

Agricultural Advisory Panel for Wales

Annual Report

1 April 2016 – 31 March 2017



The Agricultural Advisory Panel for Wales at their first meeting 24 June 2016. From left to right Darren Williams (FUW), Daryl Williams (UNITE), Ivan Monckton (UNITE) Dr Lionel Walford (Independent – Chair) Peter Rees (Independent) John Davies (NFU) and Steven Hughson (Independent).

Foreword from the Chair

The establishment of the Agricultural Advisory Panel for Wales marked a significant development in bringing together employee and employer representatives to consider the minimum rates of pay and other conditions of employment for workers in the agriculture sector in Wales.

Equally important is the Panel's role in advising Welsh Ministers about the best ways to improve business performance by identifying and responding to the skills needs of all those working in agriculture, employees and employers alike.

This includes developing the skills of current workers through professional development activities and ensuring that new entrants have the necessary skills to respond to future challenges.

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1. Introduction

1.1 This is the first Annual Report on the progress and operation of the Agricultural Advisory Panel for Wales. It covers the period from April 2016 when the Panel was established until 31 March 2017.

Establishing the Panel

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, bring forward draft proposals for agricultural wages orders setting out minimum rates of pay and certain allowances 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 and Welsh Government 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. The Panel was established by the Agricultural Advisory Panel for Wales (Establishment) Order 2016 (The Panel Order) on 1 April 2016. The order required 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 composition of the Panel is based on the outcome of two public consultation exercises and further input from key stakeholders. The Panel includes 2 representatives of the farming unions in Wales, the Farmers Union of Wales (FUW) and the National Farming Union Cymru (NFU Cymru); 2 representatives of employees from UNITE and 3 independent members

(including the Chair) with relevant expertise.

2.4 The independent members, including the independent Chair, were selected via the Public Appointment process and appointed by the Welsh Ministers. NFU Cymru, FUW and UNITE have guaranteed representation on the Panel to achieve a balance of interests.

2.5 The Independent members are appointed by Welsh Ministers. The term of office for Independent Members is 4 years with the possibility of reappointment. The representative members are nominated by their respective organisations.

2.6 Representative members are appointed in the first instance for 3 years and can be nominated for reappointment as often as their respective organisations wish. Current members are listed at **Annex1**.

The Role of the Members

2.7 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.

2.8 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.

2.9 There is a key responsibility on all Panel members in helping 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.

2.10 The Panel Order outlines basic procedural matters of the Panel, including appointment and resignation of members, vacancies and meeting arrangements.

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

2.11 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.

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

- determine its own procedure;
- establish the Skills Development and Training Sub-committee and other sub-committees as appropriate;
- determine the procedure of the sub-committees; and
- obtain expert advice.

Support to the Panel's operation

2.13 The Panel's operation is supported by a Panel Manager from within the Welsh Government. In addition, an external legal firm has been appointed to advise the Panel on any arising legal issues including drafting agricultural wages orders.

2.14 The Panel holds no budget of its own and uses funds allocated by Welsh Government. Limited funding is available to commission further studies and research on any specific areas the Panel will wish to consider in their decision-making process. The approval of the Welsh Ministers is required for obtaining any advice that may incur costs.

2.15 Expenditure for the first year of the Panel's operation has amounted to £42 k which has covered the Panel's expenses and the cost of legal advice.

2.16 Contact details for the Panel Manager are included in **Annex 1**

Enforcement of Agricultural Wages Orders

2.17 The Welsh Government's Cabinet Secretary for Environment and Rural Affairs is responsible for dealing with any questions or complaints about non compliance with Wages Orders. Government officials handle enquiries and complaints from both employers and workers. The above areas are not the responsibility of the Panel.

3. Panel Meetings

3.1 Since the Panel was established in April 2016 it has met four times, in June, September and October 2016 and in May 2017. The minutes of each meeting are to be published on the Panel's website. <https://beta.gov.wales/agricultural-advisory-panel-wales> There will be annual reports issued each year summarising the Panel's operation (1April-31 March) which will be published on the Panel's website.

The first meeting was held on 24 June 2016.

3.2 The Panel discussed their plan for 2016-17, their terms of reference and ways of working. Publicity for this meeting was overshadowed by the referendum result announced on the same day. The summer 2016 issue of Gwlad magazine featured the photograph of the Panel at its first meeting and was displayed and disseminated during the Royal Welsh Show 2016. The Panel was focussed on establishing its Sub-committee on career development at the earliest opportunity. This was seen as a high priority, as was discussion on drafting the Agricultural Wages order 2017.

3.3 The Panel's legal advisers were involved in discussions of proposals for the drafting of the 2017 wages order offering legal advice as required.

The second meeting took place 8 September.

3.4 Section 2 (2) (b) places a duty on the Panel to prepare wages orders in draft and consult on such orders. This second meeting was mainly focussed on the proposals for a new wages order and proposed changes to minimum rates of pay and conditions. The representatives of the farming unions in Wales put forward their views and responded to the in depth position of the employees put forward in a paper by UNITE. Negotiations followed before the Panel agreed proposals by a majority decision.

3.5 In accordance with the statutory requirement, the Panel carried out targeted consultation on the proposals during Autumn 2016. The 2017 wages order was drafted by an external, independent legal firm appointed to support the Panel's work.

3.6 There was also detailed discussion about how best to establish the Skills Development and Training Sub-committee. Following the meeting the Sub-committee was established and met for the first time on 11 November 2016.

The third meeting took place 24 October 2016.

3.7 The Panel discussed the proposals and the consultation process. The Panel considered the 2 responses received before proceeding to instruct their legal advisors to prepare a draft order. One response suggested that the Panel should rely on UK provision "National arrangements" meaning UK law and the other asked for clarification of specific points which was provided during the third Panel meeting.

3.8 During their third meeting the Panel agreed to the proposals for amendments to the 2016 Wages Order .

3.9 The Panel submitted their proposals for consideration by the Welsh Government and submitted for the scrutiny of the National Assembly for Wales

4. The Agricultural Wages (Wales) Order 2016

4.1 The Welsh Ministers had the power to introduce an agricultural wages order if / when needed before the Panel was established (Section 4(2) of the 2014 Act). This order was an interim measure to remain in force until a new wages order was made, based on the recommendations of the Panel.

4.2 The 2016 Order increased wages by around 6% for all grades and categories of workers, except Grade 1 which is set 2p above the current National Minimum Wage (NMW). It retained the Grading structure of the previous order as does the draft of the 2017 Order, to ensure continuity and maintain the incentive to increase skills levels. The 2016 Order includes updated Schedules of applicable awards and certificates of competence which help determine the Grade of the worker. The schedules have been prepared by Lantra in light of changes to the educational

framework and the titles of certificates. This is also the case for the 2017 Order.

Guidance on the 2016 Order

4.3 The Welsh Government issued guidance to help workers and employers to understand the statutory requirements of the Wages Order. The aim is to introduce guidance that is user-friendly and easy to follow, with examples on how to calculate specific entitlements, such as holiday leave and pay and agricultural sick pay for each Order. Please see the link at **Annex 2**.

This guidance is published on the Welsh Government's website:

<http://gov.wales/topics/environmentcountryside/farmingandcountryside/agricultural-sector-wales-act-2014/interim-order/?lang=en>

4.4 It is intended that the guidance will be updated as necessary over time and when new orders are introduced. 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 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 Agricultural Wages (Wales) Order 2017

5.1 The Panel's direction is to retain the Grading structure in the 2017 Order to maintain the incentive to increase skill levels and promote career development in the agriculture sector. Panel members have indicated that further, more fundamental changes may be recommended for future orders.

6. The Skills Development and Training Sub-committee

6.1 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**.

6.2 The Sub-committee was established in 2016 and met in November 2016 and March 2017. 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.

6.3 The Sub-committee is also considered proposals to acquire Labour Market Intelligence to inform their work as well as work to improve Continuous Professional Development in the industry. The Sub-committee considers that there is a need for clearer guidance on apprenticeship provision 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.

7. Summary of Issues affecting Agriculture

7.1 In the first year of its operation, the Panel primarily focused on enhancing skills and career development within the agricultural sector, alongside undertaking a review of agricultural minimum wage levels.

7.2 Labour and skills shortages are 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 which 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.

7.3 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. In the future, it will be important to promote the sector as an attractive and rewarding career option to increase the number of young people entering the industry and also ensuring that access to migrant labour remains an option for businesses.

7.4 The UK's exit from the European Union also presents other challenges and opportunities which will be considered by the Panel in their decision-making process in forthcoming years.

8. Review

8.1 As with other Non-Departmental Public Bodies, the Agricultural Advisory Panel is subject to review in compliance with the Agriculture Sector (Wales) Act 2014

8.2 The purpose of the Act is to provide an important structural foundation for an effective and efficient agriculture sector with a sufficient supply of well trained and properly remunerated agricultural workers who are able to view agriculture as a long term career option. Experienced, well trained and well motivated employees will bring positive benefits to the efficiency and productivity of agriculture in Wales.

8.3. The minimum agricultural rates and the encouragement of career development provided for in the Act are a safety net and an incentive to workers to develop their careers.

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

8.4 During the legislative scrutiny of the Agriculture Sector Act (Wales) 2014 as it proceeded towards becoming law it was considered that a “sunset section” should be included in the Act so that provisions would cease after a fixed period of time if nothing was done to preserve it. It was felt that such an approach would ensure an appropriate level of scrutiny of the effectiveness and implementation of the Act.

8.5 A statutory requirement to review effectiveness is stipulated by the 2014 Act. Section 13 specifies that the Welsh Ministers must provide a report on the operation and effect of the Act within three years of the Act receiving Royal Assent, meaning 30 July 2017. There is then a statutory duty to lay the report on the review formally for the attention of the National Assembly which is to be published as soon as practicable after that.

8.6 The review is to contain information about the effect of the Act on agricultural workers, employers and the agricultural sector generally.

8.7 Should the decision be made to continue with the provisions of the Act, including the Agricultural Advisory Panel, as well as the introduction and enforcement of minimum agricultural wage legislation in accordance with Section 14, an Order to preserve the 2014 Act may be laid in the National Assembly for Wales. The Welsh Ministers have the necessary powers to make such an Order. The Order must be in place no later than 30 July 2018, a year later than the review period.

8.8 If an Order is not made, then the Act will cease to have effect. The safety net and the incentives for career development provided by the Order will also cease as will the statutory remit of the Agricultural Advisory Panel. The National Minimum and Living Wage provisions would continue to apply. The terms and conditions of the current wages order would be in force until contracts of employment were amended according to employment laws.

Welsh Government’s Consultation on the review

8.9 The purpose of the consultation is to seek views and contributions to the review of the operation and effectiveness of the Agriculture Sector (Wales) Act 2014.

8.10 The consultation asks

- a) Whether the Act’s provision of the Agricultural Advisory Panel and its work on career development, setting minimum levels of agricultural pay and allowances is effective and should continue.

Or

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- b) Whether the Agricultural Sector (Wales) Act 2014 should fall. This would remove all existing arrangements for agricultural workers, leaving their pay and conditions to be determined under general employment law. It would dispense with the legal foundation of the Panel, its Sub-committee on Skills Development and Training and for their advisory role.

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 2016

Dr Lionel Walford	Independent – Chair
Mr Daryl Williams	UNITE
Mr Ivan Monckton	UNITE
Mr Darren Williams	FUW
Mr John Davies	NFU
Mr Peter Rees	Independent
Mr Stephen Hughson	Independent.

Membership 1 April 2017

Dr Lionel Walford	Independent – Chair
Mr Bryan Godsell	UNITE
Mr Ivan Monckton	UNITE
Mr Darren Williams	FUW
Mr John Davies	NFU
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

Helen Evans	Wales YFC - Sub Com member
Alun Elidyr Edwards	FUW Agricultural Education
David B Jones	Coleg Cambria Chief Executive
Will Prichard	NFU Representative

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,
Rhodfa Padarn,
Llanbadarn Fawr,
Aberystwyth
Ceredigion
SY23 3UR.

By email

slmenquiries@wales.gsi.gov.uk

Annex 2

Legislation and guidance

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

It is currently under review –until June 2017

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 Agriculture Wages (Wales) Order 2016

<http://www.legislation.gov.uk/wsi/2016/107/made>

This Order 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 13) and other provisions for allowances.

Part 4 provides that an agricultural worker is entitled to agricultural sick pay in specified circumstances (articles 19-22) and the entitlement (article 24) and calculation of the amount (article 23).

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

The Agriculture Wages (Wales) Order 2017

This is under consideration and will be added here when it comes into force.

Current Consultations

Current consultations asking specifically for your views will be added here. Your views are always welcome so do not feel constrained to wait for an opportunity.

Guidance:

Agriculture Wages in Wales 2016: A Guide for Workers and Employers No 1

<https://www.gov.uk/agricultural-workers-rights/overview>

This is the first in what is intended to be a series of guides on wages orders in force.
If you have questions not addressed by this please let us know.