

Working Together for a Fairer Scotland

**Scottish Government Response
to the Working Together Review**

August 2015

WORKING TOGETHER: RESPONSE AND FAIR WORK CONVENTION

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1. Ministerial Foreword

Last year's Working Together review – led by Jim Mather – set out a clear view as to how a more collaborative and productive relationship could be developed based on more inclusive dialogue between employers and employees. The importance of promoting the role of trade unions among employers was a key part of this.

Since the report was published, The Scottish Government has implemented a number of changes, the first of those being the creation of my own post as Cabinet Secretary for Fair Work Skills and Training. As far as I am aware, this is the only such post in Europe.

The next step was to establish the stakeholder body, recommended by the report, which is now the Fair Work Convention. The Convention has now met four times, and it has set its remit to deliver a blueprint for what Fair Work should look like in Scotland, by the end of March 2016.

I would like to thank Jim Mather and the rest of the Working Together Review Group for their work on this report. I would also like to thank Anne Douglas and Linda Urquhart for agreeing to take on the challenge of chairing the Convention and to the other members who have agreed to give their time to this essential piece of work. Helpfully, some of the members have been involved in both, ensuring that there is continuity in the approach.

I felt it was right to wait until the Convention was established and had been able to consider its remit, before responding formally to the other recommendations made in the report. We have been clear in our support for the recommendations and work has been continuing in a number of areas. This formal response now gives me the opportunity to set out how we are taking the recommendations forward in the context of the new focus on Fair Work.

Fair Work means that everyone is entitled to expect access to the labour market, job security, fair reward, opportunities for personal development, and a say in how their workplace operates. It means that access to work and progress in the workplace should be on an equitable basis, and people should not be disadvantaged by background or circumstance. Too often that is not the case and unfortunately there are still many barriers facing those who are treated unfairly. Employment tribunal Fees are one example of such a barrier.

For many, especially those in the lowest paid jobs, the odds seem stacked against them. Poor wages, insecure contracts, such as zero-hours, and other poor employment practices can trap people who are trying to work to make ends meet. This is not right for either for those directly affected or for our general economic

success – a view shared increasingly by a number of respected international bodies such as the OECD¹².

I also want to set out a little of our rationale for pursuing a Fair Work agenda and some of the wider issues that are driving our ambitions for a labour market and workplace policies that foster inclusive growth.

The Fair Work Convention has been charged with developing a framework for Fair Work in Scotland. I do not seek to presuppose any of the conclusions that the Convention may draw, but rather, set out the factors that have motivated the Scottish Government's commitment to Fair Work thus far. There is clear and increasing evidence that suggests that fair and progressive workplace practices have a positive effect not only on the lives of individual employees, but also on productivity and innovation in the wider economy. Factors such as employee voice, pay, job security, hours of work, flexible working arrangements and job opportunities for employees can all help to build strong and inclusive growth. Good, progressive workplace policies and decent jobs embrace and promote these elements to allow individuals, organisations and society to flourish. There is much to suggest that this will have much wider positive social and economic effects including decreasing the burden of illness, reducing poverty, encouraging social inclusion and improving productivity.

Our society will be fairer and more successful when we end the blight of low pay and when all employers see their employees as assets in which to invest, to nurture and grow. A modern and progressive approach to industrial relations and to trade unionism is at the very heart of being able to achieve that.

For the majority of Scots I believe this is the case. Over 80% of workers in Scotland are already paid the Living Wage or more. Many Scottish firms are leading the way in developing innovative and progressive practices and they are reaping the competitive benefits of this. Many employers in the public and private sectors are also able to clearly demonstrate the positive benefits that greater levels of staff engagement, particularly through trade unions, can bring.

We know that our legislative powers are limited in many of these areas. While we will continue to seek more powers I have asked the Convention to consider how we build aspirations that go beyond those limitations to deliver a distinctive approach in Scotland, one which focuses on employees, Trade Unions and employers of all shapes and sizes to offer a new Fairer approach to what happens in our workplaces. That will benefit us all.

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¹ [OECD, *All on Board: Making Inclusive Growth Happen*, 2014](#)

² [OECD, *In It Together: Why Less Inequality Benefits All*, 2015](#)

2. Introduction

*One Scotland*³, the Programme for Government, set out our desire to develop a thriving economy which is based on well-motivated, better paid workers. Our strong support for Scottish businesses and our measures to reduce inequality go hand in hand.

These themes were also at the centre of our refreshed Economic Strategy⁴ which sets out a vision for a rebalanced economy, with a growing and diversifying business base, an increased focus on exports and improved level of participation in the labour market all having key roles to play.

What is clear in all of this, is that for Scotland to be economically successful, work must improve opportunities for people to live and engage more fully in society. We know that this can make people happier, healthier and importantly, more productive.

This is why the Scottish Government believes that Fair Work must be at the heart of our economic strategy. Better pay and conditions, improved employee engagement and increased workplace innovation can be central to increasing productivity and therefore to supporting our economic aims and to tackling inequality.

“...there is increasing evidence that job quality and inclusiveness play a positive role for economic growth and social stability. In all countries... promoting the quality of the work environment impacts not only on the well-being of workers, but also has direct economic implications, eg. higher productivity and lower public health expenditure.”

OECD, In it Together: Why Less Inequality Benefits All, 2015: 40

³ <http://www.gov.scot/Resource/0046/00464455.pdf>

⁴ <http://www.gov.scot/Resource/0047/00472389.pdf>

3. Working Together

Across many countries, sectors, industries, companies and organisations, trade unions – as the representatives of workers – engage constructively with Government, policy makers, employers and management and other stakeholders to generate constructive and creative solutions to a range of organisational, economic and social challenges. There is an extensive international literature that identifies and promotes the many benefits to individuals, organisations and societies of collaboration and working together, and the importance of high trust relationships, respect, integrity and the sharing of gains.

Working Together: Progressive Workplace Policies in Scotland, 2014

The Working Together: Progressive Workplace Policies in Scotland Review reported to the Cabinet Secretary for Training, Youth and Women's Employment publishing its report on 13 August 2014. The independent review group was chaired by Jim Mather and included representatives from trade unions, employers and academics. The review was initiated amid a recognition that there is a direct connection between well-rewarded and sustained employment, progressive workplace policies, productivity and innovation, and had its origins in the regular discussions between the Scottish Government and the STUC. Its underpinning purpose was to recognise and promote the positive role played by trade unions in the workplace, in industry, in the economy and in wider civil society.

It underlined the Scottish Government's support for effective trade unionism, fair employment practice, and greater partnership between employers and unions. A central facet of the review's remit was therefore to 'focus on measures which would optimise the relationships that link trade unions, employers and government'.

Further to this, there is substantial evidence to suggest that a blend of policies, behaviours and outcomes that promote progressive workplace policies and the role of trade unions is the best route out of poverty and the best way to tackle inequality. The group carried out extensive investigation into key areas including:

- Opportunities for innovation in the workplace which will enhance productivity, workplace development, and build a more secure and resilient labour market.
- Existing good practice, the benefits that good work workplace relations deliver and how they might be more widely adopted and secured.
- Opportunities to promote collective bargaining, workplace democracy, diversity and equality, including the participation of women.

Among prevalent issues identified by the review are inclusive dialogue between employers and employees, the positive role trade unions play in the workplace; and the promotion of a more collaborative approach; and the role that government should play in this relationship.

Based on the evidence gathered, the review group found that were many unions, employees and employers already reaping the benefits of working together to construct their own business or sector specific models of modern, co-operative industrial relations. To build on such successes, the review group identified four key themes for action:

- Investing in the capacity of union members and staff, and enhancing employer capacity to deliver economic, social and civic benefits.
- Investing in dialogue and communication about fair work to achieve a broader and deeper recognition of the benefits that accrue from unions and employers working together, and a shared commitment to progressive workplace policies.
- Fostering real opportunities for unions, employees and employers to work together to embed these values more systematically and maximises the benefits of shared knowledge and distributed leadership.
- A willingness to resource, evidence, share and learn from what works.

A number of actions have already been taken forward by the Scottish Government which will help to address a number of the issues highlighted by the review. These include:

- The establishment of a Cabinet Secretary post for Fair Work, Training and Skills.
- Establishing the stakeholder body – now the Fair Work Convention.
- Our continued support for Scottish Union Learning
- The refreshed Memorandum of Understanding between the Scottish Government and STUC which commits to bi-annual meetings between the First Minister, members of the Cabinet and STUC General Council.
- The establishment and continuation of a staff governance model in the NHS.
- Support for the Living Wage through funding the Poverty Alliance, encouraging business's to gain Living Wage accreditation, support for the Living Wage foundation and leading by example through the Public Sector Pay Policy.

4. The Fair Work Convention

Establishing the Fair Work Convention is at the centre of our response to both the Working Together report and the new Fair Work agenda. The Convention was established in April 2015, and will be a focal point to develop, promote and sustain a fair work framework for Scotland. Its remit for its first year is to consider the pertinent views and research on matters such as innovative and productive workplaces, job security, and promoting the Living Wage. It will look to promote a new dialogue between employers, employees and trade unions, public bodies and the Scottish Government. It will be a visible symbol of the Scottish Government's commitment that will help to drive thinking forward and build consensus.

It is co-chaired by former STUC president Anne Douglas and Chairman of Morton Fraser Linda Urquhart, signalling a partnership across business and trades unions. Beyond this, the membership is drawn equally from employers and unions, representing a broad range of interests. The members are:

- Mary Alexander, Deputy Regional Secretary – Scotland, Unite
- Lilian Macer, Scottish Convener, Unison
- Bernadette Malone, Chief Executive, Perth and Kinross Council
- John Reid, General Manager, Michelin Dundee
- Henry Simmons, Chief Executive, Alzheimer's Scotland, and
- Grahame Smith, General Secretary, STUC
- Prof Patricia Findlay, independent academic advisor to the convention

The remit of the Convention will build on the foundations of the Working Together Review to:

- Investigate and promote progressive workplace policies which foster innovation and improve skills and productivity;
- Assess, distil and promote evidence of the most effective industrial relations practice in order to encourage the development of constructive industrial relations in a range of different sectors and workplaces;
- Facilitate enhanced dialogue between unions, employers, public bodies and Government departments;
- Explore the potential to extend collective and sectoral bargaining in Scotland;
- Seek to increase levels of gender equality and workplace democracy across the private, public and third sectors in Scotland;
- Provide evidence-based recommendations on the living wage, minimum wage rates and policies that help as many low-paid workers as possible and contribute to a more equal and prosperous Scotland.

The primary focus of its first year will be the creation of a Fair Work Framework by end of March 2016. The full remit of the convention can be found below.

Fair Work Convention: Remit

The Fair Work Convention is the independent body established to develop a blueprint of the best practices for Fair Work in Scotland

The remit of the Convention over its first year is to drive forward the Fair Work agenda by producing a Fair Work Framework by the end of March 2016. This Framework will:

- Articulate a practical blueprint for Fair Work which promotes a new type of dialogue between employers, employees and trade unions, public bodies and the Scottish Government.
- Support the Scottish Government's objectives of increasing sustainable economic growth and reducing inequality through the promotion of greater diversity, innovation and equality in the workplace.
- Understand business challenges in adopting Fair Work principles and offer help to support a progressive change.

In developing the Framework, the Convention should learn from national and international research and leading edge practice in this area to provide independent advice to the Scottish Government on matters relating to Fair Work and will include:

- Progressive workplace policies which improve productivity and innovation
- Promoting greater workplace democracy, employee voice and commitment
- Better opportunities for employee development, skills development and lifelong learning
- Best practice in industrial relations to encourage constructive dialogue in a range of different sectors and workplaces
- Enhanced discussions between unions, employers, public bodies and Government departments
- Potential extension to collective and sectoral bargaining in Scotland
- Increased focus on workplace equality issues across the private, public and third sectors
- The Living Wage and other aspects of fair remuneration

It should build on previous work in this area – including the Working Together review – to identify the component parts of Fair Work and to advise Government on where it should prioritise activity.

In doing so, the Convention should support Scotland's skills and economic development agencies in pro-actively engaging businesses in Scotland to promote fair work, trade unions and an evidence-based approach in industrial relations with a view to maximising the potential for the endorsement and adoption of the Framework.

5. Addressing the Working Together Recommendations

On 13 November 2014 a debate on “progressive workplace policies to boost productivity, growth and jobs” took place in the parliament. MSPs voted overwhelmingly to pass the motion: That the parliament welcomes the report of the Working Together Review Group and recognises that well-rewarded and sustained employment, progressive workplace policies, productivity, and innovation provide the best route out of poverty and the best way to tackle inequality; supports the Review Group’s prioritisation of capacity building, dialogue, shared commitment, and real opportunities for unions, employees and employers to work together; and endorses the decision to establish a Fair Work Convention.

As has been set out, a number of actions are already underway as a result of the Working Together Review. Central to our response are our aims to invest in capacity; improve evidence and learn from what works; and the creation of a wider dialogue about fair work which fosters change.

The recommendations from Working Together can be divided into four main categories.

- A number of the recommendations relate directly to the establishment of the Fair Work portfolio, the Fair Work Convention and inform the Convention’s remit and structure.
- Other recommendations will be considered and investigated by the Convention, and, where appropriate or possible, taken forward by them.
- Two recommendations will be taken forward by the STUC, with funding from the Scottish Government.
- The others will be taken forward and will be overseen by the Scottish Government and the STUC in partnership. Our detailed responses to each recommendation are provided below.

Recommendations Directly Related to Establishing the Fair Work Convention

WTR 8: The Scottish Government should assign responsibility for industrial relations to a single Cabinet-level Minister. At present, different aspects rest within different ministerial portfolios.

All Cabinet Secretaries and Ministers in the Scottish Government accept that their portfolio responsibilities involve supporting delivery of our Economic Purpose, and that industrial relations is a critical part of this. In November 2014, Roseanna Cunningham was appointed to Cabinet in a new role as Cabinet Secretary for Fair Work, Skills and Training.

WTR 14: The Scottish Government should establish a stakeholder body with representation from trade unions and private/public/third sector employers. The body should be supported by relevant experts in the field of industrial relations and operate with an independent secretariat.

Establishing the Fair Work Convention, as set out in the Programme for Government fulfils this recommendation. The secretariat is being provided by the Scottish Government.

WTR11: A fair employment framework should be developed through a stakeholder body (see recommendation 14), and it should be promoted across private, public and third sectors. The framework should be based on 'what works' principles and should clearly define the responsibilities of unions, employers, employees and workers. The framework should seek to provide support for diversity in the workplace with particular regard to women and young people.

The Convention's initial remit will be to develop a Fair Work Framework by the end of March 2016.

Recommendations for the Fair Work Convention to Consider

In seeking the establishment of a stakeholder body, now the Convention, the Working Together review set out a number of recommendations as to areas this body should consider.

Given the independent status of the Convention we have not taken a specific view on any of these. Ministers have set out their priorities to the Convention, but it will be for them as a group to decide what their focus should be.

The Working Together Review is the charter for the creation of the Fair Work Convention, a convention to promote the key principals of Fair Work across the private, public and third sectors.

As co-chairs we are delighted to spearhead the challenge to provide leadership on fair work. It is an exciting prospect that Scotland can be at the fore-front of creating work and workplaces which put innovation, productivity, opportunity and the needs of employees at the heart of our labour market.

However, the scale of this challenge is not to be under estimated. The Working Together Review recognised that what is needed is a sea change in the approach to workplace dialogue between employers, employees and those who represent employee interests. We are fortunate to have several members from the Review as part of the Convention and this will help build on the work and networks already established through the Review's work.

So as the Working Together Review recommended, our first assignment is to create a framework for fair work, which is evidence based, drawing on examples of what actually works and is practical to deliver. We and the Convention members have already embarked on an engagement programme across the sectors to find practical examples, stimulate discussion, and promote the importance of fair and innovative workplaces. We are supported by Patricia Findlay and her team at Strathclyde University to help us learn from national and international research and leading edge practice.

In taking forward the work of the Convention we are mindful of the wider recommendations of the Working Together Review and recognise that some of those may form part of the wider programme of work for the Convention flowing from the establishment of the Fair Work Framework.

Anne Douglas and Linda Urquhart, Co-Chairs of the Fair Work Convention

WTR15: The purpose of [the body mentioned in Recommendation 14] would be to provide leadership on Scottish industrial relations matters and fair work. The group would encourage the development of constructive industrial relations in a range of different sectors and workplaces. It would also seek to increase dialogue between unions, employers, public bodies and Government departments.

WTR16: Amongst other things, the body would provide a framework to develop joint training for unions and management on strategic organisational development matters.

WTR17: The body would explore the potential to extend collective and sectoral bargaining in Scotland and seek to increase levels of workplace democracy across the private, public and third sectors in Scotland.

WTR18: The body would also promote the introduction of Equality and Environmental (green) Reps into Scotland's workplaces and prepare and disseminate guidance for their operation including recommendations on facility time and time off for training (see recommendations 3 and 4 above).

WTR19: The stakeholder body should work with business leaders, relevant agencies and professional bodies to benchmark and promote effective and professional people management practices including industrial relations based on recognised good practice.

WTR20: The stakeholder body should be a vehicle through which unions and employers can assess, distil and promote evidence of the most effective industrial relations practice.

WTR27: The stakeholder body should administer an Industrial Relations Modernisation Fund to encourage innovative approaches to industrial relations in Scotland.

Recommendations to be Taken Forward by the STUC

WTR 3: The Scottish Government should work with the STUC and public sector unions to introduce trade union Equality Representatives into Scottish public sector workplaces. Equality Reps should be given access to appropriate training and facility time to perform this role effectively.

This recommendation will be taken forward by the STUC, with Scottish Government support. The Equality reps project will focus on 'action learning' with companies and unions in the private and public sectors to explore the issues involved in introducing equality reps.

WTR5: The STUC/TUC Education in Scotland should work collaboratively with appropriate providers to develop a Union Leadership Development Programme.

This recommendation will be taken forward by the STUC, with funding support from the Scottish Government. The leadership project would develop and pilot a leadership programme for current and prospective union leaders. It would build on the current union rep programme but would prepare reps (full time and lay reps) for leadership positions. The STUC acknowledge that effective leadership is vital in all aspects of driving change in organisations and this applies as much in unions as in business.

Other Recommendations to be Taken Forward

The other recommendations from the review will be taken forward in partnership by the Scottish Government and the STUC.

WTR1: The Scottish Government should continue to support the development of union-led learning through Scottish Union Learning (SUL) and its Development and Learning Funds and publicise the benefits of those. The Scottish Trades Union Congress (STUC), Skills Development Scotland (SDS), and the Scottish Funding Council (SFC) should agree an approach that ensures that union-led learning fulfils its full potential in addressing Scotland's workplace and workforce development challenges.

The Scottish Government continues to support the development of union-led learning through Scottish Union Learning (SUL) and its Development and Learning Funds and publicises the benefits of those. The funding source for SUL has recently changed from part-funding through ESF, to full core funding being provided by Scottish Government, creating a timely opportunity to evaluate the contribution made by SUL and identify any opportunities to better fulfil the potential of SUL in the new funding context. Discussions are presently underway with SG Officials and the SUL Team to agree the model, approach and timing for this evaluation, which will form the basis for the development of SUL for the future.

WTR2: Training for union representatives (shop stewards; learning reps; health and safety reps) provided through further education colleges should be funded through a fee remission arrangement.

The Scottish Government is open to the proposed change in funding mechanisms, subject to confirmation that this can be achieved in a budget-neutral way. This question will be addressed by government and Scottish Funding Council officials in conjunction with the STUC.

WTR4: The Scottish Government should work with the STUC and public sector unions to introduce Environmental (green) Representatives into Scottish public sector workplaces. Environmental Reps should be given access to appropriate training and facility time to perform this role effectively

The Scottish Government recently completed an exercise to recruit and train a cohort of Environmental Champions to complement an existing Environmental Guardian network.

Later in 2015, when evaluation data is available, this model will be shared with all public bodies, and a workshop event will explore the scope to implement systematically in the context of both environmental and equality reps. The knowledge and experience of the STUC and Scottish Union Learning will inform that design process and subsequent implementation.

WTR6: A trade union environmental workplace fund should be created to support the development of union capacity on sustainable workplace issues and to support relevant workplace projects.

The Scottish Government has a range of resources in place to support energy and resource efficiency and sustainability in business and the public sector. We would not wish to duplicate activity and will work with the STUC consider the merits of a specific trade union fund as part of future budget-setting processes.

WTR7: The Scottish Government should continue to emphasize the significance of Scotland's trade union movement, the valuable part which unions can play in building economic success, and the value of union facility time in delivering effective industrial relations.

The Scottish Government's Memorandum of Understanding with the STUC confirms that trade unions are key social and economic partners and play an important role in sustaining effective democracy in society. Cabinet Ministers regularly reinforce these messages through their wider dialogue with industry including emphasis within the Business Pledge and will be mindful of our support in any future guidance.

WTR9: The Scottish Government and the STUC should regularly review their Memorandum of Understanding and seek ways of improving the engagement between unions and Government and its agencies.

The Scottish Government and the STUC have reviewed their Memorandum of Understanding and will continue to seek ways of improving the engagement between unions and Government and its agencies as part of our established cycle of bi-annual meeting.

WTR10: The Scottish Government should explore with the STUC how the 'social dialogue' approach encompassed in the Memorandum of Understanding can be expanded to involve employers in Scotland, recognising that enduring social dialogue will not exist unless the employer pillar is representative, consistent and committed to working together to achieve agreed objectives.

Scotland's Economic Strategy set out a clear vision of what we are doing to improve the prosperity of Scotland and make our nation a more equal society. Building on existing best practice to develop a new dialogue with businesses and employers is an important part of that, and the development of the Scottish Business Pledge is critical to this. This also links to the activity of the Fair Work Convention in encouraging a new form of dialogue with employers and unions around the Fair Work Framework.

WTR12: For the last ten years NHS Scotland has operated a model known as staff governance and embraced its own version of partnership working. Further work should consider whether this construct might translate across to other sectors and how this or other forms of collaborative working might generate higher levels of trust and co-operation in industrial relations.

We will work with NHS Scotland, the STUC and appropriate unions to establish what we can learn from this experience, and will consider how this could be applied in the wider public sector. We would hope this may also be reflected in the work of the Fair Work Convention as they consider cutting edge practice.

WTR13: The Scottish Government, local authorities and the STUC should engage appropriately to expand the reach of the Determined To Succeed / Better Way To Work - Unions into Schools and Colleges initiative and should ensure that unions are fully involved at strategic and operational level in the implementation of the recommendations of the Commission on Developing Scotland's Young Workforce.

The Scottish Government published Developing the Young Workforce – Scotland's Youth Employment Strategy on 15 December. It confirms that unions will continue to contribute at a strategic level through membership of the programme's National Advisory Group and will encourage engagement with unions through the Developing the Young Workforce Regional Groups. At an operational level, the five Change Themes that drive implementation will also fully engage relevant unions in planning and implementation. The Scottish Government will also continue to support the Unions into Schools programme in 2015.

WTR21: The Scottish Government and Scotland's Public Sector powers of procurement to encourage progressive industrial relations practices and behaviours in the private and third sectors. This would include the requirement for private and third sector enterprises to evidence what steps they take to ensure fair and effective industrial relations, and commitment to the concept of a living wage, workforce and workplace development and equality.

The Procurement Reform (Scotland) Act 2014, includes provision for Scottish Ministers to publish statutory guidance on the selection of tenderers and the award of contracts. This guidance will specifically cover the recruitment, remuneration (including payment of a living wage) and other terms of engagement of persons involved in delivering public contracts. It will also cover employee representation in the workplace, including trade union recognition.

We intend to publish this in 2015 as part of the process of implementing the provisions of the Act and transposing the three new EU Procurement Directives. As we develop our plans for this guidance, we will of course consult on the principles which should underpin it, and will look to continue our positive engagement with interested trades unions.

WTR22: All Industry Leadership Groups (or ILGs and official bodies established to provide strategic leadership and advice to industry/public sector in Scotland) and public sector bodies should be required to establish fit-for-purpose vehicles to formally engage with unions on employment, workplace and workforce development matters.

Several Industry Leadership Groups (ILGs) currently have trade union representation and we have consistently encouraged trade unions and ILGs to develop constructive relationships. As ILGs are not public bodies, it is not for the Scottish Government to direct them as to how best engage on matters relating to workforce and workplace matters.

However, the Government will write to all ILG Chairs about this recommendation and it will feature as an agenda item when they meet over the course of 2015. The letter will also ask ILGs also encourage engagement with the Fair Work Convention..

WTR 23: All public sector bodies should be required to include a section in their annual report on their approach to industrial relations and the impact that has had on workplace and workforce matters.

In January 2015 the Deputy First Minister wrote to all public bodies asking them to have regard to the report and the recommendation that public bodies should report publicly on their approach to industrial relations and the impact that has had on workplace and workforce matters.

WTR 24: The Scottish Government should legislate to ensure that there is effective worker representation (from representative trade unions) on the board of every public sector body; a role tasked with representing worker interests. In so doing the government should have in mind the need to increase the number of women on the boards of public sector bodies. The role should be afforded status equivalent to a non-executive director and the individual(s) should be furnished with all the necessary business information, training and development to engage in a meaningful manner with other board members and executives.

The Scottish Government is strongly in favour of effective employee representation across the public sector. We will work with public bodies to explore best practice in this area and to establish the extent of under-representation, if it exists. We will then consider what options, including legislation, which may be required to address any issues, considering the potential costs and wider benefits of any approach.

WTR 25: The Scottish Government and the public appointments commissioner should work with the STUC and the Equalities and Human Rights Commission (EHRC) to develop a strategy and action plan to increase the number of board members on public bodies from a trade union background with due regard to the Scottish Government commitment to diversity and its specific emphasis on rebalancing female participation.

We will work with Scottish Union Learning to direct resource towards the provision of relevant training and development. As part of that process we will work closely with the STUC, the Public Appointments Commissioner and the Equalities and Human Rights Commission (EHRC).

WTR 26: The Scottish Government and the STUC should work together to ensure that sufficient support is available to ensure that unions are engaged with the range of workplace and workforce initiatives taking place in Scotland including the Scottish Leaders Forum work on public service workforce development and employee engagement; the work on leadership being led by Scottish Enterprise; the work of Investors In People and the Workplace Innovation Consortium being led by Strathclyde University.

The Scottish Government will continue to work closely with the STUC to ensure that unions are engaged with the range of workplace and workforce initiatives taking place in Scotland.

WTR 28: The Scottish Government should consider investing in an Industrial Relations Learning Academy which would be set up with the express purpose of designing and delivering learning opportunities for all stakeholders in the industrial relations arena. Employer and union representatives would participate in joint training with a view to building strong working relationships and engendering greater levels of mutual understanding and trust.

While we support the principle of this recommendation there is no budget available to fund such an academy in 2015-16. We will consider the feasibility of this in future budget-setting processes alongside any wider proposals on promoting Fair Work that might emerge from the Convention. In the meantime, we will explore other potential options for this in dialogue with key partners such as the CIPD, SFC, SDS and the STUC.

WTR 29: The Scottish Government and the SFC should work with the STUC and other appropriate bodies to improve the availability, quality and accessibility of representative Scottish data on industrial relations.

WTR30: Scotland needs to build greater research capacity in the field of industrial relations and in so doing gather appropriate datasets, interpret findings and help to inform strategic choices at individual workplace, industry sector and national levels. The Scottish Government, the SFC, the STUC, and researchers actively working in this field should be asked to consider and make recommendations on how this can be achieved.

The Scottish Government will work with academic partners and the Fair Work Convention to consider the current available evidence on industrial relations. They will work to identify where gaps exist and suggest potential action to help fill these gaps.

Annex – Making the Case for Fair Work: a Digest

“Good jobs bring business benefits in terms of individual performance, flexibility and willingness to change and innovate. Employers who offer good jobs identify benefits in terms of recruitment and retention. Well-designed tasks encourage staff to use their skills and talents effectively, encouraging better performance. Good employment practices can support the alignment of employer and employee aspirations. Constructive and collaborative workplace relations – individual and collective – can support all stakeholders in facing inevitable business challenges.”

Innovating Works, Workplace Innovation in Small to Medium Sized Enterprises in Scotland, 2015

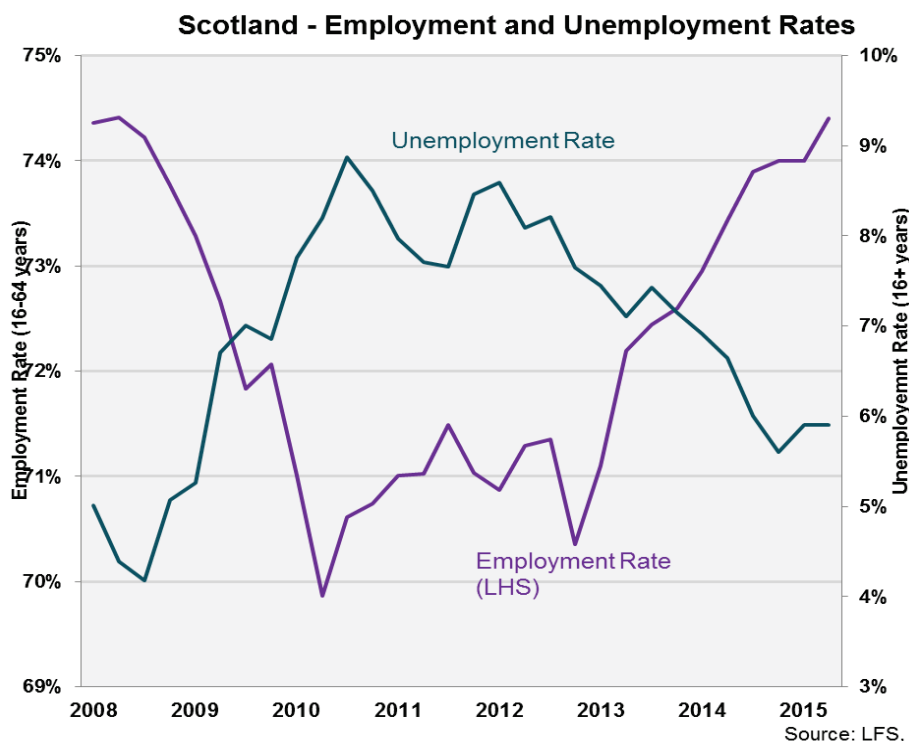
The Fair Work agenda is explicitly enshrined in the Programme for Government and Scotland’s Economic Strategy which outline the drivers of our ambitions towards labour market and workplace policies that foster inclusive growth. Central to those ambitions is the need to align economic and social agendas to address long-standing concerns or changes to the workplace, some of which predate but have been thrown into sharp focus since the 2008 global financial crisis.

- The impact of the recession has been challenging but the labour market in Scotland has held up better than initially feared and employment levels are now amongst the highest on record.
- However some legacy effects of the recession may be impacting on job quality - particularly with respect to levels of underemployment, depressed wages, job insecurity and the increasing use of some non-standard contracting arrangements such as zero-hours.
- Scotland has closed some of the productivity gap with the rest of the UK since the recession but fairs less well when compared internationally. There is increasing evidence that a significant part of our poor productivity performance is attributable to employment relations and particularly the way in which work is organised, the ways in which managers and leaders interact with employees and how this impacts on the most effective and productive use of an employee’s skills.
- Work organisation and job design, alongside other factors such as employee pay, terms and conditions and employee representation, are a core part of any measure of job quality. Job quality is important for a number of reasons – it has an impact at the individual level (health and well-being), firm level (absenteeism, motivation and employee engagement which can affect a firm’s productivity and costs) and subsequently an impact at the overall economy level (where aggregate impacts can affect overall output, productivity and economic growth).
- Scotland fairs well on some measures of job quality such as access to training, access to employee representation, collective bargaining for pay resolution and some measures of job satisfaction. But there is room for improvement when we consider how well skills are utilised in the workplace and whether levels of employee representation lead to a meaningful opportunity to influence workplace decision making.

The labour market context for Fair Work

Following the end of the recession, Scotland's labour market has strengthened significantly since 2011. Figure 1 shows how the number of people in employment has risen to a record level with 2.6 million in work and a consistent fall in headline unemployment rates such that levels are now approaching pre-recession levels.

Figure 1 Employment and Unemployment Rates in Scotland, 2008-2015



Source: Labour Force Survey, seasonally adjusted, ONS

Nevertheless, some legacy features of the recession remain evident including an increase in levels of underemployment and part-time working and depressed wage levels.

- There are currently 244,000 employees who would like to work more hours than they are currently employed to do and are therefore classified as underemployed. The level is falling but is still 38 per cent higher than in 2008.
- Since 2008 part-time employment has increased by 69,000 (11 per cent) while full-time employment has only recently started to return to close to pre-recession levels (3,000 lower than in 2008).
- Real wages in Scotland, in common with other advanced economies also remain substantially below pre-recession levels.

Real wages have fallen, and, while people seek to work longer hours to make up the shortfall, they find that they are not being offered as many hours as they are willing to supply. The rise of contract types which do not guarantee a minimum number of hours of work may exacerbate this.

- According to the Office for National Statistics, the number of people who are employed on zero hours contracts in Scotland is 60,000 for October to

December 2014 (2.3 per cent of people in employment). Up from 46,000 or 1.8 per cent of employment over the previous year.

- At a UK level, the average actual weekly hours worked by people in employment who report being on a zero-hours contract is 22.6 hours compared with 32.4 hours for all workers. The average usual weekly hours is higher at 25.1 hours (36.7 hours for all workers).
- For those on a zero hours contract, 34 per cent want more hours, compared to 13 per cent for those not on a zero hours contract across the UK as a whole.
- 20 per cent of UK workers on a zero hours contract want a new job or an additional job, compared to 7 per cent for those not on a zero hours contract.

A House of Commons (2014) report finds that while zero hours contracts can benefit workers and employers in Scotland, too often the relationship is unbalanced, leaving the employer with all of the flexibility and few costs and the worker in fear of dismissal, denied access to due rights of employment and, in some cases, earning less than the minimum wage. The worker faces a lack of guaranteed income and working pattern, as well as reduced access to basic employment entitlements such as maternity, holiday and sick pay and redundancy rights. In addition to financial and job insecurity, there is a culture where workers are afraid to question the terms and conditions of their employment.⁵

It is important not to assume that zero hours contracts bring no benefits to employees and there is some evidence to suggest that the job satisfaction of some workers on zero hours contracts is not substantially different from those on other contract types. Zero hours may particularly suit some groups of workers, for example students, whose work is seasonal in nature or, in some circumstances, older workers who wish to reduce their hours as they progress towards retirement. In addition, zero hours contracts have many benefits for employers: they offer the flexibility to manage fluctuations in demand, avoid recruitment costs and can allow companies to expand services whilst limiting the risk of over-recruiting permanent staff⁶. But the rise of these contract types at a time of greater underemployment and wage inequality raises questions about the balance between flexibility and reliability of income, security of employment and the balance of power between employer and worker.

Productivity and Fair Work

Scotland's economic performance relative to the UK has also improved in the face of challenging economic circumstances. Long-standing gaps between Scotland and the UK in terms of productivity, labour market participation and earnings have been reduced as outlined in Table 1.

⁵ House of Commons (2014) *Zero-hours contracts in Scotland: interim report*. London, The Stationary Office.

⁶ Pennycook, M.; G. Cory; and V. Alakeson (2013) *A matter of time: the rise of zero-hours contracts*. London, The Resolution Foundation.

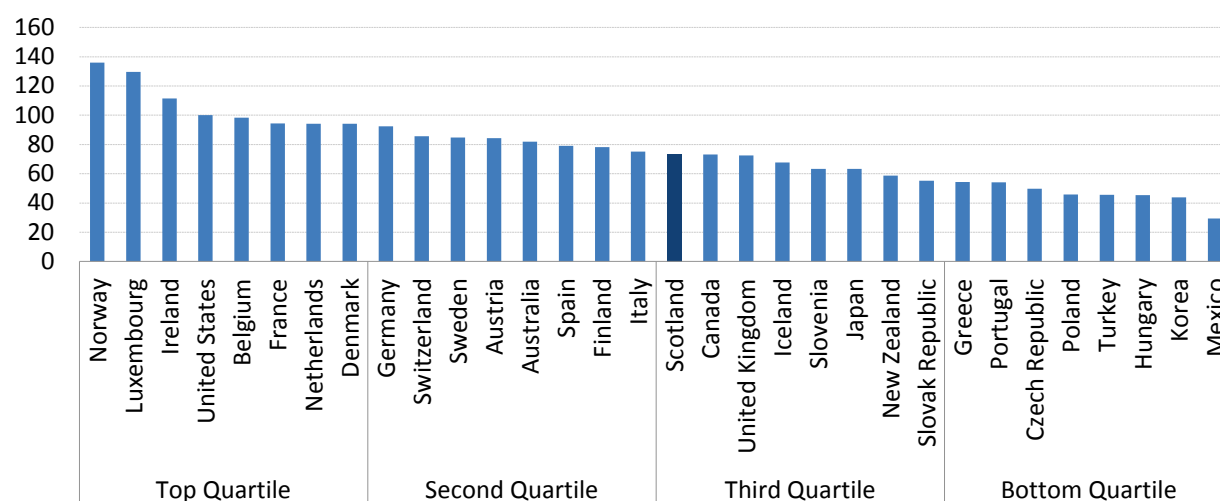
Table 1: Key Economic Activity Indicators - Scottish Performance since 2007

	2007	2007 ranking (of 12 UK regions)	2014	2014 ranking (of 12 UK regions)
1. GDP per head	£22,505	4th	£25,065	3rd
2. Productivity	£24.60/hr	6th	£29.10/hr	4th
3. Disposable income	£13,851	5th	£16,267	5th
4. Average full-time weekly pay	£442	4th	£519	3rd

Source: Government Economic Strategy, March 2015

However Scotland's improving position relative to the UK disguises the fact that since the recession labour productivity in the UK over all has been weak. The most recent data from the Office for National Statistics suggests that productivity (measured in terms of output per hour employed) is 21 per cent below the average for the other G7 countries. Despite the fact that the UK, and Scotland, has comparatively high levels of investment in training and R&D and a highly educated workforce we are not seeing the same return for that investment as other nations.

Figure 2: GDP per hour worked in OECD countries, 2012, (USA = 100)



Source: OECD Productivity Statistics and ONS regional accounts data

While there a number of possible reasons for the UK's productivity gap there is a growing consensus that a significant part of the explanation for poor productivity performance is attributable to employment relations in its widest context and particularly the way in which work is organised and the ways in which managers and leaders interact with employees⁷. It is not enough to upgrade workers skills but that what is required is an integrated approach in which workers are upgraded in combination with a focus on work organisation and job design in order to ensure good utilisation of these skills⁸.

⁷ Sisson, K. (2014) *The UK Productivity Puzzle – is employment relations the missing piece?*. ACAS.

⁸ Keep, E. (2014) *Rediscovering human potential – a response to Keith Sisson's paper on the 'UK productivity problem'*. ACAS.

The Scottish Government has a vision for Scotland to be an innovative, high wage and high productivity economy, that competes in international markets and focuses on high value goods and services⁹. To achieve that vision we consider that Innovation associated with invention, automation and research and development is important but workplace innovation can also be much broader. It can include not just the development of new products and services but the working environment which fosters that development - including how organisations and tasks are designed, how people are managed, how decisions are made, how technical processes interact with non-technical processes and how organisations interact with their external environments and with key stakeholders such as customers, clients, suppliers, competitors, communities and society¹⁰. The OECD recommends that governments and businesses should “put the organisation of work more centrally in the analysis of innovation”¹¹, while the EU has made workplace innovation a priority of the Innovation Union strategy¹².

The linked concept of Skills Utilisation also provides some insight into the ways in which policies which make the workplace a focus could help Scotland’s high productivity vision become reality.

Effective skills utilisation occurs where there are confident, motivated and skilled individuals who are aware of the skills they possess and know how to best use them in the workplace; engaged in workplaces that provide meaningful and appropriate encouragement, opportunity and support for employees to use their skills effectively; in order to increase performance productivity, improve job satisfaction and employee wellbeing, and stimulate investment, enterprise and innovation.

The 2013 UK Employers Skill Survey reports some skills under-use in 51 per cent of Scottish workplaces¹³. This is an improvement on the figure of 57 per cent in 2011 but still a little behind the 2013 UK figure of 48 per cent.

Skills utilisation matters for the economy, for employers and for employees. Firstly, we have noted that although the UK workforce has become increasingly skilled in recent years, the productivity gap with comparator countries remains. There is a growing body of research that argues that a demand-side approach is needed to help close the gap. Secondly, better skills utilisation matters for employers because it can result in better motivated, confident and productive employees and reduce staff turnover. And lastly, better skills utilisation can make work more satisfying for employees, and improve their prospects for progression.

⁹ Scottish Government (2015) *Scotland’s Economic Strategy*.

¹⁰ Findlay, P., Chalmers, D., Lindsay, C., MacBryde, J., Matthews, R., Pascoe-Deslauriers, R., and Wilson, J. (2015) *Innovating Works... improving work & workplaces: workplace innovation in small to medium sized enterprises in Scotland*, University of Strathclyde, Glasgow.

¹¹ OECD (2010) *Innovative Workplaces: Making better use of skills within organisations*.

¹² European Commission (2013) *Innovation Union: A pocket guide on a Europe 2020 initiative*.

¹³ Winterbotham M., Vivian D., Shury J., Davies B and Kik, G. (2014) *The UK Commission’s Employer Skills Survey 2013: UK Results*, UKCES

Trends in Job Quality in Scotland – what makes a ‘good’ or ‘bad’ job

There is no accepted definition of job quality and no single factor can be used to determine if a job is ‘good’ or ‘bad’. However in describing some of the features of good work it is clear that there are links to the same features of workplace organisation associated with efforts to improve productivity. In considering the current state of job quality in Scotland we consider a combination of:

- Task factors: in particular the level of opportunity an employee has to influence the work that they do, how it is organised, their working conditions, levels of job intensity and access to opportunities for training and development.
- Employment factors: including pay, job security, hours of work, flexible working arrangements and clarity and equality around terms and conditions of employment.
- Workplace factors: broadly workplace relationships and governance at work including perceptions of fairness, trust and respect, confidence in the ability and integrity of colleagues and managers, access to employee representation and “voice” and access to due process/procedural justice in matters of grievance, discipline or dismissal.

How these various components of a job are aligned differs between workplaces and for different people. In good jobs, these key ‘ingredients’ are aligned in ways that allow individuals, organisations and society to flourish - decreasing the burden of illness, reducing poverty, encouraging social inclusion and improving productivity¹⁴.

Task factors

Increasing job intensity and an expectation of long working hours are increasingly common in Scotland. According to the Workplace Employee Relations Survey 2011, 81 per cent of Scottish employees say that their job requires them to work very hard (up from 74 per cent in 2004) and 40 per cent agree that people in their kind of job have to put in long hours to progress at their workplace¹⁵.

Job autonomy can help employees cope with a demanding job but just 35 per cent of Scottish employees said they had ‘a lot’ of influence over three key elements of their job: how they do their work; the pace at which they work; and the order in which they carry out tasks¹⁶. It is encouraging that this figure has increased from 27 per cent in 2004 and is higher than for the Rest of Great Britain (30 per cent) as there is considerable evidence to show how the way in which work is organised can influence an individual’s satisfaction at work, motivation and performance. Employees who report higher levels of control over their work had high levels of job related contentment, enthusiasm and satisfaction¹⁷.

¹⁴ Findlay, P., Chalmers, D., Lindsay, C., MacBryde, J., Matthews, R., Pascoe-Deslauriers, R., and Wilson, J. (2015) *Innovating Works... improving work & workplaces: workplace innovation in small to medium sized enterprises in Scotland*, University of Strathclyde, Glasgow.

¹⁵ Forth, J. (2015) *An overview of employment relations in the Acas regions*, Acas.

¹⁶ Forth, J. (2015) *An overview of employment relations in the Acas regions*, Acas.

¹⁷ Van Wanrooy, B., Bewley, B., Bryson, A., Forth, J., Freeth, S., Stokes, L. and Wood, S. (2013) *Employment Relations in the Shadow of Recession*.

Relative to the rest of the UK, Scottish employers have always performed well in terms of providing training to staff. And despite tight economic conditions Scottish employers increased the proportion of staff receiving training, the money spent on training and the number of training days allocated to staff between 2011 and 2013¹⁸. But how productive people in work are depends not just on their level of skills but also how those skills are used in the workplace. As we have noted training and upgrading workers skills should be carried out in combination with a focus on work organisation and job design in order to ensure good utilisation of these skills.

Employment factors

Job security appears to have suffered through the economic downturn. 62 per cent of employees in Scotland judged that their job was secure in 2011, compared with 68 per cent in 2004. A similar decline was seen in the Rest of Great Britain (67 per cent in 2004, but 60 per cent in 2011)¹⁹. We have noted the rise in numbers of workers on zero hours contracts and there can often be a lack of clarity about the contractual rights associated with this type of contract leading to feelings of insecurity²⁰.

An employer's recognition of the need to manage work-life balance can also impact on job quality. In Scotland in 2011, over three-fifths (63 per cent) of employees agreed that managers at their workplace were understanding about employees having to meet responsibilities outside work. This was an increase from 57 per cent in 2004²¹.

Workplace factors

Employee voice is about providing information to people at work, enabling them to stay informed, have their say and be involved in the decision making process. It is also about employers benefiting from the technical and tacit knowledge of their employees to improve productivity and contribute to innovation²². The presence of effective arrangements for giving a voice to employees is associated with higher levels of commitment to the workplace²³ and lower levels of voluntary quits²⁴.

80 per cent of employees in Scotland worked in an establishment which offered some form of collective or direct employee representation (through union recognition or regular meetings between employees and management). This was similar to the percentage for the Rest of Great Britain (79 per cent) and had not changed significantly since 2004. However despite the availability of these arrangements just 38 per cent of employees in Scotland judged that managers were 'Good' or 'Very good' at allowing employees and their representatives to influence decisions. Although encouragingly, this had increased, from 30 per cent in 2004²⁵.

¹⁸ Winterbotham M., Vivian D., Shury J., Davies B. and Kik G. (2014) *The UK Commission's Employer Skills Survey 2013: UK Results*, UKCES

¹⁹ Forth, J. (2015) *An overview of employment relations in the Acas regions*, Acas.

²⁰ Wakeling, A. (2014) *Give and take? Unravelling the true nature of zero-hours contracts*. London, Acas.

²¹ Wakeling, A. (2014) *Give and take? Unravelling the true nature of zero-hours contracts*. London, Acas.

²² Acas (2015) *Building Productivity in the UK*. London, Acas.

²³ Forth, J. and Metcalf, H. (2014), *Young people's experiences in the workplace*, Acas Research Paper

²⁴ Bryson, A., Willman, P., Gomex, R. and Kretschner, T. (2013), *Comparative advantage of non-union voice in Britain 1980 – 2004*, *Industrial Relations*, 52, S1: 194 – 200.

²⁵ Forth, J. (2015) *An overview of employment relations in the Acas regions*, Acas.

Good management skills contribute to job quality. When asked to rate managers at their workplace, nearly three-fifths (58 per cent) of employees in Scotland judged that their managers dealt with employees honestly, and the same percentage judged that managers treated employees fairly. More than three-fifths (64 per cent) rated the relationship between managers and employees at their workplace as either 'Good' or 'Very good'²⁶.

Effective management significantly improves levels of employee engagement and is also strongly linked to productivity. Ineffective management is estimated to be costing UK businesses over £19 billion per year in lost working hours and best-practice management development can result in a 23 per cent increase in organisational performance²⁷.

Measures of job satisfaction

Levels of job satisfaction are a useful indicator of the employee's perception of job quality and satisfied employees are more productive and less likely to quit their jobs²⁸. However job satisfaction measures must also be treated with some caution, as levels of satisfaction can improve either as a result of improvements in an employee's own conditions of work or because of a decline in the availability of alternative job opportunities. It is then quite possible to see satisfaction levels rise in a downturn²⁹. Satisfaction levels may also say something about employees own low expectations of job quality in some instances.

74 per cent of employees in Scotland were satisfied with the sense of achievement that they got from work and similar proportions were satisfied with the scope for using their initiative (75 per cent) and with the work itself (76 per cent)³⁰.

Around three-fifths of employees were satisfied with the amount of influence they had over their job (62 per cent), their level of job security (also 62 per cent) or the training they received (56 per cent). Under half were satisfied with their level of pay (45 per cent) or with their degree of involvement in workplace decision-making (44 per cent)³¹.

²⁶ Forth, J. (2015) *An overview of employment relations in the Acas regions*, Acas.

²⁷ BIS (2012), *Leadership and Management in the UK – the key to sustainable growth*.

²⁸ Purcell, J. and Hutchinson, S. (2007), *Front-line managers as agents in the HRM-performance causal chain: theory, analysis and evidence*, Human Resource Management Journal, Vol 17, no 1, 2007, pages 3–20

²⁹ Forth, J. (2015) *An overview of employment relations in the Acas regions*, Acas.

³⁰ Forth, J. (2015) *An overview of employment relations in the Acas regions*, Acas.

³¹ Forth, J. (2015) *An overview of employment relations in the Acas regions*, Acas.



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