

Ysgrifennydd y Cabinet dros yr Economi a'r Seilwaith
Cabinet Secretary for Economy and Infrastructure



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref
Matthew Taylor,
Review of Employment Practices in the Modern Economy,

Department for Business, Energy and Industrial Strategy,
1 Victoria Street,
London SW1H 0ET.

Email modernemploymentreview@beis.gov.uk

23 May 2017

Dear Mr Taylor,

I am writing on behalf of myself and the Minister for Skills & Science. We are pleased to enclose the Welsh Government's contribution to the Review of Employment Practices in the Modern Economy.

We thought it would be useful to highlight some of the positive measures we are undertaking in Wales towards endeavouring to build a skilled progressive workforce, tackle poverty and promote fair work.

We would be grateful if you could keep us informed as matters progress.

Yours sincerely

Ysgrifennydd y Cabinet dros yr Economi a'r Seilwaith
Cabinet Secretary for Economy and Infrastructure

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Annex 1

Welsh Government Response to the Independent Review of Employment Practices in the Modern Economy ('The Taylor Review')

1. Security, Pay and Rights

The Welsh Government recognises that supporting a strong economy that generates sustainable and accessible employment opportunities is fundamental to ensuring prosperity for all. Well-paid work is the best route out of poverty, and the greatest protection against poverty for those at risk.

One of the essential pillars of long-term economic growth is the creation of secure and sustainable employment opportunities; such an outcome cannot be secured in the absence of fair work practices.

Insecure work, the absence of regular hours in a structured employment pattern, and associated fluctuating incomes can present difficulties for individuals living in low income households, particularly families. It can present difficulties when accessing cheaper goods and services and affordable credit. Moreover, insecure work can have negative impacts on individual's mental and physical health.

The First Minister of Wales has set out an ambition for Wales to be a 'fair work nation' where everyone can access better jobs closer to home - developing skills and careers; where we can all expect decent, life enhancing work – without exploitation or poverty.

The First Minister has brought together our social partners – the Wales TUC and business organisations – to take this work forward. As part of this work, the establishment of a Fair Work Commission is currently being discussed. The aim of the Commission will be to help Wales build an economy in which more people can access good work and a secure income.

The Welsh Government recognises that, for some people, there may be advantages to more flexible employment contracts. In addition, in some circumstances, there may be advantages to more flexible working to increase productivity, performance and innovation for employers.

However, it is clear that low pay and widespread use of practices related to the 'gig' economy (such as zero hours contracts), could present challenges for policies aiming to support prosperity through work. These practices have in some circumstances been misused, contributing to insecurity in the labour market.

That is why in relation to the social care sector, we will be introducing regulations under the Regulation of Social Care (Wales) Act 2016 that will require domiciliary care providers to publish details of their use of zero hours contracts within the public annual returns required by the 2016 Act.

We will also shortly begin a period of consultation on plans to ensure that care providers offer all workers the option of a minimum-hours contract after a three

month probationary period based on the average weekly hours worked during this period.

We are also looking at how we can employ other measures to help improve the terms and conditions of the workforce, including increasing the separation between travel and call time, and reinforcing compliance with the national minimum wage. All of which pursue further opportunities to establish domiciliary care as an attractive, supported and rewarding long term career.

2. Progression and training

Education and skills at all levels and throughout our lives is a vital underpinning of growth, productivity and competitiveness. Increasing employability, improving skills and supporting people to enter employment also play a fundamental role in supporting prosperity for all.

However, whilst finding work is important, we also know that staying in work and having opportunities to progress is vital to securing continued prosperity. There are a growing number of people in Wales who are working, and yet still living in a low income household. We want to reverse this trend and ensure we are doing all we can to support people into quality jobs that pay well, and where everyone has the opportunity to progress. The Welsh Government is committed to supporting professional development in the labour market.

The Welsh Government's approach to post-compulsory education and training aims to increase the proportion of people who obtain higher level qualifications and go on to get and retain good quality jobs. Five skills strands support this aim:

- an all-age employability programme;
- an apprenticeship programme;
- an academic programme;
- a technical and professional programme; and
- an enterprise programme.

We are developing an employability plan for Wales. It will set out how we will create the conditions to deliver the Taking Wales Forward commitment of supporting people in gaining, retaining and progressing in employment.

A key element of our employability plan is the Employment Advice Service (EAS). EAS will deliver a systematic approach to identifying need and referral to employability support, through a strengthened and unified service.

To ensure skills provision is relevant to the needs of the labour market, Regional Skills Partnerships (RSPs) are at the centre of our Skills Policy. Over the next five years, the Welsh Government plans to deliver a post-16 learning environment which remains fit for purpose to set Wales ahead internationally. To achieve this we are taking a longer-term view of the strategic changes needed as set out in the Policy Statement for Skills¹. Crucially, regional skills delivery not only remains a key policy focus going forward but is part of a growing agenda set against a context of a strengthened UK Government-driven, regionally focused skills landscape, involving City Region deals and Growth Bids.

The ambition is to stimulate employment and skills activity by encouraging skills providers to link their delivery plans to opportunities created by strategic investments and business growth in their regions. RSPs have the role to update and maintain Skills Observatories and provide up to date Labour Market Intelligence for the regions to support economic priorities.

¹ <http://gov.wales/topics/educationandskills/skillsandtraining/policy-statement-on-skills/?lang=en>

The Skills Gateway is the single access point for both individuals and businesses seeking skills support and employability support in Wales².

The Skills Gateway for Business offers support online, via a telephone hotline and through a face to face service targeted specifically at SMEs. Hosted by Business Wales the Skills Gateway offers an interactive means of supporting businesses to identify their own immediate skills needs through the completion of the Skills Profile self assessment tool. The result of the profile informs the development of a business learning plan which directs employers to relevant skills support provision. The Skills Gateway for Business offers support online, via a telephone hotline and through a face to face service targeted specifically at SMEs.

For individuals, the Skills Gateway provides support to determine an individual's skills requirements and helps them address their needs in order to obtain sustainable employment. The service is delivered through Careers Wales as part of the all Wales advice and guidance service for individuals aged 18 plus³.

Action is being taken to promote the benefits of responsible business practices, including training and skills development, to private sector employers. For example, work is ongoing to explore embedding employment practices within the Sustainable Development Charter⁴. This would encourage businesses to offer better working practices and encourage in-work progression as part of the focus on the Well-being of Future Generations Act⁵.

Action is also being taken to promote the development of the Welsh language in the workplace. The development of Welsh language skills will benefit employers by enhancing the services they provide to Welsh speakers. Developing the skills of employees also provides the individuals with opportunities to use the language outside the workplace in their everyday lives, both socially and in the community.

² <https://businesswales.gov.wales/skillsgateway/>

³ <https://www.careerswales.com/en/skills-gateway/>

⁴ <http://gov.wales/topics/people-and-communities/people/future-generations-act/sdcharter/?lang=en>

⁵ <http://gov.wales/topics/people-and-communities/people/future-generations-act/?lang=en>

3. The Balance of Rights and Responsibilities

The Welsh Government recognises the need for employment definitions to fit current and future economy needs. However, to ensure the benefits of more flexible definitions of employment are fairly balanced, they need to be developed in a responsible way. For some, the mode of such employment is the important factor, and certain types of flexible working practices may not be suitable or fair for some areas of the economy. There are alternatives to consider and how flexible working interacts / interferes with the benefits system is an important consideration in addressing poverty and providing employment opportunities more broadly.

Choice is a key element within a flexible economy, but this is dictated by affordability. For instance retired workers returning to employment, whose financial position might enable them to work flexibly and choose to accept or reject contracts / assignments. This might impact upon those seeking first time employment, those with personal circumstances which dictate a working pattern or exclude those with little or no income. This type of working may suit those who can negotiate / dictate working arrangements such as those with key or unique skills

Consideration should be given to looking at the enforcement of minimum working wage legislation as there may be a risk that the availability of cheaper labour risks undercutting minimum working wages.

There are also considerations around access to justice for those in poverty or who are not represented strongly at a national or local level.

4. Representation

Trade unions are the voice of working people in Wales and a key partner of the Welsh Government in improving the economy of Wales. The Welsh Government is clear that supporting economic growth and prosperity for all is a shared endeavour, with Government, employers, unions, employees and citizens each having a role.

The Wellbeing of Future Generations (Wales) Act 2015 places a duty on Welsh public bodies to think and work differently to improve the economic, social, environmental and cultural well-being of Wales⁶. The Act puts in place a 'sustainable development principle' which guides organisations how to go about meeting their requirements to meet their duties under the Act. Collaboration and involvement are key elements of the 'sustainable development principle'. The Welsh Government is committed to working with stakeholders, and acting in collaboration with others to meet wellbeing objectives.

Welsh Government maintains an open relationship with trade unions and employer representative bodies. This includes through the Council for Economic Development, which provides advice to help inform economic and business policies in Wales⁷. This relationship helps ensure that we are maximising opportunities to test our actions and responses to changes in economic conditions, and business policies are developed for the benefit of Wales' economy and its people.

The First Minister has tasked the Welsh Government's Social Partners – Wales TUC and business representative organisations with taking forward a 'fair work' agenda. As part of this work, the establishment of a Fair Work Commission is currently being discussed. The aim of the Commission will be to help Wales build an economy in which more people can have access to good work and a secure income.

We are bringing forward the Trade Union (Wales) Bill that will ensure the continued and effective delivery of public services and support the social partnership agenda, through which the continuous improvement of key public services in Wales can be delivered.

The Bill proposes to introduce changes that dis-apply certain provisions of the UK Government's Trade Union Act 2016 as they apply to devolved Welsh authorities. The provisions to be dis-applied are as follows:

- the 40% ballot threshold for industrial action affecting important public services;
- powers to require the publication of information on facility time and to impose requirements on public sector employers in relation to paid facility time;
- restrictions on deduction of union subscriptions from wages by employers.

⁶ <http://gov.wales/topics/people-and-communities/people/future-generations-act/?lang=en>

⁷ <http://gov.wales/topics/businessandeconomy/welsh-economy/economiccouncil/?lang=en>

5. Opportunities for Under-Represented Groups

Demand for alternative working practices can support opportunities for groups currently under-represented in the labour market. For example, more flexible contracts may suit some individuals, such as those needing to fit work around caring responsibilities or who are unable to commit to regular and consistent hours of employment.

However, these employment practices are only beneficial when managed through negotiation, and caution needs to be exercised to ensure individuals are not forced into this type of employment. For example, skilled workers in employment represented by unions have influence on employment practices. Conversely, zero hours contracts workers with no representation have little influence over working hours and conditions so might have to accept the same in the absence of an alternative.

We know there are certain groups in society, for example disabled people, who are more likely to be living in poverty, and often face significant barriers to entering the labour market.

Welsh Government is committed to supporting a range of actions to support more and better opportunities for these groups to engage in a positive way with the labour market. The Welsh Government's employability plan will look to address some of these individual and employment barriers, and support under-represented groups to enter and progress in work.

The Welsh Government is also continuing to take forward work to increase diverse representation on boards and through local democracy. In addition, a range of projects are funded through our Equality and Inclusion Grant which aim to break down barriers and discrimination.

6. New Business Models

Welsh Government is taking action to support the start up and growth of businesses in Wales through the Business Wales service. Business Wales provides aspiring entrepreneurs, micro-businesses and SMEs in Wales with a wide range of business advice and support, including information on the types of business models available.

Business Wales offers a combination of online, telephone, one-to-many and one-to-one business support to start-ups and established businesses, tailored according to the client's needs.

As new business models emerge to meet the changing needs of employers and employees, Government has a role in ensuring a fair labour market environment for workers. One of the ways in which Welsh Government is working to ensure the employment practices adopted by employers and their supply chains are fair is through the Code of Practice on Ethical Employment in Supply Chains⁸. The Code of Practice was launched in March 2017 by the Cabinet Secretary for Finance and Local Government. The Code is voluntary, however, all organisations in receipt of Welsh public funding, either as publicly-funded bodies or via grants and contracts, are expected to sign up.

The Code's 12 commitments cover actions designed to:

- combat modern slavery;
- ensure that practices such as false self-employment and blacklisting of unionised workers are not found in public supply chains;
- avoid unfair use of zero hours contracts and umbrella employment schemes; and
- consider paying the Living Wage Foundation's living wage.

The Code is accompanied by guidance which helps organisations put the commitments into practice, and this includes a set of example questions to ask potential suppliers, and contract conditions to be included in, and monitored throughout, contracts. Monitoring employment practices routinely as part of procurement and contract management procedures will provide strong incentives for businesses to take these matters seriously in order to access contract opportunities.

We have also developed the Supplier Feedback Service to provide a means for people to raise concerns about specific contracts or instances of poor procurement practice.

Public sector procurement can also act as a lever to promote certain practises and behaviours, as well as supporting wider social benefits. The Welsh Government's established Community Benefits programme works to ensure that Community Benefits clauses are included in all large infrastructure projects in Wales⁹.

Other approaches could include identifying best practice in companies and engaging them to act as exemplars, to promote the benefits of adopting certain business models or workplace practices to other employers.

⁸ <http://gov.wales/topics/improvingervices/bettervm/code-of-practice/?lang=en>

⁹ <http://gov.wales/topics/improvingervices/bettervm/publications/community-benefits-2014/?lang=en>