

# FAIR WORK FIRST

## CTA BRIEFING



### 1. INTRODUCTION

As part of the Scottish Government’s Fair Work agenda, **all recipients of public sector grants, including the [Network Support Grant](#), will be required to pay at least the real Living Wage and provide effective workers’ voice as a minimum standard from 1 April 2024.**

This briefing for CTA members in Scotland on ‘Fair Work First’ will answer:

- What is Fair Work?
- What is Fair Work First?
- How will it impact Community Transport – and what do I need to do?
- Where can I find further advice, information and support?

### 2. WHAT IS FAIR WORK?

Fair Work has been a longstanding priority of the Scottish Government and a central part of its agenda in relation to employment, the economy and workers’ rights. It established the [Fair Work Convention](#) in 2015 to bring together trade unions, academics, local authorities and employers.

[Fair Work](#) in Scotland is defined by the Fair Work Convention as ‘work that offers effective voice, opportunity, security, fulfilment and respect; that balances the rights and responsibilities of employers and workers; and that can generate benefits for individuals, organisations and society’.

Fair Work in Scotland is similar to but distinct from recent concepts and government-led initiatives in other jurisdictions, such as [‘Fair Work’](#) in Australia, [‘Good Work’](#) in England and [‘Good Jobs’](#) in the USA.

It is partly a response to concerns about stagnant or declining pay and conditions for many workers since 2008, as well as trends in productivity and inclusive growth. It has become a more acute problem due to the ongoing cost-of-living crisis.

[Research](#) shows that fair pay, good workplaces and a positive working culture contribute to greater levels of productivity, prosperity and innovation and staff satisfaction, retention, health and wellbeing.

The Scottish Government’s objective is to ensure that by 2025 ‘people in Scotland will have a world-leading working life where fair work drives success, wellbeing and prosperity for individuals, businesses, organisations and society’.

There are five ‘dimensions’ of Fair Work, which are interlinked and mutually supportive:

## **a. EFFECTIVE VOICE**

Effective voice requires a safe environment where dialogue and challenge are dealt with constructively and where employee views are sought out, listened to and can make a difference. It is consistent with our rights as citizens of a democratic society. It can include trade union recognition, collective bargaining and employer-employee partnership.

## **b. OPPORTUNITY**

Opportunity allows people to access and progress in employment through learning, training and development. Work should be fair – and fair work should be available to everyone. It promotes equity, creates social mobility and reduces inequality.

## **c. SECURITY**

Secure work is an important foundation of a successful life. Stability of income and employment can contribute to better work-life balance, less anxiety and stress, greater personal and family stability and more effective long-term financial planning, including investment in pensions. It includes payment of at least the real Living Wage.

## **d. FULFILLMENT**

Work is an important element of personal identity. Fulfilment at work can encourage a sense of belonging, purpose and wellbeing, as well as aspiration, creativity and determination. It can arise from positive and supportive workplace relationships. Workers who are fulfilled in their jobs are more likely to be engaged, committed and healthy.

## **e. RESPECT**

People at work should be respected and treated respectfully, whatever their role and status. Respect involves recognising others as dignified human beings and recognising their standing and personal worth. It enhances individual health, safety and wellbeing. Dignified treatment can protect workers from workplace-related illness and injury and create an environment free from bullying and harassment.

The online [Fair Work Employer Tool](#) helps employers understand and fully embed the dimensions of Fair Work, as well as support your organisation to take the next step on your Fair Work journey.

Workers can also use the online [Self-Assessment Tool](#) to help them ‘make an assessment of your own experience of fair work and suggest actions you can take to improve on it’.

### 3. WHAT IS FAIR WORK FIRST?

Fair Work First is the Scottish Government's approach to expanding access to Fair Work by encouraging, or leveraging the power of the public purse to accelerate, the adoption of fair working practices by employers, specifically:

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

The central principle of Fair Work First is that public money should not go to businesses or organisations which do not pay at least the real Living Wage and provide effective workers' voice as a minimum standard. The other five elements of Fair Work First are voluntary rather than mandatory at this stage.

The Scottish Government considered ways to implement this, leading to a commitment to apply this conditionality as the 'default position' to all recipients of public sector grants.

It was agreed as part of the [Bute House Agreement](#) between the Scottish Government and the Scottish Green Party, which led to the latter sharing power at Holyrood with the SNP. The move has also been broadly supported by other parties.

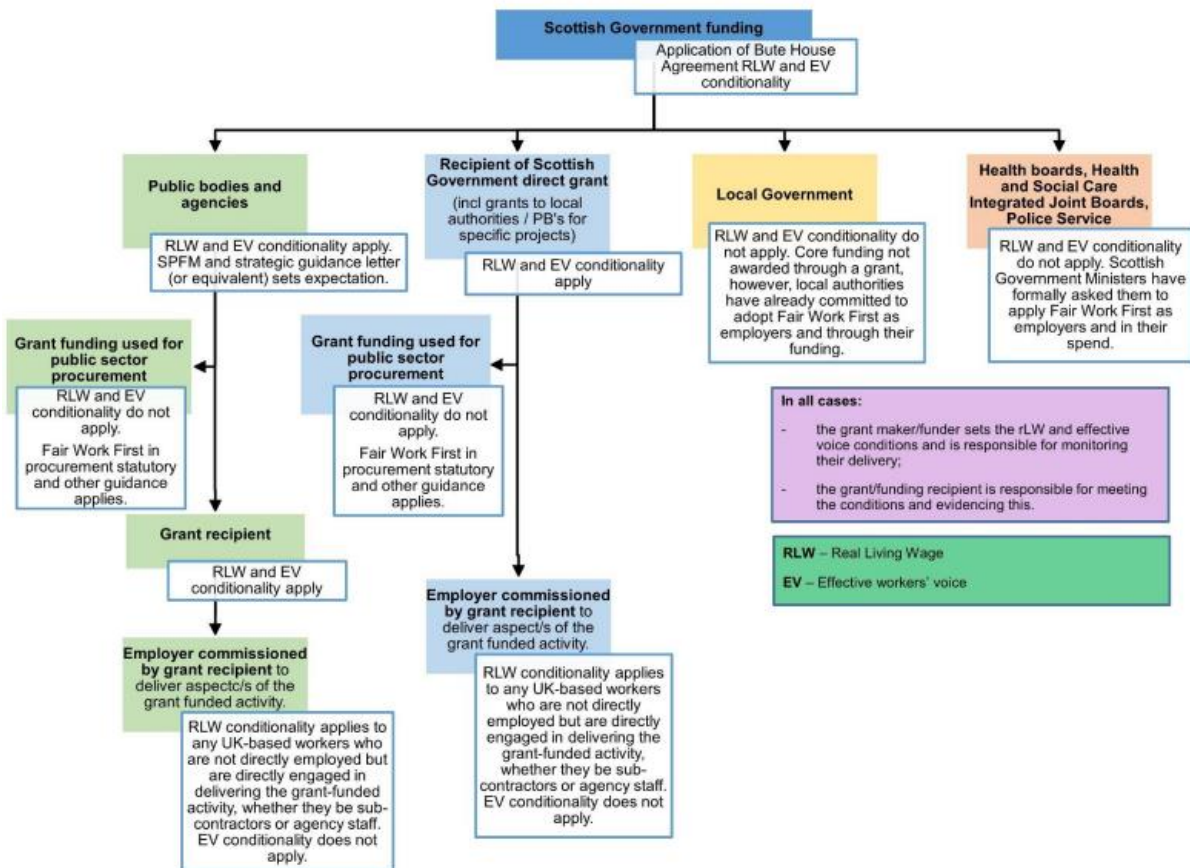
It was announced on 6 December 2022 that this conditionality would apply from 1 July 2023. The Scottish Government published its [Fair Work First guidance](#) for the public sector and those in receipt of or seeking funding in late March 2023 with amendments in mid-May 2023. Grant-makers and funders will be responsible for implementing and monitoring this.

It is important to note that the conditionality:

- **Is not retrospective** – Fair Work First does not apply retrospectively to public sector grants awarded in the past and will apply to grants, like [Network Support Grant](#), from 1 April 2024;
- **May not yet apply to local government grants.** It is for local authorities themselves to apply any conditions to their grant funding. However, local authorities have committed to adopting the Fair Work First criteria themselves as employers and to attach it to funding they administer.
- **Does not apply to public sector contracts** – only public sector *grants* are within scope at this stage, although this may change in future; and,

- Will **not apply to emergency grants**, such as those which were distributed during the COVID-19 pandemic and may be provided in response to other unforeseen circumstances in the future.

## Annex A: Conditionality in public sector grant supply chains



## 4. HOW WILL IT IMPACT COMMUNITY TRANSPORT?

We know that Community Transport operators across Scotland strive to provide Fair Work across the five dimensions – for both paid employees and unpaid volunteers. Many deliver effective voice, opportunity, security, fulfilment and respect to the highest standard. Everyone working in Community Transport should experience Fair Work.

Working (or volunteering) in the Community Transport sector offers exciting opportunities to build a career, learn new skills, help your neighbours and transform your local community. At CTA, we want to support our members to recruit and retain committed and talented employees and volunteers to develop the sector and secure its long-term future.

Given the cost-of-living crisis, Fair Work with a real Living Wage is as important as ever. Our research for our [More Than a Minibus report](#) found that at least 16% of CTA members in Scotland were accredited real Living Wage employers in 2021.

However, we also know that some operators struggle to afford to pay the real Living Wage or higher than the legal minimum for some roles. The financial cost for smaller charitable organisations remains a major barrier, because budgets are so stretched and funding for projects and services often does not contribute to core operating costs and back office functions.

CTA believes it is incumbent upon the Scottish Government, as well as other funders, to support the third and voluntary sector to be able to afford to pay the real Living Wage across the board. We believe the Scottish Government should lead by example on Fair Work and [fair funding](#). CTA will continue to advocate, alongside partners like [SCVO](#), for grant uplifts to accommodate the real Living Wage in line with Fair Work First.

Many Community Transport operators will not be affected by the new guidance on Fair Work First – because they already meet and can evidence that they meet the criteria, they do not receive public sector grants or they only receive grants from local authorities. The burdens of providing evidence are also lower for smaller employers, which will apply to much of the sector.

Other operators, however, may have to change their approach to comply with the conditionality, which we urge all operators to examine carefully. It is important to note that Fair Work First will apply to the [Network Support Grant](#), which is a key source of funding for many Community Transport operators.

### **a. REAL LIVING WAGE**

The [real Living Wage](#) is an independently calculated rate based on the cost of living. It is different from the National Living Wage or National Minimum Wage, which are legal requirements set at a lower level by the UK Government.

The real Living Wage rate is currently £10.90 per hour in Scotland and is calculated annually by The Resolution Foundation on an analysis of the wage that employees need to earn in order to afford the basket of goods required for a decent standard of living. This basket of goods includes housing, childcare, transport and heating costs. It applies to all employees over the age of 18. The most recent change was announced in September 2022.

In order to comply with Fair Work First, in general, a recipient of a public sector grant must demonstrate it is paying at least the real Living Wage before it can access a grant.

All UK-based staff aged 16 and over, including apprentices, who are directly employed by the grant recipient, must be paid at least the real Living Wage. Any UK-based workers who are not directly employed but are directly engaged in delivering the grant-funded activity, whether they be sub-contractors or agency staff, must also be paid at least the real Living Wage.

### ***Evidence***

A good way to evidence this is to become an [accredited real Living Wage employer](#), which is a straightforward process. Accreditation costs start at £60 plus VAT per year. There is further information in the [Fair Work First guidance](#) (pages 29 – 31).

The Scottish Government has shared what evidence will be required based on your circumstances and your type of employees:

Total Grant received annually	Evidence to be provided for employee type			
	Directly employed staff	Apprentices	16–17 year old workers	Contracted & agency staff
<b>Below £100k (cumulative)</b>	Living Wage Accreditation; or Self-declaration	Self-declaration	Self-declaration	Self-declaration
<b>Equal to or above £100k (cumulative)</b>	Living Wage Accreditation; or Anonymised payroll; or Accountant certificate	Anonymised payroll; or Accountant certificate	Anonymised payroll; or Accountant certificate	Anonymised copy of contract for relevant contractors/ agency workers

### **Exceptions**

The guidance notes that ‘limited exceptions’ may be applied in ‘limited circumstances’ to provide funding to organisations who cannot pay at least the real Living Wage in order that the measure is ‘proportionate’. This would have to be agreed with the senior or accountable officer with the public sector funder.

It also states that: ‘Exceptions may only be applied to emergency funding and where an organisation is heavily dependent on grant funding and paying the real Living Wage would threaten its survival.’

We hope this will be applied fairly and constructively, especially in the short-term in relation to smaller Community Transport operators who may be in this category. If you are in this category, we recommend engaging with the relevant funder as soon as possible to share your concerns, discuss likely implications and agree potential exceptions.

If you’re in receipt of the [Network Support Grant](#), and meeting the condition to pay the real Living Wage will be an issue for any reason, you need to advise Transport Scotland as soon

as possible via [schemesandgrants@transport.gov.scot](mailto:schemesandgrants@transport.gov.scot) 'in order for us to consider whether an exception can be applied'. Transport Scotland states that 'an exception is only granted for a limited period of time and your business will need to work towards adhering to these conditions as soon as possible'.

## **b. EFFECTIVE VOICE**

Effective voice means creating a safe environment where dialogue and challenge are dealt with constructively and where employee views are wanted, listened to and have an impact.

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

Good examples of how to realise this include:

- Providing access to and recognition of trade unions
- Involving trade union or worker representatives in governance and decision-making
- Regular surveys of workers
- Formal and informal arrangements for collective and individual dialogue with workers – for example, an employee voice forum for people to communicate their views to their employer and influence matters that affect them at work
- Promoting a culture of feedback, openness and transparency
- Robust policies in place to deal with complaints, grievances or other challenges

### ***Evidence***

The Scottish Government has shared what evidence will be required based on your circumstances and your type of employees (see table on next page).

The Scottish Government or other relevant funder may apply flexibility to recognise the different forms of voice that are appropriate for different organisations, including depending on their size. Although it is to be encouraged in all organisations, the collective element of voice does not have to be evidenced by organisations with fewer than 21 workers, which will constitute an exception for many Community Transport operators.

Evidence of appropriate channels for effective workers' voice from employees can be in the form of an e-mail or statement, either from or signed off by the trade union(s)/worker representative(s). It should evidence that at least one channel at each level (individual & collective) is available to workers.

A short statement from the grant recipient should highlight your commitment to advancing the Fair Work First criteria, including the real Living Wage and effective voice conditions. It should be evidenced that it has been developed with or signed off by the trade union(s)/worker representative(s). Ideally it should also be published on your website.

Voice Channel	Evidence: <i>An e-mail or statement from or signed off by trade union/worker representative(s), showing that:</i>	Level:
<b>Line management relationship</b>	there is opportunity for regular 1:1 open and two-way dialogue between line managers and their direct reports; that this dialogue exists separately to standard performance review processes; and that worker-manager working relationships are effective. This could also be supported by evidence of regular engagement survey that supports this; and/or in Organisation's KPI's.	Individual
<b>Staff /Engagement Surveys</b>	an appropriate survey is regularly undertaken and can demonstrate that feedback is provided to workforce and actions created and implemented to address this.	Individual
<b>Suggestions Schemes</b>	a scheme exists and examples provided of improvements made as a result.	Individual
<b>Intranet/Online Platforms</b>	an internal platform exists that allows worker contribution to strategic discussion and examples provided where input is acknowledged and acted upon.	Individual
<b>Staff Forums/Networks</b>	network(s) and/or a forum exists, meets regularly, supports open dialogue and is action focussed. Examples of actions progressed should be provided.	Collective
<b>Trade Union Recognition/ Collective Bargaining</b>	Copy of Recognition Agreement is provided.	Collective
<b>Access Provided to Trade Unions / Pro Union Membership</b>	1) Trade union(s) confirm that access is granted to recruit and organise members. and/or:	Collective



## **c. SUPPLY CHAINS**

Fair Work should be a fundamental consideration for identifying contractors, partners and suppliers going forward, because the conditionality can also apply in supply chains. For example, where a Community Transport operator uses grant funding to procure services from another third sector organisation or private sector firm, and workers from that organisation are directly involved in delivery of the grant-funded activity, Fair Work First criteria will apply. Those workers will have to be paid at least the real Living Wage and have effective voice in their workplace.

## **5. SUMMARY**

In summary, if you receive or intend to apply for grants from the Scottish Government or any public body or agency, such as but not limited to the [Network Support Grant](#), you should ensure that:

- All workers directly employed by you – and all workers directly engaged in delivering grant-funded activity on your behalf – are paid at least the real Living Wage
- All workers directly employed by you – and all workers directly engaged in delivering grant-funded activity on your behalf – are provided with appropriate channels for effective voice
- Your website features a short statement highlighting your commitment to advancing Fair Work, including the real Living Wage and effective voice
- You engage with your funder as soon as possible if you are likely to have problems meeting these criteria

## **6. FURTHER INFORMATION**

Scottish Government (2023) *Fair Work First Guidance*  
[www.gov.scot/publications/fair-work-first-guidance](http://www.gov.scot/publications/fair-work-first-guidance)

Living Wage Scotland  
[www.scottishlivingwage.org/become-living-wage-accredited](http://www.scottishlivingwage.org/become-living-wage-accredited)

Fair Work Employer Tool  
<https://fairworktool.scot/>

Network Support Grant  
[www.transport.gov.scot/public-transport/buses/network-support-grant](http://www.transport.gov.scot/public-transport/buses/network-support-grant)

SCVO (2023) 'Resources needed for the voluntary sector to action Scottish Government Fair Work plans'  
[www.scvo.scot/p/56062/2022/12/09/resources-needed-for-the-voluntary-sector-to-action-scottish-government-fair-work-plans](http://www.scvo.scot/p/56062/2022/12/09/resources-needed-for-the-voluntary-sector-to-action-scottish-government-fair-work-plans)

Scottish Government (2022) 'Grants link to boost Fair Work'

[www.gov.scot/news/grants-link-to-boost-fair-work](http://www.gov.scot/news/grants-link-to-boost-fair-work)

Scottish Government and Scottish Green Party (2021) *Shared Policy Programme: Working together to build a greener, fairer, independent Scotland*

[www.gov.scot/news/agreement-with-scottish-green-party](http://www.gov.scot/news/agreement-with-scottish-green-party)

## **7. WE'RE HERE TO HELP**

If you have concerns or questions, please email Team Scotland via [scotland@ctauk.org](mailto:scotland@ctauk.org) or call CTA's Advice Service on **0345 130 6195**. You can also sign up to our [Scotland Spotlight weekly e-newsletter](#) for ongoing updates on changes in funding, legislation and regulation.