

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 from 1 July 2023, the default position is that Fair Work First criteria for paying at least the real Living Wage and providing 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 (please see the guidance for further details).

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.

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

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.

For Further information on Fair Work First Guidance please visit...

<https://www.gov.scot/publications/fair-work-first-guidance-2/>