

Frequently Asked Questions

1. What does the Statutory Guidance on Addressing Fair Work Practices, including the Living Wage, in Procurement require a public body to do?

- The [Statutory Guidance](#) requires a public body to consider, before undertaking a procurement exercise, whether it is relevant and proportionate to include a question on Fair Work practices, including the real Living Wage, to be evaluated along with other relevant criteria.

2. What contracts does the Statutory Guidance apply to?

- The Statutory Guidance, applies to all goods and service contracts above £50,000 and works contracts above £2,000,000 ([Route 2](#) and [Route 3](#)). Below these values it is best practice to consider the Statutory Guidance ([Route 1](#)).

3. What are Fair Work practices?

- Fair Work practices are those practices which go beyond an employer's legal obligations and where an employer actively ensures its employees are aware of their legal rights.
- The [Fair Work Framework](#) developed by the Fair Work Convention has five dimensions: 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.
- Information Sheets on 'What is Fair Work' and 'What are Fair Work practices' are available in the [Toolkit](#).

4. What is the real Living Wage?

- The real Living Wage is a voluntary wage rate calculated by the Resolution Foundation based on the minimum income standard of living. The real Living Wage should not be confused with the mandatory National Minimum Wage (including the "national living wage") which is the legal minimum an employer must pay an employee and is set by the UK Government.
- An Information Sheet on 'What is the real Living Wage' is available in the [Toolkit](#) and the [Scottish Living Wage Accreditation Initiative](#) webpage offers further information, including the benefits of paying the real Living Wage.

5. Is it possible to use a procurement process to mandate the payment of the real Living Wage?

- No. The [European Commission](#) has confirmed that it is not possible to mandate payment of the real Living Wage as part of a procurement process. The Scottish Government considers the real Living Wage it to be a significant indicator of an employer's commitment to Fair Work practices.

6. How does a public body's accreditation as a Living Wage Employer affect its procurement processes?

- [Living Wage Accreditation](#) requires an organisation to pay the real Living Wage to all direct employees 18 and over, excluding volunteers and apprentices. It also

requires, “to the extent permitted by law”, that all contracted staff who “regularly” provide services on its “site”, to either be paid the real Living Wage while they are on site, or to have a plan in place to do so.

- “Regularly” is defined as providing services for 2 or more hours in any given day of the week for 8 consecutive weeks.
- “Site” includes the public body’s premises, property it owns or occupies (including where it is a tenant and is provided with building related services through a lease), and land which it is responsible for maintaining or on which it is required to work.
- By having regard to the [Statutory Guidance](#) a public body is acting in a way that is permitted by law.

7. Are Fair Work practices the same for all contracts?

- All five dimensions of the Fair Work Framework are relevant in all working environments
- It is important to consider all five dimensions of the [Fair Work Framework](#) when addressing Fair Work practices in individual procurement processes, by taking into account the nature of the contract and the impact workers will have on the performance of the contract, including any sub-contracting supply chain.
- Practical Tools and Examples on how to develop a commodity / service strategy and a Fair Work criterion are available in the [Toolkit](#).

8. What weighting should be given to a Fair Work criterion as part of the scored criteria?

- Weighting must be relevant and proportionate to the contract and set on a contract-by-contract basis taking account of the likely impact Fair Work practices will have on the quality of the goods, service or works performed, while ensuring the appropriate balance between quality and cost.

9. What will a public body take into account when evaluating a Fair Work practices criterion?

- A public body must treat all bids equally and evaluate bidder responses in a proportionate, objective, transparent and non-discriminatory manner. This will recognise that the way a bidder engages with their workers will differ depending on their size or status, or their place of business, including outside UK.
- A public body will consider the overall impact of the package of Fair Work practices on the contract delivery.
- Responses are expected to include evidence and examples of practices, relevant accreditations, policies or action plans supporting the five dimensions of Fair Work.
- Fair Work can and would normally be expected to include fair pay and equal pay, including the real Living Wage, as part of a package of Fair Work practices to be delivered for the duration of the contract.