

Terms of Reference of the Fair Work Convention

1. Introduction

- 1.1. The Fair Work Convention was established in 2015 and is independent of Government.
- 1.2. The Convention brings together unions, employers and academic expertise to:
 - advise ministers on fair work and
 - advocate and promote fair work.
- 1.3 In working towards this remit, the Convention will aim to promote the development and implementation of innovative and collaborative policymaking.
- 1.4 The Convention will also monitor progress on fair work as defined by the evidence-based Fair Work Framework.

2. Ways of working

2.1. Engagement

- 2.1.1. The Convention will be responsible for developing its own work plan with the support of the Fair Work Convention Secretariat.
- 2.1.2. In the process of carrying out its functions, the Convention is expected to engage widely with those likely to be involved in delivering or promoting fair work across the economy particularly, but not limited to, the following groups:
 - workers and trade unions;
 - employers, business leaders and industry bodies;
 - academia and educators;
 - public bodies and
 - community groups.
- 2.1.3. The voice of workers will be particularly important given that fair work is focused on understanding and improving the experience of work and supporting positive outcomes in the economy for workers, employers and communities.
- 2.1.4. Engagement with employers is also crucial as employers are the key change agent in delivering fair work across the economy.
- 2.1.5. The Convention will take into account equalities and human rights, including all protected characteristics.
- 2.1.6. The Convention will make use of the expertise held by a wide range of relevant national bodies including COSLA, advisory groups and think tanks and ongoing Scottish Government work streams and independent bodies, including the Poverty and Inequality Commission and the Just Transition Commission.
- 2.1.7. In carrying out its engagement, the Convention will seek to explore a range of diverse approaches, to ensure that it has input and experience of a range of views.

2.2. Relationship between Convention and Scottish Government

- 2.2.1. The Scottish Government and the Convention will work together to ensure that fair work is a core part of Scotland's economic strategy and the post-pandemic economic recovery. Fair work is central to achieving inclusive growth and improving job quality and productivity for all workers and employers in Scotland. It is also key to realising a range of wider

ambitions for Scotland including the eradication of child poverty, the creation of a wellbeing economy and the just transition to a net-zero carbon economy.

2.2.2. The Scottish Government and the Fair Work Convention will work together to create a vibrant, stable and innovative economy, with a high standard of living to all citizens. In doing so, we seek to ensure that by 2025 we will have established Scotland as a world leading Fair Work Nation.

2.2.3. To achieve this the Fair Work Convention will work with the Scottish Government on the following priorities:

- Embedding fair work effectively into Scotland's economic model and economic policy-making;
- Progressively realising fair work across all sectors of the economy;
- Embedding and mainstreaming fair work across all functions of Government;
- Supporting employers and unions to work together to adopt better workplace practices based on the principles of fair work;
- Raising awareness of the benefits of fair work.

3. Convention structure and appointment of Convention Members

3.1. The Fair Work Convention will consist of between 9 and 17 members and will be:

- Made up of equal numbers of private sector employers and union representatives. In addition, one seat will be held for a public sector employer representative and one seat will be held for a third sector employer representative. If a vacancy exists at any time this will be clearly stated on the Fair Work Convention website.
- Supported by an academic advisor, who is a full member of the Convention.
- Supported by a secretariat employed by Scottish Government but working solely to a business plan designed and agreed by the Convention.
- Funded by the Scottish Government but the Convention will decide how its budget is spent – in line with public accounting rules.
- Independent of the Scottish Government.

3.2. The Fair Work Convention will be chaired by Co-Chairs with one chair representing employers and one chair representing unions. The Co-Chairs will be appointed by the Cabinet Secretary with responsibility for fair work on merit and in line with the principles of ethical standards in public life. Before making the appointment, consideration should be made of any candidates proposed by the Convention for this role. Convention Co-Chairs should have demonstrable skills and experience on fair work and should bring significant leadership acumen to effectively lead the work of the Convention.

3.3. Co-Chairs will be appointed for a term of three years with the option of extending their term for a further one year. The terms of the Co-Chairs are not linked and one can resign without impacting the position of the other.

Action should be taken to maintain the balance of union and employer Co-Chairs within a reasonable timeframe.

- 3.4. Co-Chairs appoint the Convention. In so-doing appointments should be made on merit and in-line with ethical standards in public life. Co-Chairs should seek to consult the STUC before the appointment of union members and should seek to consult relevant employer organisations before appointment of employer members. All Convention members should have demonstratable skills and experience on fair work and should bring leadership acumen to effectively support the work of the Convention. All Convention members are appointed for a term of three years with an option of sitting for two terms. In order to maintain skills and experience, Convention members who have served their full two terms are still eligible to be appointed as a Co-Chair of the Convention in line with the process outlined above.
- 3.5. Co-Chairs appoint the academic advisor who should have proven expertise on labour market and fair work issues. The academic advisor is appointed for a term of three years with an option of serving two terms. The academic advisor is eligible to become Co-Chair of the Convention in either the union seat or the employer seat as long as they are proposed as a candidate by all members of the Convention in line with the process outlined above.

4. Roles and Responsibilities

4.1. Convention Co-Chair

- 4.1.1. The Co-Chairs are independent of Government, and responsible for determining the work plan of the Convention in consultation with Convention members.
- 4.1.2. The Co-Chairs are expected to:
 - Act as the principal spokesperson and public face of the Convention, representing it at meetings with other bodies, the Scottish Ministers and other Members of the Scottish Parliament, and at conferences / events and in the media.
 - Provide effective leadership to the Convention, including chairing meetings and fostering sound decision-making and full participation by other members of the Convention in the exercise of their functions and in the work of the Convention.
 - Identify, and liaise with Scottish Government Ministers and officials, the STUC and relevant employer organisations as appropriate, and with regard to appointments to the Convention.
 - Prepare for, and attend, meetings of the Convention and its inquiry groups, when appropriate.
 - Attend other meetings and seminars on behalf of the Convention as appropriate.
 - Identify and specify potential areas for research.
 - Establish good partnership working with other organisations, including other public sector organisations, and participate in reference groups, discussion forums and meetings as appropriate.
 - Establish close working relationships with key areas of government work as they develop.

4.2. Convention members are expected to:

- Exercise their individual talents and areas of expertise by briefing and guiding the Convention.
- Support the promotion and adoption of fair work through the economy by supporting the Convention to access key networks of employers and unions.
- Support the Convention to develop well targeted materials and recommendations.
- To act on the Chair's behalf in representing the Convention at meetings with other bodies, at conferences / events and in the media, as required and agreed with the Chair.
- To act as Convention champion/lead, as required and agreed with the Chair in relation to specific elements of the work plan.
- Attend Convention meetings regularly.
- Notify the Secretariat at the earliest opportunity if they are unable to attend scheduled meetings.
- Prepare adequately for these meetings by, for example, proposing agenda items, reading papers in advance, preparing and presenting papers for consideration, participating in discussion, and helping to reach a consensus view.
- Conduct themselves in an appropriate manner and to respect the views of other Convention members.
- Protect information received in confidence.
- Identify and specify potential areas for research.

5. Convention meetings, evidence gathering and events

5.1. Drawing on the skills, talents and experience of its members and based on research and insight into the labour market, the Convention will agree a work plan that reflects its remit and takes into account the progress being made on fair work by the Scottish Government. The work plan will be maintained and operationalised by the secretariat, directed by the Co-Chairs..

5.2. It is anticipated that a range of activities are likely to be needed:

5.2.1. Meetings of the full Convention (in-person and online)

5.2.2. Workshops, events, discussions, evidence gathering session (etc, in person or online)

5.3. It is anticipated that the full Convention will typically meet 5 times a year. Further meetings may be required.

5.4. Agenda

5.4.1. The agenda for each meeting will be decided by the Co-Chairs following discussion with the Secretariat. If members wish to contribute agenda items, they are asked to notify the Secretariat by emailing no later than 2 weeks before the relevant meeting. The secretariat will circulate the final agenda and all papers 5 working days ahead of each meeting.

5.4.2. Whilst time will be allocated for any other business, advanced notice should be given of any significant issues to be considered. These issues should be notified to the Secretariat as above.

5.5. Conflict of interests

5.5.1. As a standing item at the start of each meeting, the Chair will ask members to state any potential conflicts of interest that may arise through the course of the meeting. In this context, “conflict of interest” refers to specific bias or financial interest that other members of the Convention could not reasonably be expected to be aware of. Members are also expected to declare interests as they arise during discussions. In these circumstances, it would be for the Chair to decide an appropriate course of action. This may include, for example, asking the member to leave the meeting for the specific agenda item which relates to the conflict of interest.

5.5.2. A register of interests will be published on the Convention website alongside Convention biographies.

5.6. Minutes

5.6.1. A record of the Convention’s meetings will be made available through the Convention’s web page. The Secretariat will ensure that the minutes reflect the discussion appropriately and seek agreement with all Convention’s prior to publication.

5.7. Meeting documentation and information sharing

5.7.1. Reports, minutes and other information will be made available through the Convention’s web page.

5.7.2. The Convention is committed to being as open and transparent as possible and will proactively share what information it can. However, some relevant documentation may contain information that is not in the public domain, contain issues of commercial sensitivity or raise copyright issues.

5.7.3. Information to be released will be considered by the Co-Chairs and should not be released without their explicit consent. Where the Co-Chairs consider that documentation should not be made available online, the minutes will include a record that they have been considered by the Convention, or where possible, sensitive material will be partially redacted and published.

5.8. Inquiry Reports and Evidence Gathering

5.8.1. Inquiry reports will be co-created to ensure all partners and those who will be impacted are empowered to shape their future. This means that the Convention must seek to hear from a wide range of stakeholders who should be asked to provide input to the Convention.

5.9. Agreeing outputs and recommendations

5.9.1. Convention members should use their best efforts to achieve consensus on outputs and recommendations.

5.9.2. Where it does not prove possible to achieve consensus after all efforts have been exhausted, the Convention should agree on an approach to recording differences of opinion. This approach may depend on the issues under consideration.

5.9.3. Differences of opinion may be recorded via, for example, footnotes; an annex with alternative views; a minority report, etc.

5.9.4. Different views will be recorded and communicated clearly and objectively and will cite relevant supporting evidence.

5.9.5. Clarifications on any errors relating to significant points of fact in the Convention's published reporting will be considered. Suggested improvements will not be reviewed.

6. Inquiry Groups / Working Groups

6.1 Objectives and operating principles

- Inquiry Groups / Working Groups are established in consultation with the Secretariat and Co-Chairs of the Convention to support the delivery of the Convention's work plan on a specific topic, sector or theme. Proposals for any new Inquiry Group / Working Group should set out its principal objectives and put forward a member to lead the inquiry or group initially.
- The make-up of Inquiry Groups / Working Groups should reflect the sector or theme, and every effort should be made to balance representation from employers, employer organisations, workers and unions. Representatives of relevant public bodies and relevant third sector organisations should also be considered. An Inquiry Group / Working Group should also be supported by dedicated academic expertise.
- Each Inquiry Group / Working Group will receive practical and logistical support from the Secretariat and will agree their own terms of reference supported by the Secretariat and with the objective of increasing fair work in the economy.
- Inquiry Groups / Working Groups will follow the same process as the Convention in agreeing recommendations and outputs. (See Item 5)
- Inquiry Groups / Working Groups will ensure the Convention is aware of the work being carried forward and will share findings and proposals with the Convention and seek further input and agreement on these by consensus in order for these to be formalised as Convention outputs.

7. Memorandum of Understanding

7.1. The Convention's relationship and ways of working with the Scottish Government are set out in a MoU to be published on respective websites. The Convention will keep the terms of this MoU under review and seek the Scottish Government's agreement regarding any necessary revisions.

8. Secretariat

8.1. The Secretariat will be based within the Fair Work Division of the Scottish Government but will act independently of the Government in support of the Convention. It will undertake the following functions as directed by the Convention:

- Deputising for Co-Chairs when appropriate and effectively representing the Convention's views and recommendations within and outside of Government.
- Supporting the Convention to engage with Scottish Government officials and Ministers as necessary. This will include a Memorandum of Understanding to be agreed with relevant Scottish Government officials to establish ways of working that support the independence of the Convention while ensuring the Convention is kept well-informed regarding the Scottish Government's fair work planning and delivery.

- Supporting the Convention in the delivery of its inquiries and the development of its reports, recommendations and policy positions.
- Ensuring Scottish Ministers are kept abreast of the Fair Work Convention's work and recommendations and maintaining positive relations with the Sponsor Unit.
- Supporting the Convention to remain abreast of policy developments or events across Government with updates on relevant areas of interest in the wider policy landscape, as required.
- Preparing and circulating agenda and related papers.
- Arranging suitable locations and dates for meetings of the Convention.
- Inviting individuals and organisations to meetings of the Convention, as directed by Convention members.
- Recording minutes and action points.
- Drafting reports, and other documents, as directed by the Convention.
- Managing communications for the Convention, including:
 - dealing with all enquiries in relation to the Convention's work;
 - maintenance of the Convention's website;
 - publicising work online and coordinating other online engagement, as required;
 - drafting responses to press queries.
 - raise the public profile of the Convention's work by executing an agreed communications plan.
- Commissioning and managing third party research and specialist input, as required.
- Synthesising existing research on fair work, monitoring relevant information/media.
- Administration of Convention's budget, contracts and expenses. .
-

8.2. The secretariat will also lead on drafting business cases to ensure the Convention has the appropriate funding to carry out its remit.

9. Relationships with Ministers

9.1. The Convention will report to the Cabinet Secretary with responsibility for Fair Work. The Co-Chairs will schedule formal meetings with the Cabinet Secretary twice a year to discuss the Convention, provide an update on work and discuss shared priorities.

9.2. As described above, the Cabinet Secretary will write to the Convention each year, advising them of planned government work to help inform the development of the Convention's work plan.

10. Requests for Advice

10.1. Ministers may make formal requests to the Convention for advice via the Co-Chairs. The Convention will consider whether it is able to incorporate this into its work plan and provide a formal notification to Ministers advising of their decision in line with arrangements agreed in the MoU with the Scottish Government.

11. Remuneration and expenses

11.1. Travel and accommodation expenses will be reimbursed in line with the Convention's Travel and Subsistence policy which was developed in consultation with the Scottish Government and based on existing good practice. This policy will be maintained and updated by the Secretariat. All travel will be at standard class. Full details of current allowances and rates can be obtained through the Secretariat.