

Fair Work First Guidance

**Supporting the implementation of Fair Work
First in workplaces across Scotland**

March 2023

NOTE TO USER:

This updated guidance reflects the strategic context set in the National Strategy for Economic Transformation (1 March 2022) and the new requirement (announced 6 December 2022) for all grant recipients awarded a public sector grant on or after 1 July 2023 to pay at least the real Living Wage and provide appropriate channels for effective workers' voice.

This conditionality does not apply retrospectively to public sector grants awarded before 1 July 2023.

This conditionality will apply to recipients of eligible agriculture grants awarded on or after 1 April 2024 (Scottish Government Agriculture and Rural Economy Directorate will advise the sector which grants are within scope in advance).

The Scottish Government expects public sector grants awarded before 1 July 2023 which involve multi-year funding to incorporate this conditionality as part of the grant agreement for any subsequent funding years for the project concerned.

Users should use this updated guidance to plan for and award grants on or after 1 July 2023.

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Purpose of the Fair Work First Guidance

Who the guidance is for

This guidance is intended for those who are involved in awarding public sector grants, other funding and public contracts as well as those who receive funding through public sector grants, sponsorship arrangements with the Scottish Government and/or are involved in the delivery of contracts. In this regard, public bodies and public sector partners should give due regard to their dual role as an employer and in administering public funding.

Throughout the guidance, the terms 'employer', 'business' and 'organisation' are used interchangeably to describe the range of private, public and third sector organisations within the labour market and to which Fair Work First can be applied.

What the guidance aims to achieve

It is designed to encourage and support employers to adopt fair work practices within their organisation, focusing on the Fair Work First criteria.

Through Fair Work First, the Scottish Government is primarily interested in the action the employer is taking to deliver high quality and fair work, and workforce diversity. While Fair Work is relevant for all employers and all workers, the context in which it can be applied will vary depending on factors such as the type and size of the organisation and the sector and location in which it operates.

The guidance aims to help organisations to identify and progress their fair work priorities as part of a continuous improvement approach and to demonstrate that they are meeting the criteria, including the conditionality in public sector grants. It provides direction on how the Fair Work First criteria can be adopted, providing scope for organisations to do so in a way that is relevant and proportionate to the activity and/or contract they have agreed to deliver.

Learning from good practice

The guidance provides examples of what the Fair Work First criteria means in practice to guide organisations in their approach. Employers should not feel limited in considering how workplace practices can be strengthened to enhance workers' experiences at work.

Fair Work First: the approach and what it aims to achieve

Fair Work First is the Scottish Government's flagship policy for driving high quality and fair work, and workforce diversity across the labour market in Scotland by applying fair work criteria to grants, other funding and public contracts being awarded by and across the public sector, where it is relevant to do so. Through this approach the Scottish Government is supporting employers who adopt fair working practices, specifically:

- payment of at least the real Living Wage;
- provide appropriate channels for effective workers' voice, such as trade union recognition;
- investment in workforce development;
- no inappropriate use of zero hours contracts;
- action to tackle the gender pay gap and create a more diverse and inclusive workplace;
- offer flexible and family friendly working practices for all workers from day one of employment; and,
- oppose the use of fire and rehire practice.

The Fair Work First criteria seek to address particular challenges in Scotland's labour market, to make a real difference to people and their communities, business and other organisations and the economy.

Public sector grants

For public sector grants awarded on or after 1 July 2023, the default position is that Fair Work First criteria for paying at least the real Living Wage and providing appropriate channels for effective workers' voice will be mandatory while the other criteria will continue at this stage to be encouraged. Only in limited circumstances may the grant maker/funder consider making an exception to the mandatory criteria, as outlined [below](#).

Public procurement

Note: those involved in public procurements should also refer to the [Procurement Reform \(Scotland\) Act 2014: statutory guidance](#) and [Best Practice Guidance](#) to understand, how to consider Fair Work First criteria, including payment of at least the real Living Wage, as part of their public procurement exercises, where it is relevant and proportionate to do so.

Since October 2021, the Scottish Government mandates payment of at least the real Living Wage in its public procurement exercises where:

- Fair Work First practices, including payment of the real Living Wage, are relevant to how the contract will be delivered;
- it does not discriminate amongst potential bidders;
- it is proportionate to do so; and,
- the contract will be delivered by workers based in the UK.

Fair Work First relationship with the Scottish Business Pledge

The [Scottish Business Pledge](#), like Fair Work First, aims to promote fairness, equality and opportunity in Scotland, helping to create greater economic success and sustainable, inclusive growth.

Strategic context

Our vision is for Scotland to be a leading Fair Work Nation by 2025, where Fair Work drives success, wellbeing and prosperity for individuals, organisations and society. The Scottish Government shares this vision with the Fair Work Convention, the independent body that advises government on Fair Work.

Scotland is leading the way in creating a wellbeing economy; delivering sustainable and inclusive growth for the people of Scotland.

The [National Strategy for Economic Transformation](#) 2022 (NSET) sets out the priorities for Scotland's economy as well as the actions needed to maximise the opportunities of the next decade to achieve our vision of a wellbeing economy. It sets out five key policy programmes of action, including 'a fairer and more equal society' which aims to reorient our economy towards wellbeing and fair work, to deliver higher rates of employment and wage growth, to significantly reduce structural poverty, particularly child poverty, and improve health, cultural and social outcomes for disadvantaged families and communities.

This means creating a more resilient economy where businesses can thrive, innovate and create good quality jobs in a way that enhances quality of life, reduces inequalities and is compatible with a net zero, sustainable economy. Achieving this relies on leadership and support from right across our economy, particularly from the public sector which, as a significant employer and administrator of funding, has a key role to play in demonstrating the standards that will make a positive difference to people and the economy.

The strategic ambitions for Fair Work are set out in our refreshed [Fair Work Action Plan: Becoming a leading Fair Work Nation by 2025](#). This brings together our original Fair Work, Gender Pay Gap, and Disabled People's Employment action plans, along with our new [Anti-Racist Employment Strategy – A Fairer Scotland for All](#). Together the Action Plan and Strategy seek to address structural barriers and systems that create unequal conditions and opportunities for one group of people over another and eradicate systemic racism, disablism, sexism, and ageism which are still a real experience for many people.

Understanding Fair Work and why it is important

Work is an important part of adult life and is critical to our wellbeing and shaping how we live. The [Fair Work Convention's Framework](#) defines Fair Work as work that offers [effective voice](#), [fulfilment](#), [opportunity](#), [respect](#) and [security](#). These dimensions of Fair Work will manifest in different ways in different workplaces,

aiming to balance the rights and responsibilities of workers and employers. They should be visible in the attitudes, behaviours, culture, policies and practices within an organisation – demonstrating the value placed on fair work and equal opportunity in work. The Fair Work First criteria align with the dimensions of Fair Work, and are focused on:

- providing a decent standard of living and income;
- offering security of contract, including hours and earnings; other entitlements including sick pay and pension;
- fostering an environment where workers' views are actively sought, listened to and can make a difference, including through a stronger role for trade unions;
- giving opportunities for all to learn, develop and progress;
- creating a healthy and safe environment, where individuals' wellbeing is actively supported;
- enabling people to have a good work-life balance;
- supporting people to feel valued and respected and that they have a sense of purpose in work and wider society;
- creating fair, diverse and inclusive workforces; and
- promoting innovation and productivity.

These elements can reinforce each other, creating a virtuous circle of positive practices, behaviours, attitudes and outcomes that can help organisations to remain competitive and to grow and prosper, and creating a culture which ensures workers are treated fairly.

Fair Work is key to supporting people and business to flourish and is critical to achieving a modern, high value, inclusive economy – today and in the future. Enabling a more inclusive, people-centred culture of work which supports workers and employers to shape their organisations together, and to develop the skills needed for a successful future, is key. Talented people are at the heart of every successful operation. By creating the conditions for workers to develop and utilise their skills, Fair Work can enable workers to play a full and active role - underpinning high productivity, performance and innovation and contributing to healthier, wealthier and more inclusive societies.

Fair Work is an agenda for all, and requires employers to go beyond statutory employment rights and protections, including in relation to equality in the workplace.

Conditionality in public sector grants

In line with the [Bute House Agreement](#), the default position is that all grant recipients awarded a public sector grant on or after 1 July 2023 will be required to pay at least the real Living Wage and provide appropriate channels for effective workers' voice as a minimum standard.

This conditionality does not apply retrospectively to public sector grants awarded before 1 July 2023.

This conditionality will apply to recipients of eligible agriculture grants awarded on or after 1 April 2024 (Scottish Government Agriculture and Rural Economy Directorate will advise the sector which grants are within scope in advance).

The Scottish Government expects public sector grants awarded before 1 July 2023 which involve multi-year funding to incorporate this conditionality as part of the grant agreement for any subsequent funding years for the project concerned.

Only in limited circumstances, [outlined below](#), may an exception to these conditions be considered; such cases must be agreed by the relevant senior authorising/accountable officer. The relevant grant maker/funder must maintain a record of any exemptions agreed and update the Scottish Government in the format and timescale to be advised by the Fair Work Policy team.

Payment of at least the real Living Wage

- In general, a grant recipient must demonstrate it is paying at least the real Living Wage before it can access a grant.
- All UK-based staff aged 16 and over, including apprentices, who are directly employed by the grant recipient, must be paid at least the real Living Wage; and any UK-based workers who are not directly employed but are directly engaged in delivering the grant-funded activity, whether they be sub-contractors or agency staff, must also be paid at least the real Living Wage.
- The Scottish Government or other relevant funder may apply limited exceptions to provide funding to organisations who cannot pay at least the real Living Wage in order that the measure is proportionate.

Appropriate channels for effective workers' voice

- All organisations with a workforce must be able to demonstrate, before they can access a grant, that all workers employed within that organisation have access to effective voice channel(s), including agency workers.
- Voice exists at both collective and individual levels and organisations will be expected to show how genuine and effective voice is evidenced.
- The Scottish Government or other relevant funder may apply flexibility to recognise the different forms of voice that are appropriate for different organisations.

Real Living Wage and effective workers' voice conditionality in the supply chain

The flowchart at [Annex A](#) illustrates how the conditions to pay at least the real Living Wage and provide effective workers' voice in public sector grants can be applied not just to the grant recipient but down through a supply chain (if there is one).

Where a third sector or private sector organisation uses grant funding to procure services from another third or private sector organisation, and workers from that organisation are directly involved in delivery of the grant-funded activity, Bute House conditionality will apply as set out in the flowchart at Annex A.

The position as regards public bodies is slightly different. Where a public body in receipt of a public sector grant from the Scottish Government uses the grant funding

to, in turn, award a public sector grant to another body to deliver the grant funded activity, the grant recipient will be required to meet the real Living Wage and effective voice conditions.

However, where a public body procures goods or services to deliver the grant-funded activity, real Living Wage and effective workers' voice conditionality will not apply, as in that scenario there are public procurement rules and requirements that should take precedence instead, including the Fair Work First approach, as set out in the [approach](#) and [how the guidance should be used](#) .

Limited exceptions to real Living Wage and/or a flexibility to effective workers' voice conditionality

Any exceptions to conditionality will require to be approved by the relevant Senior Authorising / Accountable Officer for the funder concerned, within agreed governance arrangements for grants. It will be for individual funders to justify any exceptions.

Where an exception to real Living Wage and/or a flexibility to effective workers' voice conditionality is approved, the Fair Work First criteria should still be encouraged and asked as part of a public sector grant process.

The Scottish Government or other relevant funder may apply limited exceptions to provide funding to organisations who cannot afford to pay the real Living Wage in order that the measure remains proportionate. In particular, where grants are essential for an organisation to continue its activities, it will be important to ensure that there is an exception to address any situation in which a potential grant recipient is heavily or entirely dependent on grant funding but cannot pay the real Living Wage. Alternatively, the funder may commit to pay a bigger grant in circumstances where there is arguably no choice for the recipient, so as to allow the recipient to pay the real Living Wage and thereby meet the grant condition. If the funder cannot commit to pay the bigger grant needed, the grant recipient may have to be considered exempt from the real Living Wage condition.

On effective voice, the Scottish Government and other grant makers/funders may apply flexibility to recognise the different forms of voice that are appropriate for different organisations, and there is scope for new and innovative channels to emerge. Although it is important that voice exists in all organisations, it is recognised that the collective element of voice may be more difficult to achieve/evidence in some smaller organisations. As such, while this is encouraged and evidence of collective voice very much welcomed, organisations with fewer than 21 workers will not have to provide evidence of collective voice but must show how it is evidenced at an individual level and that this is genuine and effective. Further flexibilities can be considered in certain circumstances.

Emergency grants, such as those awarded to help mitigate the impacts of the Covid-19 pandemic, or to mitigate negative effects of other government-mandated action, will not be subject to real Living Wage and effective workers' voice conditionality.

Evidence to be provided for real Living Wage and effective voice conditionality
Details and acceptable forms of evidence for real Living Wage and effective workers' voice conditionality are provided in [Annex B](#).

How the guidance should be used

The Fair Work First guidance is designed to support business and other organisations to progress on a journey of continuous improvement in Fair Work and to demonstrate that they are meeting the criteria and conditions for accessing public sector grants and for public contracts. It is advisable to read the whole document once, however the [table of contents](#) should be helpful in finding those sections that are most relevant for you as and when needed.

In addition to accessing support provided by relevant networks, organisations should use this guidance in conjunction with other relevant guidance, such as:

- Grant policy guidance and information provided as part of the application and evaluation processes;
- Strategic guidance provided to Scotland's public bodies by Scottish Ministers and framework/funding agreements between Scottish Ministers and such bodies;
- The [Scottish Public Finance Manual](#).
- Procurement guidance, such as: [Procurement Reform \(Scotland\) Act 2014: statutory guidance](#); [Best Practice Guidance](#) and [Scottish Procurement Policy Notes](#);

Employers are also encouraged to use the [Fair Work Employer Support Tool](#) to understand their fair work practices and access support to enable them to strengthen their approach. Similarly, employers should encourage their workers to use the Fair Work Convention's online [Self-Assessment Tool](#) to assess their own experience of Fair Work and be willing to engage with workers and unions in responding to the findings of these assessment tools.

The guidance can be used by the respective stakeholders as follows:

Public sector grants

- **grant-makers** should use the guidance as follows:
 - to consider how the Fair Work First criteria, including the two mandatory criteria, applies to a grant, consistent with the context in which it can be applied;
 - to design application forms/proposal templates that enable them to gather information about an applicant's commitment to Fair Work First, including assurance that the two mandatory criteria can be met;
 - to evaluate a grant applicant's commitment to Fair Work First contained in its application/proposal; and verify the commitment;
 - to engage with a grant recipient to agree relevant milestones and outcomes for delivering their Fair Work First commitment;
 - to evaluate progress being made towards those commitments as part of grant management arrangements;

- to be assured that the grant recipient is paying at least the real Living Wage and provide appropriate effective workers' voice channels;
- to determine if there is a case for an exception to the applicant being required to pay at least the real Living Wage and/or a flexibility to effective workers' voice.
- **grant applicants / recipients** should use the guidance to:
 - agree their organisation's approach for applying Fair Work First criteria within the organisation;
 - provide evidence in the grant application confirming they are meeting the real Living Wage and effective voice conditions, and action they are taking to meet the other Fair Work First criteria;
 - monitor progress towards delivering against the agreed project proposal and related milestones in relation to the Fair Work First criteria as part of grant management arrangements;
 - consider further action which could be taken to enhance the organisation's Fair Work approach.

Public sector procurements

- **buyers** (those awarding a public contract) should use the guidance as follows:
 - consider, before undertaking a procurement exercise, whether it is relevant and proportionate to include questions on Fair Work First including payment of at least the real Living Wage.
 - consider adopting the Scottish Government's approach to mandate payment of at least the real Living Wage in public procurement exercises
 - to support the evaluation of bids submitted by suppliers;
 - where appropriate, to evaluate progress being made towards delivering against their tender proposals in relation to the Fair Work First criteria through contract management arrangements.
- **bidders / suppliers** should use the guidance to:
 - explain in the response to tender the actions they will take throughout the lifetime of the contract to deliver the Fair Work First criteria, where it is relevant to the contract;
 - agree their approach for applying Fair Work First within the contract;
 - monitor and provide evidence of progress towards delivering against their Tender response in relation to the Fair Work First criteria as part of contract management arrangements.

Funding for public bodies and other public sector partners

Public bodies and other public sector partners have a dual role to play in supporting the implementation of Fair Work First: as employers; and as the stewards of significant public funding which supports them to deliver public services and support Scottish Government priorities, including through procurements or the award of grants/funding.

- **Scottish Government sponsorship / funding leads** should use the guidance as follows, working within relevant legislation and/or existing funding relationships:
 - to consider how Fair Work First applies to the public body/public sector partner;

- to agree with the body/partner what their Fair Work First priorities will be;
- to be assured that the body/partner is meeting the requirement to pay at least the real Living Wage and provide appropriate effective workers' voice channels;
- to be assured that the body/partner is applying Fair Work First to relevant flow-through grants they award;
- to evaluate progress being made towards the body's Fair Work First commitments as part of the agreed monitoring and reporting arrangements.
- **public bodies and other public sector partners** should use the guidance to:
 - identify their Fair Work First priorities;
 - assure the sponsorship team/funder that they are meeting the requirement to pay at least the real Living Wage and provide effective workers' voice;
 - monitor and provide evidence of progress towards meeting the Fair Work First criteria as part of sponsorship/funding arrangements;
 - consider further action the organisation could take to enhance their Fair Work approach;
 - apply Fair Work First, including the mandatory criteria, to any relevant grants they themselves award
 - apply Fair Work First in line with public sector procurement rules.

Verification of an organisation's Fair Work First commitment

Public facing confirmation of commitment to Fair Work First

Organisations who are accessing grant funding are asked by the Scottish Government to include a short statement on their own website highlighting their commitment to advancing the Fair Work First criteria, including the real Living Wage and effective voice conditions. The statement should be agreed jointly by the employer and an appropriate workplace representative. This representative should be from the relevant trade union(s) where one or more is recognised, alternatively where there is no union recognition, it should be another appropriate workers' representative.

Organisations delivering a public contract and who have agreed to adopt the Fair Work First criteria, are also asked to include a short statement on their own website highlighting their commitment to advancing the Fair Work First criteria. The statement should be agreed jointly by the employer and an appropriate workplace representative. This representative should be from the relevant trade union(s) where one or more is recognised, alternatively where there is no union recognition, it should be another appropriate workers' representative.

Public bodies and wider public sector partners should include a short statement on their own website highlighting their commitment to advancing the Fair Work First criteria. The statement should be agreed jointly by the employer and an appropriate workplace representative.

This representative should be from the relevant trade union(s) where one or more is recognised, alternatively where there is no union recognition it should be another appropriate workers' representative.

Those civil service bodies who are already part of the Fair Work Agreement between the Scottish Government and relevant trade unions may wish to highlight their commitment to the Agreement. Other public bodies/partners may wish to consider developing similar agreements.

Statement of Fair Work First commitment for funded activity

Public sector grants

Notes: this section applies to those organisations receiving a grant directly from the Scottish Government or a flow-through grant from a public body/other public sector partner.

Given the more stringent conditions requiring grant recipients to pay at least the real Living Wage and provide effective workers' voice, details of the ways an employer can verify that they are meeting these criteria are provided at [Annex B](#). This is in addition to the statement to be provided from a relevant trade union and/or other appropriate workers representative, as described immediately below. The same statement can be used for both the grant application and the organisation's own website.

As part of the grant application process, applicants will be expected to provide a statement verifying their Fair Work First commitment and confirming it has been developed in agreement with the workforce.

The representative providing confirmation should be from the relevant trade union(s) where one or more is recognised, alternatively where there is no union recognition, it should be another workers' representative.

A grant application cannot be progressed without such a statement being provided to the grant maker/funder.

As part of the grant monitoring process, the grant recipient should confirm the progress being made towards the commitments set out in the Grant Offer Letter and relevant grant award documents. A short statement agreed by an appropriate workforce representative, confirming the organisation's progress in adopting Fair Work First commitments, should be submitted to the grant maker, in advance of the conclusion of the grant and before the final grant payment can be made.

The representative providing confirmation should be from the relevant trade union(s) where one or more is recognised, alternatively where there is no union recognition, it should be another appropriate workers' representative.

Grant recipients will also be expected to provide information about the changes they have made and related impacts for their workforce and organisation as a result of applying the Fair Work First criteria. The employer should fully involve and engage the relevant trade union(s) and/or other appropriate worker' representative(s) to review actions and outcomes and identify further improvements for advancing Fair

Work First commitments. The Fair Work Policy Team use this information to update Ministers on Fair Work First implementation, annually as a minimum.

Public Procurement

As part of the procurement process bidders may be asked, when relevant and proportionate to what is being purchased, to describe how, in performing the contract they will meet the Fair Work First criteria, as described [Fair Work First: the approach and what it aims to achieve](#).

As part of the contract management process, the supplier may be asked to provide evidence that it is meeting the Fair Work First criteria, in line with the tender response.

Given the importance of effective voice in fair work principles, while not a requirement on employers, it is strongly recommended that they engage with their workforce, through their recognised trade unions, and/or worker representatives, in defining and monitoring the commitments they make to advancing fair work in the delivery of the contract during the life of the contract.

Funding for public bodies and other public sector partners

In agreeing their annual priorities with relevant Scottish Government policy/ sponsorship teams, public bodies and wider public sector partners should describe how they are meeting and/or intend to advance the Fair Work First criteria across their organisation and the timescales for doing so. They should confirm this has been agreed in collaboration with an appropriate workforce representative and provide a supporting statement. The representative providing confirmation must be from the relevant trade union(s) where one or more is recognised, alternatively where there is no union recognition, it should be another appropriate workers' representative.

As part of the arrangements for monitoring service delivery, the body/partner should provide evidence of progress towards delivery of their Fair Work First commitments to the relevant policy/sponsorship team. The Scottish Government will provide appropriate guidance and template/s for gathering this information.

Fair Work First Criteria: What It Means In Practice

In considering how each of the criteria can be applied, employers should take account of their organisation's context. This will include the type of organisation, its size, sector, and location, as well as how much progress has already been made in adopting fairer work practices. The approach should be progressive, relevant and proportionate.

Payment of at least the real Living Wage

What this means

The Scottish Government promotes payment of the real Living Wage as the minimum rate for everyone in paid work; this is distinct from the statutory National Living Wage and National Minimum Wage which are set by the UK Government. The real Living Wage is a voluntary hourly pay rate based on what families need for an acceptable living standard in the UK. The rate is calculated by the Resolution Foundation and overseen by the independent Living Wage Commission; it is reviewed annually to reflect the cost of living, and the rate is announced each November. Building on the strength of the real Living Wage movement, the Scottish Living Hours Accreditation Scheme recognises that in addition to payment of the real Living Wage, the number and frequency work hours are critical to tackling in-work poverty. Businesses looking for certification must meet three criteria for accreditation; payment of the real Living Wage, providing a contract reflecting accurate hours worked and a guaranteed minimum of 16 hours a week (unless the worker requests otherwise) and ensure at least 4 weeks' notice of shifts and guaranteed payment if shifts are cancelled within this period

Payment of the real Living Wage should not be used to limit pay rates, and where sector bargained rates have been agreed these should be applied provided they are not below the real Living Wage.

Outcomes

Enabling people to earn a decent income will help them to have a decent standard of living and is the best way of tackling poverty. Low wages are a prime cause of in-work poverty, along with the increased use of zero-hours contracts and other precarious practices.

[Research](#) from the Living Wage Foundation shows that 93% of Living Wage Businesses have benefited since accrediting. 86% of their respondents said it has improved the reputation of their organisation and 75% said it has increased motivation and retention rates of employees. They also reported a 25% drop in absenteeism. Paying the real Living Wage can help businesses attract new workers and skills: the Living Wage Foundation also reported that 93% of students want to work for employers who pay at least the real Living Wage. Currently, two-thirds of workers earning below the real Living Wage are women – by paying the real Living Wage an organisation can reduce their pay gap significantly.

Payment of the real Living Wage can make a material difference to workers and their families, particularly during the cost of living crisis by enabling them to access greater opportunities, with less need for worry about affordability. This is especially

so for women who make up the majority of workers earning below the real Living Wage¹. It can also contribute to narrowing the pay gaps in the labour market, including gender, disability and ethnicity pay gaps.

Real Living Wage conditionality in public sector grants

- In general, a grant recipient must demonstrate it is paying at least the real Living Wage before it can access a grant.
- All UK-based staff aged 16 and over, including apprentices, who are directly employed by the grant recipient, must be paid at least the real Living Wage; and any UK-based workers who are not directly employed but are directly engaged in delivering the grant-funded activity, whether they be sub-contractors or agency staff, must also be paid at least the real Living Wage.
- The Scottish Government or other relevant funder may apply limited exceptions to provide funding to organisations who cannot pay at least the real Living Wage in order that the measure is proportionate.
- The real Living Wage conditionality will be confined to workers based in the UK, as the concept of real Living Wage is based around the minimum wage necessary for an acceptable standard of living in the UK

Good practice examples

- Having an agreed pay structure which means the whole workforce is paid at least the real Living Wage;
- The organisation is recognised as a [Living Wage Accredited Employer](#) or an [Recognised Service Provider](#);
- Applying the pay rates collectively bargained between the relevant employer and trade union negotiating body, provided it is not lower than the real Living Wage rate;
- The employer pays apprentices at least the real Living Wage rate throughout their apprenticeship.
- The organisation is part of a local partnership working towards [Living Wage Place](#) recognition.
- The employer is actively reviewing the pay structures and developing an incremental plan for paying all staff at least the real Living Wage.

Note: those involved in public procurements should also refer to the [Procurement Reform \(Scotland\) Act 2014: statutory guidance](#) and [Best Practice Guidance](#) to understand, how to consider Fair Work First criteria, including payment of at least the real Living Wage, as part of their public procurement exercises, where it is relevant and proportionate to do so.

¹ [Employee earnings in the UK - Office for National Statistics \(ons.gov.uk\)](#)

Appropriate channels for effective workers' voice, such as trade union recognition

What This Means

Effective voice is much more than having a communication channel available within an organisation. It requires a safe environment where dialogue and challenge are central to the organisational culture and are dealt with constructively; and where worker views are sought out, listened to and acted upon, and can make a difference. Effective voice requires workers, their representatives and employers to work in partnership to make sure the right decisions are made to ensure workers are treated fairly and equitably. The co-determination of working practices is key to delivering all of the dimensions of Fair Work effectively.

The [CIPD reported](#) that while having a voice at work can make a fundamental difference to people's working lives, not all forms of voice are being used equally. Individual voice channels include those that enable workers' voices to be listened to individually, rather than incorporated into a group/collective perspective. This form of voice recognises that sometimes individuals have legitimate concerns or issues they wish to talk about that may or may not be directly related to improving the functioning of the organisation. Individual channels, whilst very important, still heavily dominate in UK workplaces and there is a missed opportunity to use a collective voice to improve working relationships. Collective channels, that use union and/or non-union representatives, provide a collective voice that can complement and reinforce individual channels.

Outcomes

Effective voice channels improve information sharing and problem solving, encourage innovation, support cross-learning and can resolve conflict. Individual voice channels can contribute to building a positive workplace culture, connecting people to the organisation, and generating powerful insight to improve performance. Effective voice through trade unions can lead to effective collectively bargained policy in relation to pay, working time, holiday arrangements, training, health and safety and flexible working that delivers positive outcomes for workers and for employers. While recognising that systems of collective bargaining differ widely internationally, there is evidence² that countries with higher rates of trade union membership and collective bargaining coverage experience high employment rates, strong productivity growth and rate well on international indices of competitiveness and innovation.

Effective voice conditionality in public sector grants

- All organisations with a workforce must be able to demonstrate, before they can access a grant, that all workers employed within that organisation have access to effective voice channel(s), including agency workers.
- Voice exists at both collective and individual levels and organisations will be expected to show how genuine and effective voice is evidenced.

² [Bryson, A and Forth, J \(2015\) The UK's Productivity Puzzle \(niesr.ac.uk\)](#)
[Good Jobs For All In A Changing World Of Work: The Oecd Jobs Strategy \(2018\)](#)

The Scottish Government or other relevant funder may apply flexibility to recognise the different forms of voice that are appropriate for different organisations.

Good practice examples

Organisations that are strong on voice will typically promote a strong culture of openness and transparency and encourage acceptance of different viewpoints, thus supporting dignity in the workplace and eliminating workplace bullying, abuse and harassment. Issues and disputes will have clear routes for resolution at both individual and collective levels, and will be dealt with fairly in a timely and constructive manner, giving confidence that, whatever the outcome, fair processes have supported fair resolution. A range of voice channels will exist, promoting voice both individually and collectively, and drawing on workers' experience when considering organisational policy and practice, thus ensuring any barriers faced, particularly by minority groups, are addressed. Some best practice examples are outlined below, however these are not exhaustive as it is recognised that voice is becoming more innovative as the world of work advances.

Collective voice channels

- Providing access to trade unions and making workers aware that they can join a union of their choice.
- Involving trade union/worker representatives in key governance and decision-making structures.
- Recognising trade unions for the purpose of collective bargaining and encouraging membership, where this is the workforce's preferred route, and providing appropriate facility time for supporting regular engagement between union/s and members.
- Constructive dialogue between the employer, workers and where appropriate a relevant trade union/s to address workplace issues or disputes, e.g. absence management, grievance, health & safety.

Individual voice channels

- Regular surveys are carried out to understand worker views, including how well they feel effective voice is facilitated in the organisation, and are involved in agreeing and progressing improvement action.
- Formal and informal arrangements are in place through which meaningful individual and collective dialogue take place, including one-to-ones between workers and management, appraisal/feedback processes, team/organisation meetings.
- Appropriate collective consultation and a clear route for resolving issues at both individual and collective levels, such as through a grievance or collective disputes procedure.
- The organisation promotes a strong culture of openness and transparency and encourages acceptance of different viewpoints.

Investment in workforce development

What This Means

Effective workforce development involves employers providing opportunities for their staff at all levels of the organisation and should be a shared responsibility and shared commitment between the employer and workers. Everyone should be able to engage in lifelong learning.

Outcomes

Organisations that invest in the skills of their workforce can generally expect their workers to add more value, provide a better service, [achieve higher levels of productivity](#) and be more resilient and responsive to change.

Talent management is crucial, even when labour markets are in flux. Talented job seekers are more likely to apply for roles in organisations that are committed to developing their people for current and future roles. Fair Work should therefore be built into an employer's recruitment and retention processes.

Investment in workforce development can also build a more engaged and fulfilled staff; and equal access to training is important in advancing equality at work and closing pay gaps. When people can continue to learn and develop, and use their skills and talents to add value, they gain a greater sense of control over their work and scope to make a difference. This helps build their confidence and self-belief, improving individual and organisational wellbeing.

Good practice examples

- Learning & development is integrated in the organisation's strategic planning and workers and management jointly identify development needs and priorities, ensuring both individual and organisational needs are met.
- Regular equality and diversity training is provided for all staff.
- Learning & development opportunities are provided, and regularly reviewed, to help build the organisation's resilience and responsiveness to change.
- Managers have development discussions with individuals and teams and prioritise this as part of operational activity.
- Workforce Development Plans and Succession Management Plans are in place.
- Formal and informal learning is offered across the workforce, relating to people's particular role and wider development.
- The organisation is committed to providing [apprenticeships](#).
- The organisation is committed to supporting the [Young Person's Guarantee](#).
- Staff are supported to keep their professional qualifications up-to-date.
- The organisation has an appropriate charter mark achievement such as [Investment in People](#) or [EFQM](#).
- The organisation invests in and utilises the skills and knowledge of union equality, learning and other workplace representatives and resources.
- Constructive engagement with union learning reps and Scottish Union Learning activities.
- Carbon literacy training is provided for all staff.

No inappropriate use of zero-hours contracts

What this means

Although there is no legal definition of a zero-hours contract, in the context of Fair Work, such a contract is one which does not guarantee any work to the individual and does not set out a minimum number of hours (whether ongoing or for a set period).

An employer is likely to be using a zero-hours contract inappropriately if:

- it offers a worker a regular pattern of work or regular number of hours but offer only a casual/zero-hours contract;
- a worker has had no say in the zero-hours contract and actually *wants* a contract of employment guaranteeing a minimum number of hours;
- it puts pressure on a worker to accept the terms of a zero-hours contract (where challenged) in order to keep their job;
- there is an expectation that workers will accept all hours offered but no reciprocal expectation that the employer will guarantee hours of work.

It is only right that workers are in jobs that can provide secure, consistent contracts and pay, at least, a real Living Wage. However, in addition to payment of the real Living Wage, the number and frequency work hours is important. That is why The Scottish Living Hours Accreditation Scheme has been launched, which recognises that in addition to payment of the real Living Wage, the number and frequency work hours are critical to tackling in-work poverty.

Those employers using zero-hours contracts should be able to credibly explain their exceptional circumstance which leads to them using such contracts and the steps they are taking to review their business model to eliminate these circumstances.

Outcomes

All workers should be able to plan for their work and life, to know when and for how long they will be required to work, and how much they can expect to earn from week to week. This is key to reducing in-work poverty, which disproportionately affects women. It can also alleviate uncertainty, anxiety and stress, helping to support workers' positive mental health and wellbeing.

As well as being the best option for individuals, the use of secure contracts can benefit the employer. For example, the employer is likely to be regarded as being fair and an employer of choice, which can help with recruitment and retention. Equally, a worker who has a secure contract is likely to be more committed to the organisation and its objectives, which can boost their motivation and productivity.

Good practice examples

- All staff are employed on open-ended or fixed term contracts with confirmed hours and work pattern.
- All staff have a contract which accurately reflects the hours worked, guarantees a fair minimum number of hours per week and does not involve compulsory overtime.
- Staff get reasonable notice of shifts – at least 4 weeks ahead of time, and are paid for cancelled shifts within this period.

- Core and flexible staff resources are reviewed at least annually to determine if any staff on a zero-hours or minimum-hours contract can be moved to a permanent or fixed-term contract with a fixed number of hours and/or a regular pattern.
- Zero-hours contracts are not used to the detriment of workers with protected characteristics and where this is happening, the organisation is taking remedial action.
- Zero-hours contracts are not used to fill actual longer-term vacancies.
- There is a clear, published policy and process to enable someone to request a move from a zero-hour contract with guaranteed and set hours.
- Gained or working to gain Living Hours Accreditation.

Action to tackle the gender pay gap and create a more diverse and inclusive workplace

What this means

Fair Work expects employers to go beyond their legal obligations under the [Equality Act 2010](#), enhancing the protections for workers discriminated on the basis of their [age](#), [disability](#), [gender reassignment](#), [marriage and civil partnership](#), [pregnancy and maternity](#), [race](#), [religion and belief](#), [sex](#), and, [sexual orientation](#).

Tackling labour market inequalities is not only necessary for creating a fairer and more equal society, it can also help boost Scotland's economic performance.

Gender

The [gender pay gap](#) exists because women earn significantly less than men over their careers. A main driver of the gender pay gap is stereotyping which from an early age drives occupational segregation that moves women especially, into industrial sectors dominated by lower pay and jobs that are regarded as 'women's work' and under-valued, that is, the five C's: catering, cleaning, cashiering, clerical, and caring. As women are still regarded as the primary care giver, their work choices can be limited to typically lower-paid and part-time roles. This is especially true when women return to work following pregnancy and maternity. Women can also be living through difficult personal circumstances which could include, for example, experiencing domestic abuse (or other forms of Violence Against Women and Girls (VAWG)), or be moving on from commercial sexual exploitation. This can limit women's opportunities to progress in the same way men can, which dilutes diversity at senior management levels. More generally, employment opportunities can be blocked by a lack of access to quality, fair paid and flexible work which accommodates caring and health commitments such as menopause support; by public transport systems that are inaccessible, irregular (especially in rural areas), and often unsafe (which impact on women especially who are the majority of users of public transport); by unchecked workplace sexual harassment and by recruitment processes that fail to take into account, understand, and appreciate someone's cultural, language or communication needs.

The [Close your pay gap toolkit](#) provides a range of guidance and advice to help employers calculate their gender pay gap and identify actions to reduce it.

Racialised minorities

Employment can play a major part in addressing racial inequality. Scottish Government's [Anti-Racist Employment Strategy](#) is a call for action and a guide to address the issues and disadvantage experienced by people from racialised minorities in the labour market in Scotland, particularly disparities across employment rates and pay outcomes. The gap in employment rate for the minority ethnic population in Scotland is consistently and persistently high. Through fair working practice, racialised minorities will be able to access and sustain employment commensurate with their skills, experience and/or employment goals and in working environments that are diverse and inclusive.

Employers should use the [Minority Ethnic Recruitment Toolkit](#) to improve the diversity of their workforce by recruiting more people from minority ethnic backgrounds as well as the Strategy's [Annexes](#) to consider a range of practice examples to addressing racial inequality in the workplace.

Disability

Disabled people experience some of the most persistent issues around discrimination and a lack of access to opportunity, and the disability employment gap remains the largest gap for any equality group on the labour market. We need to ensure our workplaces are designed and operating in ways that break down physical and other barriers and exclude disabled people, and instead create opportunities and open and welcoming workplaces. The Fair Work Action plan takes forward our commitment to at least halve the disability employment gap by 2038.

Information about employment issues for disabled people is available from for example Inclusion Scotland through [We Can Work](#) and from [Scottish Union of Supported Employment \(SUSE\)](#).

Flexible working options are also of huge importance in supporting progression in employment for all of these groups, and you may wish to refer to the advice in family friendly and flexible working practices criteria section of this guidance for examples of good practices, and the benefits to employers and workers in adopting such practices.

Outcomes

By taking action to reduce gender, disabled and race pay gaps and to widen and improve diversity and inclusion in their organisation, an employer can tap into a rich source of available talent and potential. This makes good business sense and enables people to build a career now and for the future. It can also highlight current practice and areas for change and intervention, helping to create a culture of equality and diversity in the workplace and benefiting workers and employers alike, such as:

For employers

- Increasing diversity and the gender balance in leadership roles leads to better decision making, improved performance and higher profitability across the organisation.
- Positive relationships and diverse teams can generate creativity, innovation, motivation, and loyalty, helping to improve productivity, profits and business growth.

- Workforce diversity helps organisations to better understand and meet the needs of a diverse customer base; this can give them a competitive advantage in attracting a wider pool of customers who see themselves reflected in the workforce composition.

For workers

- Simple improvements to the workplace environment and practice convey positive messages about the organisational culture employers wish to create, and help ensure workers feel supported and valued.
- Workers' mental health and wellbeing can improve if their employer introduces practices that support a good work-life balance and systems to tackle bullying and harassment which can help reduce absenteeism and attrition.
- The importance and value of diversity and inclusion can be improved through equality and diversity training and other positive action focusing on increasing real awareness and understanding.

Good practice examples

- Recruitment, retention and promotion processes prevent bias and barriers, for example, 'blind' recruitment; providing additional support/adjustments at application and interview stages; diversity in interview panels; and exit interviews are used to understand why a person is leaving.
- Workplace adjustments are in place and made for disabled staff or those with long term health conditions who need it. Additional support for adjustments are accessed through Access to Work.
- Flexible working - which could be a reasonable adjustment to some - is encouraged across the organisation from day one of employment, subject to business need.
- Workers have opportunities to influence the organisation's approach to workplace equality, including by sharing their own experiences.
- The organisation gathers data to understand its workforce diversity and has a plan in place to address under-representation.
- Governance structures are gender balanced and the organisation is working to ensure parity for racialised minorities, disabled, young people and workers over 50 years.
- [Enhanced maternity, parental and adoption leave](#) and pay are available for all staff, and staff are supported to return to work through keep in touch days and refresher courses.
- A private, healthy and safe environment is provided for breastfeeding mothers to express and store milk. [Health & Safety Executive](#)
- Everyone has equal access to appropriate learning & development opportunities.
- All staff have opportunities to discuss their support needs with management.
- There are clear career pathways for women, with support for those returning to work after maternity or a career break and to help minority ethnic, disabled and workers over 50 years to progress.
- The organisation is a recognised [Carer Positive](#) employer.

- Employers are able to provide safe spaces for workers to express their concerns and raise issues and where workers are confident that their concerns are dealt with appropriately by trained personnel.
- Policies are in place that align with [Equally Safe](#), Scotland's strategy for preventing and eradicating violence against women and girls (VAWG).
- Staff and policies recognise Commercial Sexual Exploitation as a form of VAWG and support the policy [principles](#), applying these to relevant policy and practice.
- The organisation gains [Equally Safe at Work](#) accreditation to prevent workplace sexual harassment.
- Employers promote and support mentally healthy workplaces where mental health and wellbeing is meaningfully discussed and where stigma and discrimination is addressed.
- The organisation provides support to women experiencing menopause in the workplace. Information is available from [NHS Inform](#) and [Close the Gap](#).
- The organisation has a safety policy for workers who finish work outside of public transport hours to enable them to get home safely.

Offer flexible and family friendly working practices for all workers from day one of employment

What this means

Flexible working and family friendly working practices take many forms including, but not limited to, part-time work and job share, flexitime, compressed hours, term-time, staggered hours, and working remotely and from home³. Flexible working can also be a reasonable adjustment for disabled workers or those who have a long-term health condition. It is an important aspect of Fair Work and recognises that being able to balance work with other commitments enables workers to participate and contribute more fully and productively in the workplace whilst protecting their wellbeing and improving job satisfaction.

Genuine flexibility helps to make work possible for people who might otherwise be unable to access, re-enter and sustain employment; creates more diverse and inclusive workplaces, and provides greater opportunity and security for workers. Flexible working will vary from employer to employer and not all jobs in all sectors or within an organisation will lend themselves to the same type or level of flexibility; equally, workers' needs will vary. There is no one-size-fits-all approach and flexible working practices need to work for the individual, the team and the employer.

Flexible working should be adopted as a positive practice and never used to weaken contractual terms or impose new unwanted working practices. When considering introducing new ways of working employers should always consult with workers, and where present trade union or other worker representatives, to ensure both the worker's and employer's perspectives are properly considered, and any unintended consequences are avoided. The needs of employers and workers are likely to

³[What is Flexible Working? - Flex in Scotland - Flexibility Works](#)

change over time and regular review of policy and practice will ensure appropriate provision is in place.

Outcomes

For employers

Employers who offer flexible and family friendly working practices attract diverse talent, have happier, more engaged workers and increased productivity⁴. Sixty-seven percent of senior Scottish business leaders who offer flexible working say it has a positive impact on productivity; 70% say it helps worker loyalty and 66% noted reduced sickness and absenteeism⁵. It also helps minimise the loss of valued, skilled workers and the resulting recruitment and upskilling challenges. Offering flexibility allows employers to proactively support workplace equality and tap into an under-utilised talent pool which can help them be competitive, improve their reputation, and attract top new talent and customers⁶.

A range of resources to support employers to adopt flexible working is available, including through [Flexibility Works](#), the [Enterprise Agencies](#) and [CIPD](#). Timewise also have guidance for [line managers](#) and [employees](#), as well as how to [hire flexibly](#).

For workers

People who can access flexible and family friendly working practices are better able to harmonise their work and life commitments. This can help them feel more enthusiastic and fulfilled and enable them to develop their skills⁷; it is good for mental health and overall wellbeing. Flexibility in hours and location can be invaluable for those with caring commitments or preparing for retirement; and people balancing multiple roles or interests. It is of particular benefit to disabled people and those with long term health conditions to who may need additional time or support to ready for or get to work, or who need additional breaks and/ or shorter working days at times. It is also of particular benefit to women experiencing menstrual issues or menopause while at work. As women are often the primary carer in a household flexibility and enhancing parental leave and pay provision can help support women to fully participate in employment and aid their career progression; it can also increase opportunities for workers to share caring responsibilities more evenly by, for example, utilising shared parental leave.

Good practice examples

- Organisational policies and practice are in place to support flexible and family working, developed collaboratively by the employer, workers, where present, trade union or other worker representative, in line with legal requirements in terms of reasonable adjustments, and are regularly reviewed.
- Jobs are designed around business outcomes, not based on fixed locations or times to provide flexibility.
- Flexible working and family friendly policies are highlighted in job adverts.

⁴ [Flexible Working Research & Insight - Flexibility Works](#)

⁵ [Flexible Working Research & Insight - Flexibility Works](#)

⁶ [What motivates employers to improve their shared parental leave and pay offers UK Gov](#)

⁷ [Working Lives Scotland | Survey reports | CIPD](#)

- Employers and workers have constructive conversations about requests for flexibility. Trial periods or pilots can be used to test workable solutions for the individual, team and employer.
- Managers get appropriate training and support to enable them to effectively manage individuals who work flexibly.
- Flexible and family friendly options are available at all levels in the organisation and for all staff – not just women or mothers, and to encourage partners to share caring responsibilities
- Flexible working can be offered as a temporary arrangement to accommodate particular circumstances with review points agreed at the outset by the employer and the worker.
- Learning and development is arranged to accommodate different flexible working arrangements and, where practicable, technology is used to facilitate access.
- Enhanced provision is available to support workers with families, such as more tailored maternity, adoption, and shared parental leave and pay.
- Accessible systems and protocols, such as IT equipment and digital diaries, are used to facilitate effective work practices, enabling remote workers to participate alongside their site-based colleagues.
- Meetings are arranged at times that enable workers to attend (in person, by phone or virtually) so everyone can contribute and feel included.
- Effective use of flexible and family friendly practice is modelled from the top down.
- Employers develop and maintain a home and other remote working policy with consideration given for workers with protected characteristics and suitable provision to support workers' mental health and overall wellbeing.
- Working from home and other remote working is not monitored by invasive worker monitoring software.
- Employers, workers and, where present, union or other worker representative, collaborate to agree an approach to flexible and out-of-hours working, with clear boundaries between work and non-work time - enabling workers to disconnect outside working hours.
- Employers with international connections provide flexibility on hours to manage time differences.

Oppose the use of fire and rehire practice

What this means

There is no legal definition of Fire and Rehire practices. 'Fire and rehire' is the terminology currently most used to describe the practice of 'dismissal and re-engagement'. It is described by [ACAS](#) as one option that may be available to an employer seeking to effect changes to employees' contractual terms; it involves dismissing employees and immediately re-engaging them on a new contract with new terms, with the new terms issued to commence on the day following the termination date of the current contract, in circumstances where the employees' agreement to the changes has not been obtained. The term is also used to refer to employers holding out the prospect of dismissal and re-engagement to employees or their representatives during negotiations about changing terms and conditions.

We recognise that the vast majority of employers consult and reach agreement when they have to consider making changes to contracts and will only consider using fire and rehire practice as an exceptional and pressing business necessity.

However, whilst fire and rehire practice may not in all circumstances be contrary to employment legislation, the Scottish Government's position is that such practice does not align with the principles and expected practice of Fair Work.

Therefore, an employer wishing to access public sector grants or other funding or to deliver a public contract in Scotland will be expected to commit to not using fire and rehire practice; and this will be considered as part of the award decision and form a condition for the delivery of the grant or public contract. It would then be monitored appropriately within the relevant contract or grant management arrangements. In addition, if an employer subsequently uses fire and rehire practice during the life of a grant, the continuation of the grant may be reconsidered and this may also be taken into account in the consideration of any future grant funding requests, where relevant and proportionate.

Scottish Ministers have written to chief officers of public sector organisations to advise them that this new criterion has been introduced and that they should apply it along with the other Fair Work First criteria. Further guidance on the application of Fair Work First criteria in grants, other funding and contracts is contained in the 'How the guidance should be used' section of this guidance.

What is Fire and Rehire

An employer is likely to be using fire and rehire practice if they use dismissal and re-engagement for the purpose of diminishing terms and conditions as described above. Employers should not use the threat of dismissal and/or redundancy in order to pressurise staff into accepting changes to terms and conditions.

The benefits of an alternative approach

Under Fair Work principles and the good practice adopted by organisations of all sizes across Scotland, an employer should - from the start of the process - ensure that workers' voice is fully considered through full and meaningful consultation, and including the relevant union/s if present, or other appropriate worker' representative. The employer should also fully consider all alternatives, drawing on support available from [the Scottish Government and its agencies](#), [ACAS](#), [CIPD](#) and other relevant parties.

Where an employer engages constructively with staff to reach voluntary agreement on contractual changes, there are benefits to both employees and the employer, such as:

For employers:

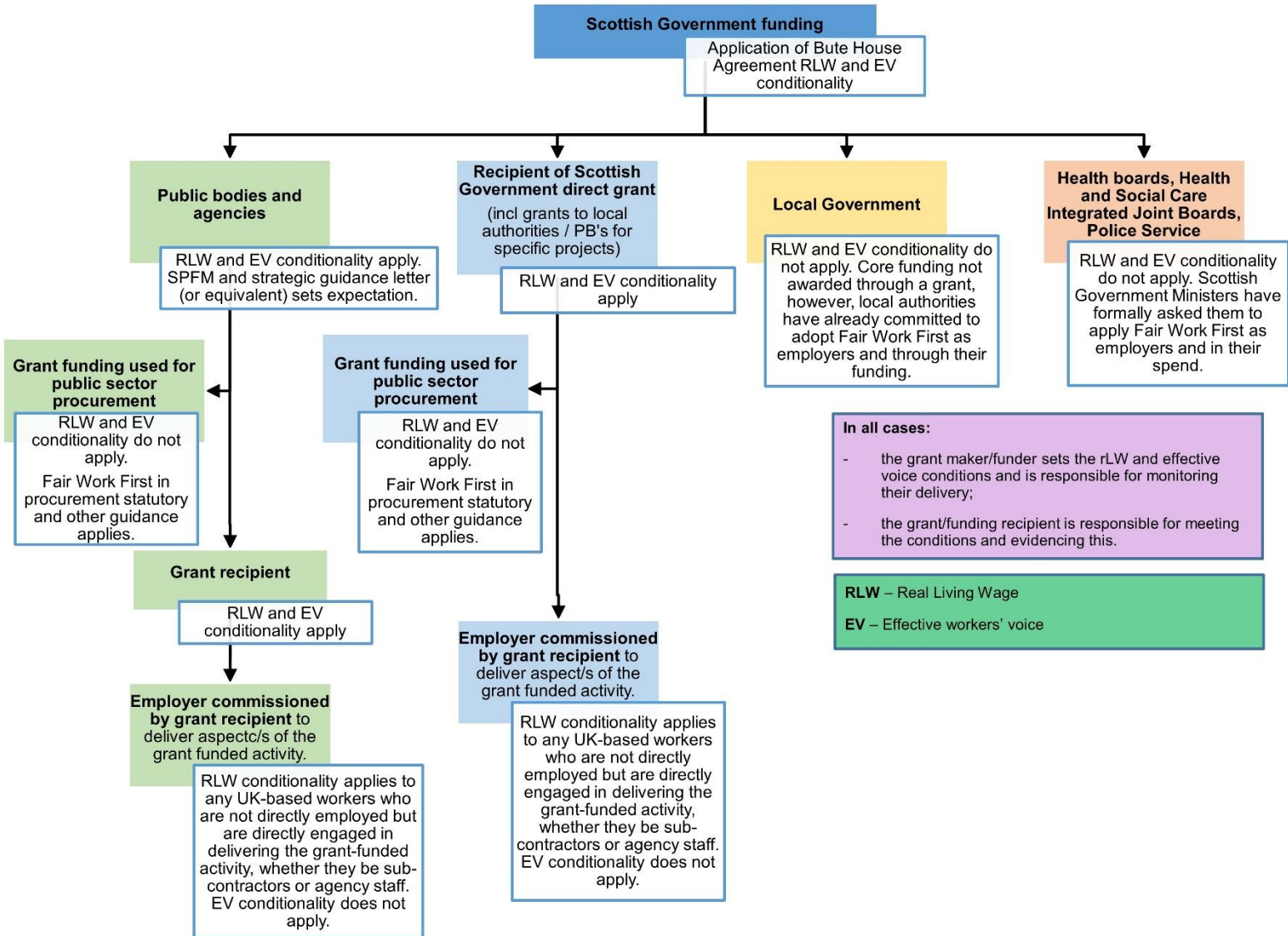
- In avoiding a dismissal and re-engaging process, the employer can retain skills, motivated staff and protect positive relationships with staff and unions.
- They can reduce risk of employment-related litigation and the significant legal and potential damages costs this could bring, along with the time, resource and potential disruption of engaging with the process.

- They can avoid the considerable time and cost associated with replacing personnel who do not accept the new terms and any subsequent training.

For employees:

- They can continue to be employed under terms and conditions they have agreed to, giving them the security of employment and earnings.
- They have a voice in the workplace and feel engaged in decision-making.
- They have an ongoing sense of respect, security and fulfilment which contributes to their overall wellbeing.

Annex A: Conditionality in public sector grant supply chains



Annex B: Conditionality in public sector grants - Evidence and compliance with Fair Work conditionality

In addition to the joint statement from the grant recipient and Trade Union/worker representative to be provided under current Fair Work First arrangements at both the grant application stage and before the final payment is paid, the following evidence is to be provided for real Living Wage and effective workers' voice. Employers who are accessing grant funding are also asked to include a short joint statement on their website, highlighting their commitment to advancing the Fair Work First criteria, including the real Living Wage and effective voice conditions.

Grant recipients should provide the most appropriate evidence for their organisation from the list below. They may need to provide more than one source of evidence depending on the make-up of their workforce and whether contractors/agency workers are employed to directly support delivery of the funded project/activity.

Evidence of payment of the real Living Wage

Grant value	Evidence			
	Directly employed staff	Apprentices	16-17 year old workers	Contracted and agency staff
Below £100k (cumulative)	<ul style="list-style-type: none"> Living Wage Accreditation; <u>or</u> Self-declaration 	<ul style="list-style-type: none"> Self-declaration 	<ul style="list-style-type: none"> Self-declaration 	<ul style="list-style-type: none"> Self-declaration
Equal to or above £100k (cumulative)	<ul style="list-style-type: none"> Living Wage Accreditation; <u>or</u> Anonymised payroll; <u>or</u> Accountant certificate 	<ul style="list-style-type: none"> Anonymised payroll; <u>or</u> Accountant certificate 	<ul style="list-style-type: none"> Anonymised payroll; <u>or</u> Accountant certificate 	<ul style="list-style-type: none"> Anonymised copy of contract for relevant contractors/agency workers

Living Wage Employer Accreditation

Living Wage Employer Accreditation applies to only:

- directly employed staff aged 18 years of age and over
- those who are not apprentices

Useful reference:

- [What is the real Living Wage?](#)
- [Become Living Wage accredited](#)

Notes:

- (i) Living Wage Accreditation costs start at £60 + VAT per year
- (ii) Additional evidence to be provided for apprentices, 16-17 year old workers, and for contractors/agency workers – see table above for information
- (iii) Grant managers should be aware that contracted workers do not need to be on the real Living Wage at the point of accreditation, provided there is a plan

in place to uplift these workers to the real Living Wage rate within an agreed timescale. Living Wage Scotland refer to this phased implementation as milestones.

Self-declaration

Grant applicants are not required to provide specific evidence but will have to adhere to any arrangements for validating payment of at least the real Living Wage applied by the grant maker/funder and must confirm they will pay at least the real Living Wage their workforce from the start of the funded period; and in advance of making a claim, they must provide evidence of doing so.

The grant maker/funder to set out in their grant guidance/ information how they will validate self-declarations, such as spot checks.

Evidence of appropriate channels for effective workers' voice

Although it is to be encouraged in all organisations, the collective element of voice does not have to be evidenced by organisations with fewer than 21 workers. This aligns with conditions for application for statutory union recognition and is therefore considered as a benchmark in terms of the size of workforce where collective representation would be expected. In all other cases, evidence must be provided to show that voice exists at both an individual and collective level in the organisation. The table below explains how the different channels of voice can be evidenced, the expectation being that at least one channel at both levels (individual and collective) is evidenced.

Voice Channel	Level	Evidence
Line Management Relationship (i.e. effective 2-way dialogue through 1:1 relationship).	Individual	Written confirmation from trade union/worker representative(s) that there is opportunity for regular 1:1 open and two-way dialogue between line managers and their direct reports; that this dialogue exists separately to standard performance review processes; and that worker-manager working relationships are effective. This could also be supported by evidence of regular engagement survey that supports this; and/or in Organisation's KPI's.
Staff /Engagement Surveys	Individual	Written confirmation from both management and trade union/worker representative(s) that an appropriate survey is regularly undertaken and can demonstrate that feedback is provided to workforce and actions created and implemented to address this.
Suggestions Schemes	Individual	Written confirmation from both management and trade union/worker representatives that a scheme exists and examples provided of improvements made as a result.
Intranet/Online Platforms	Individual	Written confirmation from both management and trade union/worker representatives that an internal platform exists that allows worker contribution to strategic

		discussion and examples provided where input is acknowledged and acted upon.
Staff Forums / Networks	Collective	Written confirmation from both management and trade union/worker representatives that network(s) and/or a forum exists, meets regularly, supports open dialogue and is action focussed. Examples of actions progressed should be provided.
Trade Union Recognition/ Collective Bargaining	Collective	Copy of Recognition Agreement is provided.
Access is provided to trade unions / Pro union Membership attitude is demonstrated	Collective	1) Trade union(s) confirm that access is granted to recruit and organise members. And/or: 2) Workers are aware that the employer is happy for them to join a union of their choice (e.g through induction materials, clause in contract).
Joint Consultative Committee/s (JCC)	Collective	Written confirmation from both management and trade union/worker representative(s) that JCC/s exist and examples of issues covered.
European Works Councils (EWCs)	Collective	Papers from EWC demonstrating membership and active participation.



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This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-80525-315-0 (web only)

Published by The Scottish Government, March 2023

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1280782 (04/23)

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