
The Report of the Agricultural Advisory Panel for Wales

April 2022 - March 2023

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Introduction

The Agricultural Advisory Panel for Wales is an independent body that advises Welsh Ministers on the Agricultural Minimum Wage arrangements and terms and conditions of employment for agricultural workers in Wales. It also promotes careers in agriculture, the development of an appropriately skilled workforce and provides additional advice to Ministers as required.

The minimum rates of pay and allowances and other minimum terms and conditions to which agricultural workers are entitled to by law are set out in the Agricultural Wages (Wales) Order (“the Order”).

Annually, the Panel review the Agricultural Minimum Wage (“AMW”) arrangements, and the other provisions of the Order, propose changes and consult on their proposals before submitting them in draft to Welsh Ministers for consideration.

In arriving at their decisions, the Panel draw on their expertise and consideration of the economic conditions in the industry at the time, as well as all legal requirements (such as the National Minimum Wage). This ensures agricultural workers receive fair minimum pay, allowances and terms of employment, further contributing to the Welsh Government’s tackling poverty agenda by safeguarding household incomes, especially within rural communities.

Once passed by the Senedd, the Order has legal authority in Wales.

The Panel is made up of representatives from the Farmers Union of Wales, National Farmers Union Cymru, Unite the Union and three independent members (including the Chair).

The Welsh Government sponsorship division provides the secretariat function for the Panel, and an external law firm drafts the wages orders and advises the Panel on any other related legal matters.

This is the fourth Report on the progress and operation of the Agricultural Advisory Panel for Wales covering the period from April 2022 – March 2023.

Guidance for employers and workers, details of the current pay and allowance levels and the minimum terms and conditions are available on the Welsh Government website: <https://www.gov.wales/agricultural-advisory-panel-wales/legislation-and-guidance>

Establishing the Panel

The Agricultural Advisory Panel for Wales (“the Panel”) was established under the Agricultural Sector (Wales) Act 2014 (“the 2014 Act”). The Agricultural Advisory Panel for Wales (Establishment) Order 2016 (“the Establishment Order”) came into force on 1 April 2016.

The Remit of the Panel

In accordance with the 2014 Act, the Panel has a statutory remit to:

- draft agricultural wages orders to stipulate fair minimum rates of pay and allowances for agricultural workers, consult on such orders, and submit them in draft for the approval of the Welsh Ministers;
- promote careers in agriculture; and
- provide advice to the Welsh Ministers as required on matters relating to the agricultural sector in Wales.

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

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

The Welsh Ministers may specify further functions of the Panel.

Payment of minimum rates and holiday pay is legally enforceable by Welsh Government, which also has a duty to investigate complaints raised about non-compliance with these provisions.

The Operation of the Panel

The Agricultural Advisory Panel for Wales (Establishment) Order 2016 requires the Panel to meet at least three times per year.

Membership

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.

The Panel consists of members representing employers and employees, and three independent members appointed by the Welsh Ministers, including the Chair. The structure is based on the outcome of public consultation and input from key stakeholders.

The Panel consists of 7 members:

- an independent Chair;
- two independent members with relevant expertise;
- two representatives from UNITE the Union;
- one representative from the Farmers Union of Wales (FUW); and
- one representative from the National Farming Union (NFU Cymru).

The independent members were selected via the Public Appointment process and appointed by the Welsh Ministers. Representative members are nominated by their respective organisations.

The term of office for both independent and representative members is four years, with the possibility of reappointment up to a maximum of eight years.

NFU Cymru, FUW and UNITE have guaranteed representation on the Panel to achieve a balance of interests. Details of the membership of the Panel is in **Annex 1**.

The Role of the Members

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.

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

There is a key responsibility on all Panel members 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.

Supporting the Panel's Operation

The Panel's operation is supported by a secretariat provided by Welsh Government, equivalent to 0.8 of a full-time member of staff at Management Band Three. The secretariat facilitates meetings, prepares papers, takes minutes of meetings and other tasks as required by the Panel. Welsh Government policy officials also attend all Panel meetings.

In addition, an external legal firm advises the Panel on arising legal issues and drafts the Orders.

The Panel's online platform is hosted by Welsh Government and managed by the Panel secretariat:

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

The Panel has no budget of its own but may use funds allocated by Welsh Government, with the approval of Welsh Ministers. This includes limited funding to commission studies and research on specific areas the Panel wish to consider to support their decision-making process.

Expenditure for the Panel's operation in 2022-2023, which covers the Panel's expenses and the cost of legal advice, amounted to £36,791.

Any enquiries, complaints or concerns about the Panel or the Orders should be submitted to:

Email: SLMEnquiries@gov.wales

Post: The Agricultural Advisory Panel Manager
Welsh Government,
County Hall
Spa Road East
Llandrindod Wells
Powys LD1 5LG

Enforcement of Agricultural Wages Orders

Minimum rates of pay and holiday pay are enforced by Welsh Government.

Welsh Government officials handle enquiries and complaints from both employers and workers.

Suspected noncompliance can be reported to:

Helpline: 0300 060 4400

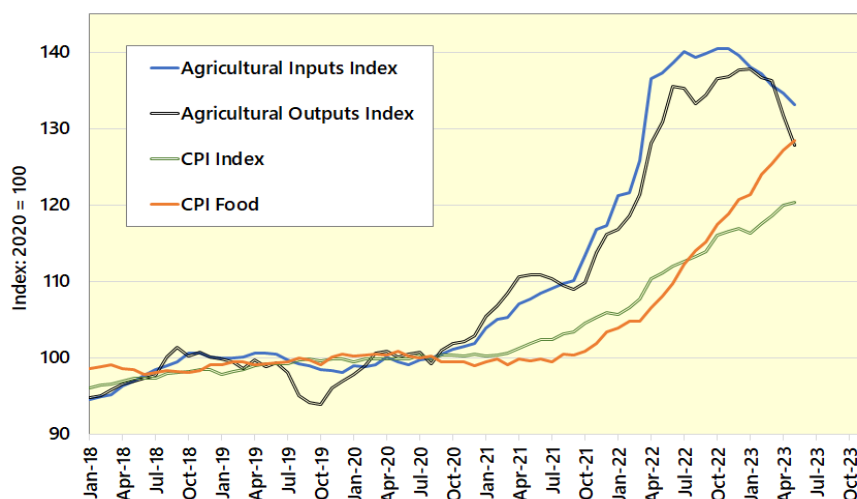
Email: SLMEnquiries@gov.wales

Post: Agricultural Minimum Wage Team
Welsh Government Office,
County Hall,
Spa Road East,
Llandrindod Wells,
Powys LD1 5LG

All complaints are treated as confidential.

Summary of Issues Affecting Agriculture

- The UK's departure from the European Union continues to cause uncertainty for the agricultural sector including changes in trade agreements and regulations. Brexit-related changes to immigration policies have also contributed to the persistent concerns around the availability of seasonal and skilled labour, especially from other EU countries. Campaigns were undertaken to promote jobs within the sector as an attractive and rewarding career option in an attempt to increase the number of domestic workers entering the industry – currently of those that gain degrees in agriculture only 10 - 13% go into farming. Reliance on a well-trained and motivated workforce will remain vital.
- Russia's invasion of Ukraine has exacerbated the already significant impacts on fuel, feed and fertiliser prices. Whilst agricultural inputs' inflation (Agflation) has fallen since its peak of 28.4% in July 2022, agricultural and food prices are substantially higher than they were two years ago. Agricultural input prices are 24% higher, agricultural outputs are up 15% whilst food prices are up by 29% in that time¹.



Sources: ONS, Defra and Andersons

- The agricultural sector is also vulnerable to the impacts of climate change. Rising temperatures, changing rainfall patterns, and the increased frequency of extreme weather events (such as droughts or floods) all disrupt crop production, affect livestock, and impact rural communities.
- Leaving the EU and the end of the Common Agricultural Policy marks a fundamental change to agricultural policy and associated funding. New financial support schemes, such as the Sustainable Farming Scheme will have a greater emphasis on reward for public goods, including action to respond to the climate and nature emergencies, alongside the sustainable production of food.
- Advancements in technology such as precision agriculture and automation, whilst having the potential to improve productivity and efficiency, require significant investment and training.

¹ <https://theandersonscentre.co.uk/agflation-update-june-2023/>

Panel Meetings

The Panel met seven times during the 2022/23 financial year. Four were in person, two online via Microsoft Teams and the other in a hybrid format (meeting number 36).

Summaries of the meetings and Annual Reports are published on the Panel's :

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

<https://www.gov.wales/agricultural-advisory-panel-wales-annual-reports>

Meeting Number 34 (5 April 2022)

<https://www.gov.wales/agricultural-advisory-panel-meeting-5-april-2022>

The Panel discussed:

- A letter from the Minister for Rural Affairs, North Wales and Trefnydd dated 9th March asking the Panel to formally consider the report of the Fair Work Commission² and the two recommendations covering the agricultural sector and the Panel.
- The T5 Temporary Seasonal Worker immigration route for horticulture workers (also including forestry).
- An overview on the Agricultural Wages Order enforcement process.
- A letter from Sustain Wales regarding the Living Wage Steering Group for Mid & West Wales.
- Updates on the Agricultural Wages (Wales) Order 2022 and the Agricultural Wages (Wales) Order 2022(2).

Meeting Number 35 (31 May 2022)

<https://www.gov.wales/agricultural-advisory-panel-meeting-31-may-2022>

The Panel discussed:

- The Chair's meeting with Sustain Wales regarding the Real Living Wage and a further letter received from the Minister for North Wales, Rural Affairs and Trefnydd regarding the recommendations of the Fair Work Wales report specifically targeted at the Panel.
- The latest meeting of the Skills Development and Training sub-committee.
- A progress report on The Agricultural Wages (Wales) Order 2022(2).
- The timeline for the Agricultural Wages (Wales) Order 2023.

² <https://www.gov.wales/sites/default/files/publications/2019-05/fair-work-wales.pdf>

Meeting Number 36 (26 July 2022)

<https://www.gov.wales/agricultural-advisory-panel-meeting-26-july-2022>

The Panel discussed:

- An update on the Panel's report regarding the Real Living Wage in agriculture.
- A progress report on The Agricultural Wages (Wales) Order 2022(2).
- The gathering and collection of data relevant to the Agricultural Wages Order.
- Confirmation of the timeline for the Agricultural Wages (Wales) Order 2023.

Meeting Number 37 (5 and 6 September 2022)

<https://www.gov.wales/agricultural-advisory-panel-meeting-5-september-2022>

Day 1

The Panel discussed:

- Letters of thanks to Will Prichard and Brian Troake for their work on the Panel.
- Options regarding data collection.
- Proposed pay rates and changes to terms and conditions with regards to the draft Wages Order for 2023.

Day 2

Neil Surman, (Deputy Director of Social Partnership - Welsh Government) gave a presentation to the Panel on the Social Partnership and Public Procurement (Wales) Bill. The Bill aims to provide a framework to enhance the well-being of the people of Wales by improving public services through social partnership working, promoting fair work and socially responsible public procurement. This was followed by a question-and-answer session.

The Panel discussed:

- Proposed pay rates and changes to terms and conditions with regards to the draft Wages Order for 2023 (a continuation from Day 1).
- The Policy regarding cross-border holdings and the applicability of the Order.
- The strategic awareness event arranged in conjunction with Farming Connect for the Skills Development and Training sub-committee.
- An update on the Panel's report regarding the Real Living Wage in agriculture.
- Remuneration of Panel members.

Meeting Number 38 (25 October 2022)

<https://www.gov.wales/agricultural-advisory-panel-meeting-25-october-2022>

James Owen (Deputy Director, Land Management Reform – Welsh Government) gave a presentation on the Agriculture Bill, which was undergoing scrutiny from the Senedd after being introduced by the Minister on 26 September 2022.

Anthony Cody (Legislation Manager, Renting Homes Act – Welsh Government) gave a presentation on the changes to Assured Agricultural Occupancies – from 1 December 2022.

Both presentations were followed by question and answer sessions.

The Panel discussed:

- Responses to the public consultation on the proposals for the Agricultural Wages Order.
- A report from the Skills Development and Training subcommittee on the strategic awareness event held on 11 October 2022.
- An update on the Panel's report regarding the Real Living Wage in agriculture.
- An update regarding options on data collection – Welsh Government are investigating the possibility of obtaining the services of a PhD student on placement to have a look at this issue as a self-contained project.
- An overview of the enquiries received regarding the Agricultural Wages Order and the responses provided.

Meeting Number 39 (17 January 2023)

<https://www.gov.wales/agricultural-advisory-panel-meeting-17-january-2023-html>

The Chair welcomed Dave Thomas to the meeting, the new Head of Strategic Framework for Agriculture with Welsh Government.

The Panel discussed:

- A progress report on the Agricultural Wages (Wales) Order 2023 including the proposed amendment to Article 13 regarding overtime provisions.
- Undertaking a review on the whole process regarding the Order including the underpinning Agricultural Advisory Panel for Wales (Establishment) Order 2016.
- An update on agricultural employment data including a draft specifications paper regarding a PhD student placement.
- The draft version of the Agricultural Advisory Panel Report 2018 – 2022.
- A draft of the Panel's response to the Minister regarding the report from the Fair Work Commission.
- The undertaking of a feasibility study in to paying the Real Living Wage within three years.

Meeting Number 40 (28 February 2023)

<https://www.gov.wales/agricultural-advisory-panel-meeting-28-february-2023>

The Panel discussed:

- An update regarding relevant horticultural and forestry publications that will be sent information regarding the Wages Order.
- An update regarding the PhD placement to work on the agricultural employment data project.
- A progress report on The Agricultural Wages (Wales) Order 2023.
- An update on the Agricultural Advisory Panel Report 2018 – 2022.
- The scope of a two-stage internal review of the Practices and Processes of the Agricultural Advisory Panel.
- The initial proposals and options for a feasibility study regarding the Real Living Wage for agricultural workers.
- The draft calendar of meetings for 2023.

Agricultural Wages (Wales) Orders

The Agricultural Wages (Wales) Order 2022

<https://www.legislation.gov.uk/wsi/2022/417/contents/made>

The programme of work undertaken by the Panel to modernise and streamline the Agricultural Wages Order resulted in major changes. The technical and legal nature of the changes lead to delays in the 2021 Order coming into force. As a result, the renamed Agricultural Wages (Wales) Order 2022 came into force on 22 April 2022 but had retrospective effect from 1 April 2021.

This meant some employees may have been entitled to back pay to recompense those agricultural workers who would have expected an increase in their hourly wage from 1 April 2021, as proposed in the Panel's autumn 2020 public consultation.

The Order replaced the Agricultural Wages (Wales) Order 2020 and introduced wide-ranging changes to the Agricultural Minimum Wage framework including:

- A new grading structure for agricultural workers relating to employee's level of experience, qualifications and responsibilities.
- Increases in the minimum wage rates and certain allowances.
- Pay protection for agricultural workers who would otherwise suffer a reduction in pay as a result of changing to the new grading structure.
- Updates to the list of qualifications relevant to the new grading structure.
- Enhanced parental bereavement leave provisions.

The statutory rates of pay and allowances specified by the Order remained in force until a new Agricultural Wages Order was made.

The accompanying "Guidance for Workers and Employers" was updated and made available both online and in hard copy. Additional sections and standalone guidance were published in relation to the new grading structure and the calculation of back pay.

The Agricultural Wages (No. 2) (Wales) Order 2022

<https://www.legislation.gov.uk/wsi/2022/794/contents>

As a result of the delays in the previous Order, the Agricultural Wages (No. 2) (Wales) Order 2022 came into force on 6 August 2022 but had retrospective effect from 1 April 2022.

This again meant some employees may have been entitled to back pay to recompense those agricultural workers who would have expected an increase in their hourly wage from 1 April 2022, as proposed in the Panel's public consultation in January 2022.

The Order replaced the Agricultural Wages (Wales) Order 2022 and:

- increased the minimum wage rates and certain allowances;
- added the inclusion of rest breaks within the Order;
- continued to provide pay protection for agricultural workers who would otherwise suffer a reduction in pay as a result of previous changes to the grading structure; and
- aligned the apprenticeship age bands with those under the National Minimum Wage/National Living Wage (NMW/NLW).

The statutory rates of pay and allowances specified by the Order remained in force until a new Agricultural Wages Order was made.

The accompanying “Guidance for Workers and Employers” (including the guidance in relation to the new grading structure and the calculation of back pay) was updated and made available both online and in hard copy.

The Agricultural Wages (Wales) Order 2023

<https://www.legislation.gov.uk/wsi/2023/260/contents/made>

After the delays in the previous Orders the Panel worked with Welsh Government to ensure the 2023 Order came into force on time. The Order was finalised during the financial year and would come into force on 1 April 2023.

The Order would replace the Agricultural Wages (No.2) (Wales) Order 2022 and:

- increased the minimum wage rates and allowances;
- amended the wording regarding the payment of overtime to agricultural workers;
- ensured the inclusion of agency workers and workers employed by gang masters who may not have a contract of service directly with the employer;
- amended the wording regarding annual leave year periods; and
- amended the calculation of holiday pay for workers with variable hours.
- It also continued to provide pay protection for agricultural workers who would otherwise suffer a reduction in pay as a result of previous changes to the grading structure.

The statutory rates of pay and allowances specified by the Order will stay in force until a new Agricultural Wages Order is made (or until they are superseded by changes to the National Minimum/Living Wage).

The accompanying “Guidance for Workers and Employers” was updated and made available both online and in hard copy.

The Skills Development and Training Sub-Committee

The Agriculture Sector (Wales) Act 2014 enables the Panel to appoint sub-committees and places a statutory duty to establish a permanent Skills Development and Training Sub-Committee. There is a statutory duty to include Lantra and the Wales Federation of Young Farmers Clubs 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. Details of the membership of the sub-committee is in **Annex 2**.

The sub-committee met three times during this reporting period. The main focus has been to re-establish the sub-committee and to increase awareness of the importance of training, skills and development with the agricultural industry.

In conjunction with Farming Connect, a strategic awareness event was arranged and held in October 2022. The aim of the event was to consider and collate key themes relating to training, skills and development across the sector. The main areas of discussion were:

- What is needed by the sector to meet future Agriculture Policy and Business needs?
- What do we need to plan for in terms of the future?
- What do we need to survive skills wise?

This event was well attended by all areas of the agricultural sector.

Following on from the event, the sub-committee discussed the next steps towards developing a strategy for skills, training and development for the agriculture industry in Wales within the next twelve months.

It was agreed that the sub-committee would conduct a “Call for Evidence” as an initial stage. The precise aims and scope would be agreed through further discussion later in 2023. The evidence could then be reviewed and this followed up by some individual targeted visits / talks.

Annex 1

The Agricultural Advisory Panel for Wales – Current Membership

| Name | Position / Representative |
|-------------------------|---|
| Dr Nerys Llewelyn Jones | Independent Chair |
| Janatha Stout | Independent Member (Education) |
| Stephen Hughson | Independent Member (Agriculture) |
| Brian Troake | Unite the Union (until August 2022) |
| Joanne Galazka | Unite the Union (from August 2022) |
| Ivan Monckton | Unite the Union |
| Darren Williams | Farmers Union of Wales (FUW) |
| Will Prichard | National Farmers Union of Wales (NFU Cymru) (until July 2022) |
| Simon Davies | National Farmers Union of Wales (NFU Cymru) (from October 2022) |

Terms of Reference for the Agricultural Advisory Panel for Wales:

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

Annex 2

Permanent Sub-Committee on Skills Development and Training – Current Membership

| Name | Position / Representative |
|--|---|
| Dr Nerys Llewelyn Jones | Independent Chair |
| Janatha Stout | Independent Member (Education) |
| Stephen Hughson | Independent Member (Agriculture) |
| Brian Troake | Unite the Union (until August 2022) |
| Joanne Galazka | Unite the Union (from August 2022) |
| Ivan Monckton | Unite the Union |
| Alex Higgs | National Farmers Union of Wales (NFU Cymru) |
| Alun Elidyr Edwards | Farmers Union of Wales (FUW) |
| Kevin Thomas | Lantra |
| Due to a re-organisation, there is currently no representative for YFC Wales. This situation is being addressed. | YFC Wales |

Terms of Reference for the Sub-Committee on Skills Development and Training:

<https://gov.wales/permanent-sub-committee-on-skills-development-and-training/terms-of-reference>

Annex 3

Links to Legislation

The Agriculture Sector (Wales) Act 2014

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

The Agriculture Sector (Wales) Act 2014 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)
- 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/made>

The effect of section 14(1) of the Agricultural Sector (Wales) Act 2014 (“the Act”) is that the Act would lapse on 30 July 2018, unless an order was made by the Welsh Ministers under section 14(2) providing that the Act is to continue in effect. This Order is such an order and provides that the Act continues in effect.

The Agricultural Advisory Panel for Wales (Establishment) Order 2016

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

The Agricultural Advisory Panel for Wales (Establishment) Order 2016 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.