

Latest developments with regard to Brexit preparedness – response from the Wales TUC

About the Wales TUC

The Wales Trades Union Congress is the voice of Wales at work, our aim is to make Wales a fair work nation. As the largest democratic membership based civic body in Wales, we speak for the 350,000 union members of our 49 affiliated unions.

Proudly part of the TUC and the wider international union movement, the Wales TUC is the devolved authority for unions in Wales.

Our biennial Welsh Congress of unions decides on Welsh policy and elects the Wales TUC General Council to oversee delivery through the Wales TUC General Secretary and his staff.

Below are our responses to the questions which we received from the Committee. Please get in touch if there's anything you'd like us to expand on or it you'd like us to arrange further consultation with some or all of our member unions.

- **What is your assessment of current levels of Brexit preparedness in Wales and how have Brexit preparedness arrangements worked so far?**

We are satisfied that Welsh Government has done as much as it could within the limits of what it can do to support businesses in Wales prepare for Brexit. However, we are not so well informed about the work they have undertaken in the devolved public sector and third sector, and there is more that Welsh Government could be doing to make our workforce more resilient, including raising collective bargaining coverage and strengthening social partnership arrangements. This is set out in the attached briefing note.

We are engaged in Brexit preparedness work through several different social partnership meetings, including:

- Council for Economic Development (CED)
- EU Exit Working Group (a sub-group of the CED)
- Social Partners Strategy Group (SPSG)
- Workforce Partnership Council (WCP)

- European Advisory Group
- Regional Investment in Wales after Brexit

While Brexit preparedness work has been a point of ongoing discussion in the private sector/Economy department social partnership arrangements (SPSG and CED), we have not been so well informed about developments in the devolved public sector. This is primarily because the main mechanism for cross- (devolved) public sector social partnership engagement, the WPC, was under review in 2018 and the new structure is still in its infancy.

However, there is still work to be done in key areas (such as preparing EU nationals who are working in Wales) where we think there is more the Welsh Government could be doing with unions to ensure that the necessary communication is happening at a sufficient pace and in an accessible way, and we are currently discussing this with Welsh Government. There is also a role for Welsh Government to relay concerns about how initiatives are working in practice to UK Government from unions and other organisations who work with those impacted, and explore what it can do to mitigate any negative consequences. For example, the Settled Status Scheme puts workers who are in informal employment or without rental contracts at risk of losing their immigration status as they need to demonstrate five years of continuous residence to get 'settled status' - otherwise they get 'pre settled status' which is no guarantee of a permanent right to remain.

- **Have you had sufficient support from the Welsh Government? How should the time from the extension of Article 50 be used to improve Brexit preparedness in Wales?**

We have not requested support from Welsh Government on matters directly linked to Brexit preparedness yet, but are confident that Welsh Government is willing to engage with trades unions on this in future. It still depends on if and how the UK leaves the EU, but we have always said that Welsh Government would need to initiate a similar programme of support for at-risk workers that they made available during the recession and we have not had any push back to this proposal. We are also confident that Welsh Government is communicating any concerns we do raise in its discussions with UK Government.

The period we are in – including since the extension was announced – remains a period of uncertainty for employers. Consequently unions continue to be in a very

difficult position in terms of preparedness – we still do not know the terms on which the UK will leave the EU so we are unable to plan for a specific scenario. Similarly, many employers are unable to make long-term plans for the same reasons and where decisions are taken – particularly those which have negative implications for the workforce – they often only cite Brexit as a contextual factor and not the main reason. It is therefore very difficult to determine what sort of interventions are necessary from a workforce perspective in relation to preparedness, particularly in a climate where employers and investors are cautious about making long-term plans, beyond what is already available through programmes such as ReAct.

We are increasingly concerned about is how the uncertainty facing employers is being transferred to the workforce through greater use of insecure contracts, and that Brexit uncertainty can justify actions that may leave workers worse off. For example, union officers have reported that in the food manufacturing sector they have struggled to recruit the same volume of EU migrant workers. Rather than raise pay, terms and conditions and offer more permanent contracts, the firms have increased their use of agency workers to meet demand. This is one of the reasons why we are calling on Welsh Government to fulfil its commitment to make Wales a Fair Work Nation.

Similarly, maritime unions are reporting that some operators have switched from a UK flag to that of another EU country. They're doing this so that they can continue being covered by the preferential tax rules for EU shipping (this is how companies are interpreting the rules – that they need an EU member state flag to guarantee this). Operators claim it will not affect workers but we know that it can have implications for a worker's national insurance position and their employment rights (there is case law on this relating to place of work/contract based outside the UK).

- **Are there any risks or opportunities associated with leaving the EU by the end of October 2019 that differ from the original leaving date? Have no deal preparations been scaled down since the extension period was agreed?**

The extension gives more time to raise awareness amongst particular groups (EU nationals living and working in Wales, for example) about where accurate advice can be sourced and the sort of support which government and others can offer once the UK leaves the EU. It also gives organisations more time to prepare for how they will operate once the UK loses EU membership, although still without certainty about

how and if the UK will leave the EU. We have also heard from business organisations that stockpiling in preparation for leaving the EU in spring 2019 has been costly for some businesses and has resulted in market distortions.

The extension also offers us more time to strengthen social partnership arrangements in preparation for Brexit. Unions are concerned that when policy responsibility is held at a UK rather than EU level, the balanced input of social partners will be lost as there is no commitment to operate this way at a UK level (unlike at an EU level). It is therefore important that a Social Partnership Act is introduced as soon as possible to ensure that the voice of employers is balanced against the voice of the workforce in all relevant decision making.

- **How would you characterise communication between the Welsh Government and the public sector?**

We would want to consult with public sector unions before responding to this question and have not had sufficient time to do this. Please let us know if this is something you would like us to do.

- **How you are working with counterparts across the UK to prepare for Brexit?**

We work with colleagues in England and at a UK level through the TUC. We have long-established links with the Scottish Trades Union Congress (STUC) and Irish Congress of Trades Unions (ICTU), including through the Council of the Isles (and annual meeting for representatives of the TUC, Wales TUC, ICTU and STUC). The TUC's preparedness work has focussed on campaigning for a deal which must:

- Provide a binding guarantee that UK workers' rights will not fall behind those of workers in Europe, now and for generations into the future
- Protect jobs by providing tariff-free, barrier-free, frictionless trade with the rest of Europe
- Preserve peace by ensuring there is no hard border between Northern Ireland and Ireland.

Wales TUC has also worked with colleagues in the TUC in the work they are doing to influence UK Government activity, such as to provide feedback to the Home Office on the Settled Status Scheme, and to ensure a coherent position on the proposal for a Shared Prosperity Scheme.

Our member unions undertake more detailed work into how Brexit is impacting on their members and the sectors in which they work in. You may wish to consult with them about any particular sector or aspect that you would like more evidence on and we would be happy to facilitate this.

Preparing for different Brexit scenarios

- **Has uncertainty over Brexit affected your ability to prepare for Brexit? How have you sought to mitigate this?**

Uncertainty over Brexit has made it very difficult for the TUC and our member unions to prepare for Brexit. Government and employers are rarely making long-term decisions, so there is little certainty or clarity about what sort of interventions unions should be preparing for at this stage. The uncertainty has become a factor in itself, with it being cited as a reason (mainly as a secondary reason) why firms are not investing, reducing the scale of their operations or withdrawing from Wales altogether. Given that there is nothing which Welsh Government can do to end this uncertainty, it remains a continuous threat which there is no Wales solution for.

In terms of mitigating this threat, we have considered vulnerability in Wales' labour market, how we can strengthen relationships with international organisations to ensure that we do keep pace with the EU on employment and other social rights, and supported Welsh Government's work with the Transition Fund to provide as much of a buffer as the Welsh Government can.

- **What is your response to the Auditor General for Wales' report on 'no deal' preparedness in the devolved public sector?**

We have not produced a union-side response to this report. We would be happy to consult with unions about this and provide this as follow-up evidence to the committee if this would be helpful.

Resources for Brexit preparedness

- **Do you think the funding available for Brexit preparedness from the European Transition Fund is sufficient?**

We have not assessed whether it is sufficient or not and have not picked up any dissatisfaction from unions with regard to this.