

The Annual Report of the  
Agricultural Advisory Panel for  
Wales

April 2017- March 2018



## **Foreword from the Chair**

The Agricultural Advisory Panel for Wales has been working to consider the levels of minimum rates of pay and other conditions of employment for workers in the agriculture sector in Wales. The interests of independent members and employee and employer representatives have directly contributed to the agricultural wages orders introduced to date. The Panel is closely examining provisions to ensure they provide the best possible support for the growth in the industry.

Equally important is the Panel's role in advising Welsh Ministers on how best to identify the skills needed. An appropriately skilled workforce, at all levels of work including business and farm management, specialist and non-specialist workers alike, is key to ensuring the industry remains resilient and can readily meet challenges raised. The Skills Development and Training Sub-committee is working to encourage career development and collating the data needed to identify the best way forward in Wales.



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## 1. **Introduction**

1.1 This is the second Annual Report on the progress and operation of the Agricultural Advisory Panel for Wales. It covers the period from April 2017 until 31 March 2018.

### **The Panel's remit**

1.2 The Agricultural Advisory Panel for Wales (the Panel) was established under the Agricultural Sector (Wales) Act 2014. The Agricultural Advisory Panel for Wales (Establishment) Order 2016 No.255 (W.89) came into force on 1 April 2016.

The Panel has a statutory remit to:

- promote careers in agriculture;
- draft Agricultural Wages Orders setting out minimum rates of pay and certain allowances, consult on those proposals and submit them to Welsh Ministers for approval;
- advise the Welsh Ministers on matters relating to the agricultural sector in Wales as required by the Welsh Ministers. The Welsh Ministers may specify further functions of the Panel.

1.3 Wages Orders are legally enforceable by Welsh Government, which also has a duty to investigate complaints raised about non-compliance with the provisions.

## **2. The Operation of the Agricultural Advisory Panel for Wales (the Panel)**

2.1 The Panel was established by the Agricultural Advisory Panel for Wales (Establishment) Order 2016 (The Panel Order) on 1 April 2016. The Order requires the Panel to meet at least three times per year.

### **Membership**

2.2 The 2014 Act requires that the Panel membership adequately reflects the interests of the agricultural sector and members are equipped with the necessary skills and expertise to perform their duties effectively.

2.3 The Panel comprises seven members. The structure of the Panel is based on the outcome of public consultation and input from key stakeholders. The Panel includes representative members from the Farmers Union of Wales (FUW) and the National Farming Union Cymru (NFU Cymru); 2 representatives from UNITE the union and 3 independent members (including the Chair) with relevant expertise.

2.4 The independent members were selected via the Public Appointment process

and appointed by the Welsh Ministers. The term of office for Independent Members is 4 years with the possibility of reappointment.

2.5 Representative members are appointed in the first instance for 3 years and can be nominated for reappointment as often as their respective organisations wish. The representative members are nominated by their respective organisations. NFU Cymru, FUW and UNITE have guaranteed representation on the Panel to achieve a balance of interests. Current members are listed at **Annex1**.

### **The Role of the Members**

2.6 The role of the representative members is to apply their expertise in representing the interest of their members on the key issues in Panel discussions and to advise on the opportunities and challenges facing the industry.

2.7 The main role of the Independent members of the Panel is to apply their expert views in discussions on key issues and to advise on the opportunities and challenges facing the industry.

2.8 The key responsibility on all Panel members is to ensure that fair and reasonable draft Orders are brought forward on matters relating to minimum pay levels and relevant terms and conditions for agricultural workers in Wales as defined in the Agriculture Sector (Wales) Act 2014.

### **Functions of the Agricultural Advisory Panel for Wales (the Panel)**

2.9 In accordance with the 2014 Act, the Panel's functions include

- Promoting careers in agriculture;
- Preparing agricultural wages orders in draft, consulting on these orders and submitting them to the Welsh Ministers for approval; and
- Providing advice on matters the Welsh Ministers may require.

2.10 In accordance with the Panel Order the Panel has responsibility to:

- determine its own and subcommittee procedures;
- establish, in addition to the Skills Development and Training Sub-committee, other sub-committees as appropriate; and
- obtain expert advice as considered necessary.

### **Support to the Panel's operation**

2.11 The Panel's operation is supported by a Panel Manager employed by the Welsh Government. In addition, an external legal firm advises the Panel on arising legal issues including drafting agricultural wages orders. The Panel Manager facilitates meetings and prepares papers as required, The Panel's website is a remote platform that is hosted by Welsh Government and managed by the Panel Manager.

<https://beta.gov.wales/agricultural-advisory-panel-wales>.

2.12 The Panel has no budget of its own but uses funds allocated by Welsh

Government. Limited funding is available to commission studies and research on specific areas the Panel will wish to consider to support their decision-making process. The approval of the Welsh Ministers is required for obtaining any advice or information that may incur costs.

2.13 Expenditure for the second year of the Panel's operation has amounted to £60K, which has covered the Panel's expenses, the cost of legal advice and the research commissioned by the Panel.

2.14 Any enquiries, complaints or concerns about the Agricultural Panel or the Orders should be submitted to the Panel Manager. Matters will be dealt with in strict confidence. Contact details for the Panel Manager are included in **Annex 1**

### **Enforcement of Agricultural Wages Orders**

2.15 The Welsh Government's Cabinet Secretary for Energy Planning and Rural Affairs is responsible for dealing with any questions or complaints about suspected non-compliance with Wages Orders. Government officials handle enquiries and complaints from both employers and workers. The Panel has no direct remit on enforcement.

2. Questions and complaints may be submitted using the form on the attached link: [https://secure.gov.wales/contact\\_us/makeacomplaint/complaintform/?skip=1&lang=en](https://secure.gov.wales/contact_us/makeacomplaint/complaintform/?skip=1&lang=en) or in writing to :

Agricultural Wages Enforcement  
Welsh Government Offices  
Spa Road East  
Llandrindod Wells  
Powys  
LD1 5HA

## **3. Panel Meetings**

3.1 In the second year of operation the Panel met in May, September, November 2017 and February 2018. Summaries of the meetings are published on the Panel's website. This Annual Report summarising the Panel's operation (1April-31 March), along with the first report is published there also.

[https://beta.gov.wales/agricultural-advisory-panel-wales.](https://beta.gov.wales/agricultural-advisory-panel-wales)

**The fourth meeting** was held on 7 May 2017.

3.2 The Panel discussed the progression of the 2017 Order. It was felt that a firmer timetable of events and meetings needed to be put in place to ensure the process runs more smoothly in future. The Panel wanted the Order to be introduced as soon as possible.

3.3 They discussed the availability of **Labour Market Intelligence** on the agricultural sector as they wanted to inform their recommendations. They discussed what needed to be done to collate accurate data and assessed the benefits of obtaining sufficient sample size for research. It was decided that approaching as many businesses as possible would be appropriate. A specification for appropriate research would emerge from their discussion in conjunction with the Sub-committee on Skills Development and Training.

3.4 The Panel was concerned to improve **Continuous Professional Development** (CPD) in the industry. They felt that CPD and a Personal Development Plan (PDP) provided a robust method of recording achievements which would be beneficial to workers. They maintained that a more appropriate training and development structure should be put into place to encourage workers and attract incomers. It was argued that employers need an incentive to engage with CPD. It was agreed that engaging with the 'Agri Academy Alumni' in order to inform the Panel's deliberations would be beneficial.

3.5 The Panel was of the view that with the UK leaving the EU, the industry in Wales is facing some uncertainty, concerning the establishment of new international trading agreements, fluctuation in currency levels and the general agricultural policy environment. The Panel was of the view that a strategy will be necessary in order to go forward with a highly trained workforce and a sustainable industry.

3.6 During this year the Panel began its consideration of what could be done to simplify and modernise of agricultural wages orders while preserving the incentive to develop worthwhile careers in the industry and the financial safety net of minimum payments for agricultural workers provided by the orders. This would include a revisiting of arrangements to make sure that the best and most effective use of Continuous Professional Development recording, monitoring and planning is made. The Panel saw a need to collate statistics on the industry and the labour market profile in order to inform their work. Panel members committed to considering these issues in detail and making recommendations in 2018.

#### **The fifth meeting took place 19 September 2017.**

3.7 Section 2 (2) (b) places a duty on the Panel to prepare agricultural wages orders in draft and consult on such orders.

This meeting focussed on the possible need for amendment to the Agricultural Wages (Wales) Order 2017.



3.8 The Panel was concerned at the slow rate of progress towards the making of the 2017 Order, which they had intended to be in place in April and felt strongly that the time taken was overly lengthy. They wanted all involved in the process to examine what had occurred in bringing forward this first order into law and to seek ways to make the process less onerous in future.



3.9 They gave their considered and expert views on the levels of the National Minimum Wage, the recent economic performance of the industry and other conditions prevailing. The representatives of the farming unions in Wales and Unite the Union put forward their detailed positions for the scrutiny of the Panel. Negotiations followed before the Panel decided by a majority vote to propose changes to increase the minimum agricultural rates of pay and certain allowances with no other changes suggested.

3.10 The Panel's legal advisers, an independent legal firm dealing with employment law were included so their advice on any legal points arising could be sought as discussions progressed. This also served to ensure that they were fully aware of the thinking behind each point made to inform the drafting of the proposed 2018 wages order.

3.11 The Panel carried out targeted consultation on their proposals. A wide network of interests and organisations were asked for their view on the proposals during October 2017. The Consultation document was also placed on the Panel's website.

### **The sixth meeting took place 9 November 2017**

3.12 The Panel discussed the proposals and the consultation process. They decided that in future they wanted to engage more deeply with the national and local press as well as to exploring what other avenues of communication could be made more use of, such as their own networks and membership. This would include an increased focus on ensuring that the widest range of interests was reached.

3.13 The Panel decided by a majority vote to confirm the proposals put forward for amendments to the 2017 Wages Order. Panel members wanted to be more certain of the 2018 National Minimum/Living Wage rates than they were and suggested the proposals may change slightly when final levels became known. They saw that the timings of such announcements and the process of scrutinising proposals towards making regulations were not easily reconciled. The Real Living Wage was referred to by Unite as an aspiration for the medium term. The Panel then requested their legal advisers to draft an Agricultural Wages Order for 2018 that contained their proposals.

3.14 Following the meeting the Panel Chair submitted the draft Order setting out the Panel's proposals for consideration by the Welsh Government. The intention was to have in order in force 1 April 2018 as the industry needed clarity to inform business and workforce planning. This was achieved.

### **The seventh meeting took place on 15 February 2018**

3.15 The Panel discussed the work on the commissioned study on Labour Market Intelligence, which would inform the panel's work. This was progressing towards reporting in late April. The Panel's Skills Development and Training Sub-committee had discussed this and the impetus for Continuing Professional Development recording at their last meeting and work was continuing on that.

3.16 There was discussion of the suggestion to commission a paper from an

independent economist on the current health of the agriculture sector as well as an assessment of the challenges and opportunities the industry is facing. The Panel considered who could be engaged to do this, the costs involved and what sort of expert knowledge was required. They agreed a non- biased approach was needed and that the known reliable data on the workforce, including a breakdown according to protected characteristics should form the basis of the paper. Such a paper would augment the information already being collated to inform the Panel's work during the summer.

3.17 The Panel's main focus for this meeting was to explore the possibilities for updating and simplifying agricultural wages orders. "Modernisation" of agricultural wages orders would include consideration of whether the current structure and content of agricultural wages orders are still fit for purpose in 2018 and the future. The Panel would put forward proposals for change, with each should be supported by the rationale for the thinking behind them.

3.18 Members were asked to consider their approach to changing orders to improve provisions for each grade and bring ideas/suggestions to the next Panel meeting. The Panel accepted that introducing orders less frequently than annually could be beneficial and allow more time for consideration. Members were to consider what provisions would need to be included in an Order set to last for 2 years. Initial thoughts were to adopt an approach similar to that used in other sectors of the economy, which was to include provisions that stipulate time limits – e.g. rates of x for one year followed by a rate of y for a subsequent time.

3.19 Detailed suggestions were requested for the next meeting. Provisions identified included:-

- clarification on the employment status of young people/family members/partners working on farm;
- a definition of "traditional farming work" which had changed and needed updating; the definitions for the 6 grades which needed re-definition perhaps in the light of changes in the industry;
- were the allowances such as the dog allowance and the accommodation-offset allowance set at appropriate rates?
- was a re-definition of "supervisor/manager" needed?
- specific criteria such as "working with machinery/animals" needed clearer reference.

3.20 Panel members agreed that something needed to be done to clarify matters. The Panel felt they were now in a position to learn from their experience as a Panel and were ready to apply their considerable expertise to these questions. The Panel understood that some issues such as accommodation offset allowances appeared in other legislation and discussions needed to include those requirements.

### **Career progression/skills acquisition**

3.21 There was concern about skills being acquired by workers and a formal

approach was needed to make sure arrangements were clear. It was thought that an employer needed to agree a training programme. The orders could include a provision for this.

The Panel recognised that keeping records and workers having a written contract of employment as standard procedure would help to clarify expectations. Personal Development Planning was seen as helpful for both an individual worker and the organisation or business.

#### **4. The Agricultural Wages (Wales) Order 2017**

4.1 The 2017 Order retained the Grading structure of the previous order, to ensure continuity and maintain the incentive to increase skills levels. The Order includes updated Schedules of applicable awards and certificates of competence, which help, determine the Grade of the worker. The schedules were prepared by Lantra in light of changes to the educational framework and the titles of certificates.

4.2 The Panel decided by a majority vote to the proposals put forward for amendments to the 2017 Wages Order. Panel members wanted to be more certain of the 2018 National Minimum/Living Wage rates than they were and suggested the proposals may change slightly when final levels became known. They saw that the timings of such announcements and the process of scrutinising proposals towards making regulations were not easily reconciled. The Panel's legal advisers then drafted an agricultural wages order for 2018 according to the Panel's proposals.

4.3 The Panel Chair submitted the draft Order setting out the Panel's proposals for consideration by the Welsh Government with the intention for the order to come into force 1 April 2018 as the industry needed clarity to inform business and workforce planning. This was achieved.

#### **Guidance**

4.4 It is intended that the Guidance on wages orders will be updated as necessary following the hiatus in 2017. Suggestions for additional information to be included in an updated version of the guidance or for further clarification are invited.

#### **Future Agricultural Wages Orders**

4.5 In accordance with the 2014 Act, the Agricultural Advisory Panel is required to prepare future agricultural wages orders in draft, consult on these and submit them to the Welsh Ministers for approval. New wages orders will be made under the negative procedure in the National Assembly for Wales. Negative procedure means that the orders will be signed and laid before the Assembly and will not normally come into force for at least 21 days after being laid.

## **5. The Skills Development and Training Sub-committee**

5.1 The Agriculture Sector (Wales) Act enables the Panel to appoint sub-committees and places a statutory duty to establish a permanent Skills Development and Training Sub-committee. The Sub-committee is to meet at least 3 times a year. There is a statutory duty to include Lantra and the YFC as members. It is chaired by an independent member and comprises representation from the employers and workers representatives as well as experts in skills development. Current members are listed at **Annex 1**.

5.2 The Sub-committee was established in 2016. It met in November 2016, March and December 2017 as well as in February 2018. The Sub-committee began their work by considering various reports on skills and training development in the sector to inform their work. They immediately instigated work to explore the needs of the sector and to review relevant research, reports and literature to inform their view and build robust advice to drive improvements.

5.3 The Sub-committee also considered proposals to acquire Labour Market Intelligence to inform their work as well as work to improve Continuous Professional Development (CPD) in the industry. Research on the labour market in Wales is due to report late April 2018. Sub-committee members have worked in partnership with colleagues to improve arrangements for CPD recording provided by Farming Connect.

5.4 The Sub-committee considers that there is a need for clearer guidance on apprenticeship provision in the agriculture sector in Wales. They intend to report to the Panel and make recommendations on actions deemed necessary to achieve improvement. This will include informing the Panel's considerations on modernising and clarifying future Agricultural Wages Orders.

## **6. Summary of Issues affecting Agriculture**

6.1. In the second year of its operation, the Panel was focused on enhancing skills and career development within the agricultural sector, alongside undertaking a review of agricultural minimum wage orders. This work is continuing.

6.2 Labour and skills shortages are seen as key challenges facing the industry, in particular under the current political climate as the UK is preparing to exit the European Union. Agriculture and food manufacturing are amongst those sectors that benefit considerably from the present availability of migrant workers in the UK. The reliance on foreign workers, such as European migrants, in food processing is particularly high in the UK as a whole with 40% of employees foreign born and over 20% of workers employed as casual migrant labour.

6.3 In the Panel's view, it is imperative to ensure that the Welsh agriculture, horticulture and food processing sectors will continue to have the dedicated workforce needed for their continued success. The panel wanted to gather more information on the workforce to further their work on ensuring that the provisions of

orders are non discriminatory and that fair rates of pay and conditions are applied for all workers. In the future, it will be important to promote the sector as an attractive and rewarding career option for all and capable of increasing the number of young people entering the industry. Reliance on a well-trained and motivated workforce will remain vital. Access to migrant labour also remains an option for businesses.

6.4 The UK's exit from the European Union presents challenges and opportunities, which will be considered by the Panel in their decision-making process in future.

## **7. Welsh Government Review of the Agriculture Sector (Wales) Act 2014**

7.1 During the legislative scrutiny of the Agricultural Sector Act (Wales) 2014 as it proceeded towards becoming law it was considered that a "sunset clause" should be included in the Act so that provisions would cease after a fixed period if nothing were done to preserve it.

7.2 A statutory requirement to review effectiveness is stipulated by the 2014 Act. Section 13 specifies that the Welsh Ministers were to provide a report on the operation and effect of the Act within three years of the Act receiving Royal Assent, meaning 30 July 2017. This report was laid for the attention of the National Assembly in February 2018.

7.3 The review contained information about the effect of the Act on agricultural workers, employers and the agricultural sector generally. It was directly informed by responses received to the public consultation on the review.

<http://www.assembly.wales/laid%20documents/gen-ld11424/gen-ld11424-e.pdf>

<http://www.assembly.wales/laid%20documents/gen-ld11424/gen-ld11424-w.pdf> -

7.4 This informed the debate in the National Assembly for Wales on the continuation with the Act, which took place on 17 April 2018. The Order to continue the effect of the Act was approved in accordance with Assembly procedures and in compliance with Section 14 of the Act.

## The Agricultural Advisory Panel for Wales – Membership

The Panel consists of seven members; 4 representatives from unions (2 from UNITE), 1 from FUW (Farmers Union of Wales) and 1 from the National Farming Union Wales); 2 independent members (selected via Public Appointment process) and an independent Chair (selected via Public Appointment process)

### Membership 1 April 2017 – 31 March 2018

Dr Lionel Walford	Independent – Chair
Mr Bryan Godsell	UNITE
Mr Ivan Monckton	UNITE
Mr Darren Williams	Farmers Union of Wales- FUW
Mr John Davies (Until December 2017)	National Farmers Union Cymru – NFU Cymru
Mr Will Prichard (from January 2018)	National Farmers Union Cymru – NFU Cymru
Mr Peter Rees	Independent
Mr Stephen Hughson	Independent

### Permanent Sub-committee on Skills Development and Training – Membership

The Agricultural Advisory Panel for Wales established its permanent Sub-committee on Skills Development and Training in accordance with the Agricultural Advisory Panel for Wales (Establishment) Order 2016.

The Sub-committee met for the first time 11 November 2016. Membership includes experts drawn from across the industry. These include union representatives, academics and experts with a breadth of expertise, knowledge and understanding of skills and training needs in the agriculture sector, as well as career progression opportunities. There are representative members of YFC and Lantra as stipulated in the Order.

### Current Membership

Dr Lionel Walford	Independent Chair
Mr Peter Rees	Independent Education
Mr Stephen Hughson	Independent Agriculture
Mr Bryan Godsell	UNITE Representative
Mr Ivan Monckton	UNITE Representative
Kevin Thomas	Lantra
Director	Wales YFC - Sub Com member

Alun Elidyr Edwards	Farmer Union of Wales -FUW Agricultural Education
David B Jones	Coleg Cambria Chief Executive
Will Prichard	National Farmers Union Cymru NFU Cymru

The Sub-committee is expected to meet at least 3 times a year.

Terms of Reference for the Sub-committee on Skills Development and Training  
<https://documents.hf.wales.gov.uk/id:A15861628/document/versions/published>

The Panel Manager can be contacted  
By post

The Agricultural Advisory Panel Manager  
Welsh Government Offices  
Spa Road East  
Llandrindod Wells  
Powys  
LD1 5HA

By email

[slmenquiries@wales.gsi.gov.uk](mailto:slmenquiries@wales.gsi.gov.uk)

## Annex 2

### Links to legislation

#### **The Agriculture Sector (Wales) Act 2014**

<http://www.legislation.gov.uk/anaw/2014/6/contents/enacted>

This Act makes provisions for -

The establishment of the Agricultural Advisory Panel for Wales

The making of orders which set the terms and conditions for persons employed in agriculture in Wales (agricultural workers) and

The enforcement of such terms and conditions.

#### **The Agriculture Sector (Wales) Act 2014 (Continuation of effect) Order 2018**

<http://www.legislation.gov.uk/wsi/2018/515/introduction/made>

#### **The Agricultural Advisory Panel for Wales (Establishment) Order 2016**

<http://www.legislation.gov.uk/wsi/2016/255/made>

This Order establishes the Panel as an independent advisory body to the Welsh Ministers. The Panel's functions are to promote careers in agriculture, to prepare agricultural wages orders in draft, consult on such orders to submit them to the Welsh Ministers and to advise the Welsh Ministers on matters relating to the agricultural sector in Wales.

#### **The Agricultural Wages Order 2017**

This Order was made 3 November 2017 but applied from 1 April 2017.

<http://www.legislation.gov.uk/wsi/2017/1058/made>

The current agricultural wages order is

#### **The Agriculture Wages (Wales) Order 2018**

<http://www.legislation.gov.uk/wsi/2018/433/made>

This Order applies from 1 April 2018. It provides that agricultural workers are to be employed subject to the terms and conditions set out in Parts 2-5 (article 3) and specifies different grades and categories of agricultural worker (articles 5-12)

Part 3 makes provision about minimum rates of remuneration that must be paid to agricultural workers ( article 12,13,14 ) and other provisions for allowances.



Part 4 provides that an agricultural worker is entitled to agricultural sick pay in specified circumstances (articles 18-21) and calculation of the amount (article 22).

Part 5 makes provision about an agricultural worker's entitlement to time off, including rest breaks, annual leave, and holiday pay.

Schedule 4 (Article 12) page 55 shows the minimum rates of pay for the six grades of worker and apprentices.

