

Extending the Scottish Living Wage through procurement

Introduction

The Scottish Living Wage is now paid to almost all public sector workers in Scotland. However, that still leaves many thousands of workers in the community and private sectors, who deliver public services, yet don't receive a living wage.

This briefing sets out how we can ensure that contractors who deliver public services can be required to pay the Scottish Living Wage.

Scottish Living Wage

The Scottish Living Wage is currently £7.65 per hour. It's a voluntary level higher than the statutory National Minimum Wage of £6.31 per hour for those over 21 years of age. It is calculated independently on what is required to cover the basic cost of living in the UK.

The Scottish Living Wage is good news for workers as they get higher wages and that also improves health and job motivation. It's good for employers because it reduces turnover, improves productivity and attracts better staff through reputational gain. The wider community benefits through lower benefit cost, less stress on the NHS and cash into the local economy. The Institute of Fiscal studies has calculated sub-living wage employers cost the taxpayer £6bn a year in in-work benefits alone. The indirect cost on poverty is around £25bn a year.

The Scottish Living Wage accreditation project is promoting the scheme to employers and the Scottish Living Wage Campaign produces publicity materials and other research.

Procurement Reform (Scotland) Act 2014

The Scottish Parliament has recently passed legislation that enables public bodies to spread the benefits of the Living Wage through procurement.

S.15(5)(b) now requires public bodies to set out their general policy on the living wage in their procurement strategy. This means that public bodies can evaluate bids against that policy and confirm in the contract. This will then become an enforceable performance clause.

There will be further statutory guidance on this and related matters. S.29 (2)(b) says that this will include the recruitment, remuneration (including payment of a living wage) and other terms of engagement of persons involved in producing, providing or constructing the subject matter of the regulated procurement, and employee representation including trade union recognition.

This all means that there is no longer any legal impediment, real or imagined, to extending the living wage through procurement.

KEY POINTS:

- **The Scottish Living Wage should be extended to all workers who deliver public services.**
- **The Procurement Reform (Scotland) Act enables all public bodies to spread the benefits through procurement.**
- **Previous legal objections no longer apply.**
- **S52 Guidance requires local authorities to ensure there is no two-tier workforce and that now means the Living Wage.**
- **Branches should instigate negotiations with their employers to ensure that procurement policies are updated.**



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S52 Guidance

The Local Government in Scotland Act 2003, Section 52 provides that the Scottish Ministers may issue guidance on contractual matters to which local authorities must have regard when entering into contracts. They issued guidance in 2006 and the primary aim was to ensure "that the terms and conditions of service of new employees appointed by contractors to their workforces post-transfer, should be such as to eliminate the scope for the creation of so-called 'two-tier' workforces".

While this guidance wasn't intended to deliver the Scottish Living Wage, its provisions now has that effect. This is because it applies to any exercise which involves the consideration of a change of service provider or where the transfer of local authority staff is at issue.

The provisions of the s52 guidance require local authorities to ensure that new starters, or existing contractor staff allocated to a contract, should be employed on terms and conditions "which are no less favourable overall". As all council staff are now paid the Scottish Living Wage, this means all contractor staff must be paid the same.

The s52 guidance is not well known or well understood, but its requirements are clear and local authorities must specify its provisions in contracts. It applies not only in the rare circumstances when staff transfer, but also when an existing outsourced contract changes.

While s52 only applies to local authorities, there are equivalent provisions in the PPP Protocol that covers Public Private Partnerships in all services.

Action for Branches

Branches should ensure that their employers are using procurement to extend the Scottish Living Wage to all workers delivering public services. These include many thousands of UNISON members in the community and private sectors.

There is political support for extending the scope of the Scottish Living Wage from both the Scottish Government and CoSLA.

Branches should ensure that their public bodies:

1. Revise their procurement strategy to include the Scottish Living Wage.
2. Specify compliance with the s52 guidance in their procurement documents and the consequences for the Scottish Living Wage.
3. Revise their tender evaluation procedures to take account of the Scottish Living Wage and other employment standards.
4. Other employment standards could include no zero or nominal-hours contracts and trade union recognition.

There is separate statutory guidance on blacklisting and there will be further guidance on issues such as sustainable procurement, fair trade and tax dodging.

Branches will also find the UNISON guide to procurement '*From Commissioning to Contract Evaluation*' (with the Scottish Factsheet) a useful resource (Catalogue REF 10401).

Further information

Briefing 29 – Living wage

http://www.unison-scotland.org.uk/briefings/b029_BargainingBrief_ScottishLivingWage_Nov2012.pdf

Scottish Living Wage Factsheet

<http://slw.povertyalliance.org/userfiles/files/SLW%20May14.pdf>

Procurement Reform (S) Act 2014

<http://www.legislation.gov.uk/asp/2014/12/contents/enacted>

Scottish Living Wage Accreditation

www.scottishlivingwage.org

s52 Guidance

<http://www.unison-scotland.org.uk/briefings/s52%20guidance.pdf>

Briefing 191 on s52 Guidance

<http://www.unison-scotland.org.uk/briefings/s52guidancebrief.html>

UNISON Scotland guide to the PPP Protocol

<http://www.unison-scotland.org.uk/briefings/pppprotocol.html>



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