



Llywodraeth Cymru
Welsh Government

PUBLICATION

Workforce Partnership Council agreement on the acceptable use of non- guaranteed hours arrangements

How employers and trade unions can work together to manage non-guaranteed hours.

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CYNGOR PARTNERIAETH Y GWEITHLU WORKFORCE PARTNERSHIP COUNCIL

Introduction

All organisations covered by the Workforce Partnership Council (WPC) operate within collective agreements and union recognition. One of the major benefits of this partnership approach is that all partners can recognise the legitimate concerns of each other and reach mutually beneficial outcomes. Just as the employer side recognises the need to ensure fairness and equality and best practice in employment, the union side recognises that effective delivery of public services may on occasion require the agreement of a form of non-guaranteed hours arrangement. This agreement will ensure that these arrangements are operated fairly, avoid the exploitative use of zero hours contracts seen in other sectors and advance the Welsh Government commitment to make Wales a Fair Work nation.

The term non-guaranteed hours arrangements is used within this document to describe the many different types of agreements that exist between employers and individuals for work that is casual and does not offer any guaranteed hours of work. A key feature of non-guaranteed hours arrangements is that the employer will offer work when it arises and the individual can either accept or refuse the work offered.

The appropriate use of non-guaranteed hours arrangements can provide much needed flexibility for both employers and individuals. They are typically used by employers as a means to support fluctuations in the demand for labour and address short term or unexpected needs, whilst individuals may choose to use

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the flexibility afforded by such arrangements to manage work around other commitments, such as study or caring responsibilities. Used appropriately non-guaranteed hours arrangements can, for example, offer vital additional resources to support demand pressures in our NHS, through the established 'bank staff' arrangement or enable local government to provide essential services in response to extreme weather.

To ensure their appropriate use, the Workforce Partnership Council, working in social partnership and on a tripartite basis, has reached this agreement, which clearly defines principles and implementation requirements for the use of non-guaranteed hours arrangements within our devolved public services in Wales.

The delivery of this WPC agreement this must be achieved by specific agreement with the recognised trades unions operating within the appropriate collective arrangements. For this reason, much of the detailed definition of terms is left to negotiation and agreement at the appropriate level, subject to delivery within the terms of this WPC agreement.

The status of the Workforce Partnership Council

The WPC is recognised by each of the 3 partners as the key forum for cross-public services workforce matters in Wales.

The WPC is a tripartite social partnership covering the devolved public services in Wales. It is an equal partnership between Welsh Government, employers and trade unions – respecting the sovereignty and decision-making structure of each partner.

The WPC has significant influence and legitimacy arising from the commitment of the 3 partners to working on an effective tripartite basis.

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Employers, trade unions and Welsh Government each have in place their own governance arrangements to ensure that WPC members have the necessary authority to take decisions and make commitments on behalf of those whom they represent.

The status of this agreement

The WPC seeks to reach agreement on matters which are cross-public service or relevant to the whole public service. Agreement in the context of social partnership means the agreement of all 3 parties.

‘The acceptable use of Non-Guaranteed Hours Arrangements in the Devolved Public Services in Wales’ is a formal agreement of the Workforce Partnership Council. This means each partner has agreed that it will be fully and universally implemented in all the sectors covered by the WPC.

It will be delivered through the established collective bargaining arrangements and does not substitute for them.

The scope of this agreement

This agreement includes those public bodies that constitute the devolved public services in Wales, this includes but is not limited to:

- Local authorities
- Schools
- Town and community councils
- Fire and rescue authorities
- National park authorities
- NHS, including trusts and local health boards

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- Arts Council of Wales
- Higher Education Funding Council for Wales
- Local Democracy and Boundary Commission for Wales
- National Library for Wales
- National Museum of Wales
- National Resources Wales
- Royal Commission on the Ancient and Historical Monuments of Wales
- Social Care Wales
- Sports Council for Wales

This agreement, as a formal Workforce Partnership Council Agreement, will only formally cover areas where there is trade union recognition and therefore, appropriate trade union recognition should be sought prior to its wider use by any associated but non-recognising employers.

Our way of working

The WPC vision is:

“ For Wales to have a public sector workforce which enjoys life enhancing work and terms of employment. A workforce which, through social partnership and trade union collective voice, is empowered to deliver improvements to the economic, social, environmental and cultural well-being of Wales. ”

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Principles guiding the use of Non-Guaranteed Hours Arrangements within the devolved public services in Wales

1. Where organisations need to introduce new non-guaranteed hours arrangements or consider changes to their current arrangements, they will engage at the earliest opportunity with their recognised trade unions

In accordance with the 'Welsh Way' of social partnership, organisations will include their recognised trade unions in the planning of and implementation of any changes to the mechanisms for flexing their workforces. Even where no changes are planned, organisations will regularly review the appropriateness of their non-guaranteed hours arrangements with their trade unions, particularly as part of their joint working on workforce planning.

2. Organisations will make clear which non-guaranteed hours arrangements they use and for what purposes

Where organisations use non-guaranteed hours arrangements, they will explain the purpose for their use and define the scope for when such arrangements will be used. It will not be appropriate for organisations to seek to deliver their core services solely through these types of arrangements. The organisations will have a clear understanding of the services that they are required to deliver and a predominantly predictable workforce requirement. Good workforce planning can ensure that the balance between the use of the permanent and the use of the casual workforce is appropriate and reviewed regularly.

3. Staff engaged through non-guaranteed hours arrangements will have access to appropriate induction, training and development support to enable them to undertake their roles effectively

Staff engaged in delivering public services require appropriate training and development to enable them to carry out their work effectively. This applies equally to staff engaged on non-guaranteed hours arrangements. Organisations will consider what induction and training arrangements are required for staff engaged on non-guaranteed hours arrangements. Appropriate induction and training will be provided as soon as the staff are engaged and reviewed and updated as and when required. Staff will be paid for undertaking any required induction and training relevant to the role being undertaken.

4. Organisations will ensure that they comply with employment law and collective bargaining agreements and provide their staff with the relevant rights, terms and benefits

Organisations have a duty to comply with legislation and collective bargaining agreements covering their staff. All staff engaged on non-guaranteed hours arrangements will have clear and accessible contracts which set out the terms for their engagement and what the relationship is between the organisation and its staff. Staff with a contract of employment (including non-guaranteed hours contracts) must be explicitly part of the collective bargaining arrangements. All staff will be informed of their right and encouraged to join the appropriate trade union.

5. Staff engaged through non-guaranteed hours

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arrangements will have terms and conditions of service as far as practicable the same as those of their permanent staff

Appropriate non-guaranteed hours arrangements will provide broadly similar terms and conditions of service to those afforded to permanent staff.

Exceptionally differences may be appropriate in respect of some issues, i.e. a payment to recognise statutory annual leave requirement where it is not expected that staff engaged on short-term work will be able to take leave during the period of work.

The implementation process

1. Statement on the use of non-guaranteed hours arrangements

An organisation will agree with their recognised trade unions a policy statement specifying the circumstances in which the organisation may utilise such arrangements and for what purpose. The statement and arrangements must be in line with the terms of this WPC agreement. The statement will make clear the procedure for reviewing those arrangements periodically.

2. Regular review of the appropriateness of the arrangements for organisations and staff

Organisations will build in regular reviews, both individually and collectively through the recognised trade unions on the appropriateness of the non-guaranteed hours arrangements in use in the organisation. This will include

consideration of the service requirements, the organisation's needs, the needs of staff and the impact on the workforce as whole.

When regular hours have been worked over the preceding 12 weeks and it is predicted that there is a continuing need for the hours to be worked on an ongoing basis, the individual will be automatically offered employment on a permanent or temporary contract to meet that predicted need.

Organisations will establish a process where staff engaged on a non-guaranteed hours contractual arrangement can request a review of their working arrangements with a view to changing their contractual arrangement if they have been undertaking regular hours for example, 4 hours per week over a continuous period of 12 weeks. Details of the arrangements for requesting a contract review will be included in the recruitment arrangements and terms and conditions of engagement.

3. Changes to contractual arrangements following review

When the review above leads to a change in the contractual relationship a revised contract setting out the new arrangements will need to be issued. This will set out in a clear accessible language the revised relationship between the organisation and the individual.

4. Recruitment of new staff on non-guaranteed hours arrangements

Organisations will ensure that appointments to non-guaranteed hours arrangements will be based on merit through fair and open recruitment processes.

5. Arranging and planning work

It is expected that organisations will provide as much notice as possible when asking staff on non-guaranteed hours arrangements to undertake work. This may however on occasions reasonably be the day when the staff member is needed to attend work for example to cover a sickness absence. Where work is arranged at short notice, organisations will commit to letting people know as soon as practicable that work is on offer.

In other cases, the arrangements for arranging forward work rotas will be clearly defined and shared with all staff. There will be clear criteria on issues such as allocating work fairly and consistently between staff, and these arrangements will be reviewed periodically by senior staff to ensure fairness and equality for all staff engaged through these processes.

Staff will not be under any obligation to accept work offered to them and organisations will give appropriate consideration to their other responsibilities such as studies, child care or other caring responsibilities. Staff who do not accept work for whatever reason will not suffer a detriment as regards being offered work in the future or any other detriment, subject to satisfactory performance.

6. Induction and ongoing training and development

Induction training will be provided to enable individuals to undertake their roles effectively. Where training and development opportunities are available for equivalent roles, organisations will provide similar opportunities to staff engaged on non-guaranteed hours arrangements if these are relevant to the roles being undertaken. Flexible access to training and development will be provided where possible.

Any induction and training identified as being necessary for undertaking non-guaranteed hours roles will be paid.

Staff on non-guaranteed hours arrangements will be allocated a named “line manager”. There will be the opportunity to meet, discuss and record at least annually the key achievements and challenges experienced by the individual in fulfilling the duties allocated and set out any career aspirations they may have for the future.

7. Cancelling work at short notice

Organisations will agree with their recognised trade unions appropriate arrangements for compensating staff when work is cancelled by the organisation at short notice. This will include covering costs incurred by staff, for example caring costs and travel costs.

8. Pensions

Organisations are required to auto enrol all eligible staff into a qualifying pension arrangement. Organisations will agree with their recognised trade unions appropriate pension arrangements which will apply to staff on non-guaranteed hours arrangements and set these out clearly and transparently in recruitment information and terms of appointment.

9. Opportunities to seek permanent employment

Organisations will have clear procedures in place to enable staff engaged on non-guaranteed hours arrangements to be able to transition into permanent roles and/or apply for any other relevant roles, including permanent vacancies, where such opportunities exist.

10. Pay progression

Organisations are required by law to ensure their pay arrangements comply with equal pay legislation.

11. Leave and statutory holiday pay

Organisations will have clear policies enabling staff engaged on these types of arrangements to be able to take annual leave. Where it is not possible to arrange such entitlement to leave during the period of work, a payment will be made to reflect the individual's entitlement to statutory holiday pay at the end of the period of work or at the end of the individual's annual leave period.

Disputes

Any disputes relating to the terms of this agreement or its implementation should be taken through the appropriate collective disputes resolution procedure in place in each sector.

In case of failure to resolve matters at sector level, disputes may then be taken to the tripartite Joint Executive Committee of the Workforce Partnership Council.

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