advisory Panel meeting: 26 July 2022

Minute of the meeting held in a hybrid format at
AberInnovation, Gogerddan Campus
Aberystwyth University and over Microsoft Teams.

First published: 26 July 2022

Last updated: 26 July 2022

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Present

AberInnovation

Chair – Dr Nerys Llewelyn Jones

Unite – Ivan Monckton

Welsh Government - Ryan Davies (Panel Manager), Sian Hughes
Secretariat – Dan Ricketts

Virtual

Independents – Steve Hughson, Janatha Stout

NFU Cymru – Dylan Morgan

FUW – Darren Williams

Unite – Brian Troake

Legal Adviser – Helen Snow (Geldards)

Item 1: Housekeeping/apologies/conflicts of Interest

Dylan Morgan announced he has been informed by Will Prichard that he will be standing down from his position as NFU representative with immediate effect – other commitments have resulted in him not having the time to fully commit to the Panel. Dylan was extremely grateful for the work Will has done over the last four years. NFU Cymru are in the process of finding a suitable replacement – Dylan will deputise for the interim period.

All Panel members gave their sincere thanks to Will

ACTION POINT 1 – Nerys Llewelyn Jones to write a letter of thanks to Will

Prichard on behalf of the Panel

Item 2: Chair's update

There was nothing to add from those items already on the agenda.

Item 3: Outstanding actions/approval of minutes from AAP 36

AP 3 – Share Rural Payment Wales policy on cross border farms in delivering BPS

Ryan Davies gave an update: The term 'cross border holding' no longer exists. The administration is based on the majority land occupation. If 55% of the holding is in Wales, it is classed as Wales. However, for livestock, this is dependent on where they are – if they are stocked in England, English regulations apply.

However, under the Agricultural Wages Order, the law states that whatever hours worked in Wales are paid under the Agricultural Minimum Wage and those in England are paid under the National Minimum Wage.

The Order covers more than the Agricultural Minimum Wage. HS suggested the Panel need to be clear on what it considers the policy to be so that can be articulated in the guidance as it would not be possible to solve this problem and cover every eventuality.

Ivan Monckton stated common sense should be applied in cases like these – however the Panel agreed that more guidance is required on this to accompany

the 2023 Order.

ACTION POINT 2 – Agreement on a policy to be sought by the Panel regarding cross-border holdings

ACTION POINT 3 – Panel’s policy on cross-border holdings to be articulated in the guidance for the 2023 Order

AP8 - Nerys Llewelyn Jones to contact consultancy companies in Wales to seek assistance on data collection for employment statistics

The Chair had spoken to a number of consultancy companies who collect their own datasets for their clients – approximately 100 businesses. Examples of data collected are employed, self-employed, on-farm labour and pay.

An action plan is being put together regarding the collection of data. Hopeful to have some of the data available for the September meeting.

A query was raised regarding Item 7 of the minutes and an amendment was made.

Item 4 – Real Living Wage Report

After a request from the Minister the Panel need to respond specifically to the two recommendations in the Fair Work Wales Report from March 2019 (presented to the Panel in AAP 16). Discussions had taken place during the last meeting.

Members of the Panel raised the following:

- The timing is difficult with future support to farmers changing and inflation is agriculture is currently a lot higher than the national figure

- Welsh Government will be undertaking Impact Assessments on the new schemes including the profitability of farming businesses
- The recommendation was to investigate the introduction of the RLW over a three-year period from the date of the report – that has now passed. Unite propose the RLW in their proposals each year but a feasibility study has not taken place.
- To undertake this work requires data and there is only a very limited amount of data. Work on an action plan is being undertaken to obtain more datasets. The Farm Income data is available (and some assumptions could be made) but there is no employment data
- The calculation of the RLW is based on the cost of living, inflation etc. Due to the current situation this could mean the RLW could increase more than the NLW – this will be more difficult to make up unless some progress is made
- Undertaking a feasibility study now may be a good time with the forthcoming changes
- Grades C to E are currently paid more than the Real Living Wage rate although the RLW rate is seen as the bare minimum (relating more to Grades A and B)
- The rationale for re-introducing the age bands was to promote apprenticeships within the industry

ACTION POINT 4 – Nerys Llewelyn Jones to draft the report on the Real Living Wage and distribute to panel members via email for comments before 18 August

Item 5 – Update on The Agricultural Wages Order 2022(2) (2022/2023)

The Order has been laid before the Senedd and will come into force on 6 August 2022 (backdated to 1 April 2022). The guidance will be available from 5 August online – hard copies will also be available.

The Chair expressed her thanks for pushing the Order through in a very short timescale.

Dylan Morgan asked if the article summarising the Orders and the wage rates to pay could be updated to include the 2022(2) Order

ACTION POINT 5 – Dan Ricketts to update the summary document regarding all the recent Orders and distribute to Panel members

ACTION POINT 6 – Sian Hughes to draft an article for the Welsh Government Autumn Update scheduled for November 2022

ACTION POINT 7 – Sian Hughes to contact Welsh Government Comms team regarding publicising the 2022(2) Order via social media and GWLAD

ACTION POINT 8 – Nerys Llewelyn Jones to investigate undertaking a webinar through Farming Connect on the 2022(2) Order

Item 6 – Data gathering

A paper had been distributed to the Panel outlining the data used by RSK ADAS when compiling the Impact Assessment of the Agricultural Wages Order.

The Chair had contacted a number of companies undertaking their own datasets and she was hopeful one of these would come and present to the Panel in the September meeting.

The survey at the Royal Welsh Show did not take place due to the amount of work involved – need to look more long term at the 2024 Order and beyond with regards to data collection and the time it takes to collect.

A meeting had taken place with Welsh Government economists and

statisticians. There may be a potential opportunity in the short-term to issue a survey using RPW Online – if so it would be available for the 2024 Order. There would also be an investigation into more long term opportunities.

An options paper would be drawn up including cost implications and would be presented to the Minister for her to decide on the route to take.

ACTION POINT 9 – Sian Hughes to draft a paper regarding options on data collection to be discussed at the next AAP meeting in September

Item 7 – Agricultural Wages Order 2023

The Chair stated that by the end of the two-day September meeting she would like the proposed Order to be confirmed and ready for public consultation.

Full proposals from both the employer and worker representatives were to be submitted by 19th August – this was agreed by all Panel members.

The Chair also requested these include the Amendments template and also if they could show the link made between the data used and the proposal put forward as these were the questions most often asked when the Order is submitted.

ACTION POINT 10 – NFU Cymru / FUW and Unite to submit full proposal documents including the Proposed Amendment template on the 2023 Order by 19 August

Papers had been submitted prior to the meeting regarding the proposed legal changes to the AWO for 2023 and a comparison document showing how the Order compares to other Employment Law within the UK.

The only change with regards to employment law is as a result of a Supreme

Court judgement regarding how holiday pay should be calculated for part year workers. This will result in a slight amendment to Article 37 of the Order. The other changes proposed are to further clarify certain provisions.

The issue of cross-border agricultural workers (as discussed earlier) is a policy decision to be made by the Panel. Once the decision has been made the proposed Order can be redrafted accordingly. HS asked for Panel members to propose any suggestions and then they will be compiled into an options paper.

ACTION POINT 11 – Panel members to propose potential options with regards to cross- border agricultural workers. Helen Snow to compile policy options for discussion at September meeting

ACTION POINT 12 – Sian Hughes to look at the rationale behind the current definition of agricultural worker and send to Helen for reference

The definition of agriculture is also being discussed as part of the Agriculture Bill. The Panel will be informed if it is possible to obtain any further information on this.

The proposed legal amendments as outlined in the paper were discussed by the Panel.

All were unanimously agreed by the Panel.

As stated previously Helen Snow would further amend Article 37 due to the recent Supreme Court decision.

Unite had also proposed amendments to the following Articles: 13, 15, 23, 32 and 36. These were discussed however NFU / FUW stated they had not had enough time to consider these options. However, they would forward a response via email by the end of the week.

ACTION POINT 13 – NFU / FUW to respond to Unite's proposed amendments

by Friday 29 July

Helen Snow would then consider redrafting / rewording of any articles of the Order accordingly.

Item 8 – Any other business

There was no other business to be discussed.

Next meeting

Monday 5 September and Tuesday 6 September at Hafod y Hendre, Royal Welsh Showground – tea and coffee at 10am

ACTION POINT 14 – Ryan Davies to send Panel members a list of possible accommodation options

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