

Review of Fair Work

in the creative and cultural sectors in Scotland

A report commissioned by Creative Scotland on behalf of the Scottish Government, as an action from A Culture Strategy for Scotland.

May 2022

Executive Summary



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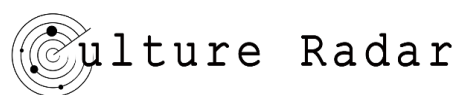
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Introduction

Fair Work was launched by the Scottish Government in 2015. Its vision is for Scotland to be a leading Fair Work Nation by 2025 with its people having a world-leading working life where Fair Work drives success, wellbeing and prosperity for individuals, businesses, organisations and society.

*A Culture Strategy for Scotland*¹ highlights strengthening culture as one of its key ambitions. To achieve this, Scottish Government committed to considering ways to support the cultural workforce, and continue work on making the culture sector part of Scotland as a Fair Work Nation. One of the actions underpinning this commitment was to undertake a status review of the cultural workforce.

To guide this process Creative Scotland commissioned Culture Radar to consider Fair Work, leadership, workforce, and skills development across the creative and cultural sectors. This work reviews the current status, with baseline findings from which further work and research can develop.

Methodology and reporting

The Review took place between August 2021 and March 2022, and comprised:

- Sector surveys completed by 159 employers and 189 freelancers.
- Desk research to review around 200 documents including relevant recent policy, research and initiatives.
- Mapping of 150 training and development opportunities.
- In-depth interviews with 28 individuals representing 22 organisations including Scottish Government Fair Work and culture teams, funders, unions and Sector Support Organisations.
- Seven themed online consultation sessions:
 - Session 1: Creative Scotland Sector Support Organisations
 - Session 2: Leadership
 - Session 3: Festivals and Live Events
 - Session 4: Venues and Studios
 - Session 5: Media Production
 - Session 6: Community and Place
 - Session 7: Creative Scotland External EDI Advisory Group
- Presentation and testing with:
 - Creative Scotland Senior Leadership Team
 - Creative Scotland Board
 - Scottish Government Culture and Fair Work Directorates

Despite the broad profile of respondents and consultees achieved, we recognise this Review may not reflect the full breadth of the creative industries. For example, the sample of organisations suggests that those contributing are more likely to be ones that access public funding than those with a more commercial focus (such as architecture firms, design agencies or some types of publishers).

This is a condensed summary of the final Review of Fair Work report prepared in May 2022. Links to this final report (and the interim reports relating to each phase of the Review) have been made available. These detail the findings, conclusions and recommendations collated across the Review process.

¹ [A Culture Strategy for Scotland](#), February 2020, Scottish Government

Key findings of the Review

Fair Work policy landscape

Fair Work is embedded in Scottish Government policy, programmes and ambitions for Scotland and presents a mandate for change. Immediate Fair Work concerns for the creative and cultural sectors in Scotland include an urgency to resolve 'low pay and precarious work', and to reskill the workforce of Scotland following the COVID-19 pandemic.

Existing Fair Work support and initiatives have been made available by the Scottish Government, including a range of tools and frameworks (such as Fair Work First) to assist and guide employers in its implementation. Best practice guidance and advice is also readily available from many unions and sector support bodies which reflect Fair Work principles.

There is an abundance of recent research providing up-to-date data in relation to sector equality, diversity and inclusion and there are a broad range of training and development initiatives on offer to the sector that can support Fair Work implementation, however there is a gap in objective evaluation of these.

The literature also illustrates strong alignment for Scotland's leading Fair Work policy and research with activities in Europe, Scandinavia, Australia and New Zealand. Post-Brexit, it could be useful for Scotland politically and economically to be aligned with this global and European thinking.

Fair Work baseline

Overall, our survey of employers showed a reasonable level of awareness of Fair Work within the sector, with 62% having heard of the Scottish Government's Fair Work First initiative, rising to 70% feeling they were 'familiar' with Fair Work principles when prompted with a description. A substantial minority however (30% of employers), told us they were unfamiliar with the Fair Work principles. In comparison, freelance survey participants were less familiar with Fair Work (only 36% said they were familiar with the Fair Work principles), but when prompted with more information a higher 66% felt Fair Work was *relevant* to them as a freelancer in the sector.

Overall, 86% of employers told us they felt confident that their organisation is currently doing what is required to adopt Fair Work principles. However, it is notable that a much lower proportion (44-64% varying by principle) felt that they had adequate support to do this, 14% said they were lacking in confidence in how to implement them, and almost all of the employers (93%) indicated their organisation faced challenges in implementing the Fair Work principles.

Comparing how employers have assessed their existing practice to what the Scottish Government expects employers to deliver as part of Fair Work First, suggests there may be an understanding gap. We can speculate that employers have responded to the baseline survey from a place of believing they are doing the best that they can *in the circumstances they find themselves in*. If circumstances could be improved, and if targeted guidance is given, tangible actions around Fair Work may expand beyond the current understanding of what is possible to achieve.

Emerging issues

While the impact of COVID-19, and post-COVID-19 uncertainty was evident across the Review there was a clear willingness through the consultations for positive change to happen around Fair Work and wellbeing. There was also an expressed desire for action *now* - with an ask that sector capacity, resource and wellbeing be taken into account to enable realistic and proportionate timeframes and targets for its implementation.

Pressing priorities across consultation sessions have almost universally been around low pay and precarious work which is acknowledged as a huge, difficult and long-term issue, and which has been a significant contributing factor to skills loss during COVID-19.

On the whole, it was difficult to separate questions around implementation of Fair Work from funding. Employers in the sector have already been facing financial squeeze and instability over many years, and many wonder how they might be expected to fund and resource Fair Work on top of this. Several mentioned that implementing Fair Work must involve “doing less” or employing fewer people.

It has also been difficult to separate Fair Work from the structure of the sector and the systemic barriers, inequalities and challenges relating to this. There is a concern that Fair Work planning must consider the nuances of the sector and what can realistically be achieved. A practical concern is around implementing Fair Work when the varied scope of employment includes very small organisations, casual workers, and a high proportion of freelancers and entrepreneurs, where freelancers are often contracting freelancers.

Resolving the long-term systemic issues noted above go beyond the capacity of Creative Scotland alone however, particularly as Creative Scotland is not the majority funder in the sector, nor are all stakeholders publicly funded. Therefore, while there were general assumptions that leadership for Fair Work might come from the Scottish Government, Creative Scotland or the unions, a collective leadership model to drive Fair Work and act to resolve these issues was favoured. This collective model (surfaced through consultation) should include representation from the Scottish Government, funders, employers, unions and skills agencies as well as freelancers and diverse voices. This approach has been adopted in other sectors.

Support and umbrella organisations face a double challenge to both implement Fair Work within their own organisations, and support and model best practice for their members and networks which include a broad range of freelancers and organisations of different sizes and business models. It was notable that sector support organisations do not feel that they are the bodies that should lead Fair Work, but they do want to support it, if they have additional resource to do so.

In addition, the Review has surfaced a consistent trend in the desire for broad cultural change in how people work, practice and lead across the creative and cultural sectors in Scotland. Driven in part by COVID-19 and wider social/political change, those participating in the Review saw Fair Work as a driver to shift behaviours, mindsets and (longer term) the structures which many feel have held the sector back, particularly in terms of sustainability, equality, diversity and inclusion. It was also important for people that sector leadership embodied the principles of transparency (particularly around decision-making, conditions and monitoring of Fair Work) and shared values with culture at its heart.

Finally, there was a broad understanding that Fair Work is an opportunity to dramatically shift who is included, valued and supported in the creative and cultural sectors workforce, and who will lead its development long term.

Priorities for action

In Phase 2 of the Review participants were asked to indicate which elements of Fair Work should be prioritised. Almost universally across interviews and consultation sessions the biggest priority was that of resolving low pay and precarious work, closely followed by prioritising investment in skills across the sector.

Participants were asked to consider which priorities they felt were 'short term' and which were 'longer term'. When compared across all groups there was strong convergence around issues people felt were both most urgent and most complex to resolve, which can be seen as key priorities for future action.

Short term: There was a strong desire to see urgent action around issues exacerbated by the pandemic, including resolving low pay and precarious work, reskilling the workforce, and support for those most impacted by COVID-19. For many the experience of having 'worked together' and having found solidarity through the pandemic increased importance for wellbeing and stakeholder collaboration.

Long term: There was a strong desire to fix to the complex, systemic problems which pre-dated the pandemic and which people recognised would take time. These included low pay and precarious work, investment in skills and collaboration but also a review of the structures and models surrounding funding, leadership and development which many felt had "held the sector back".

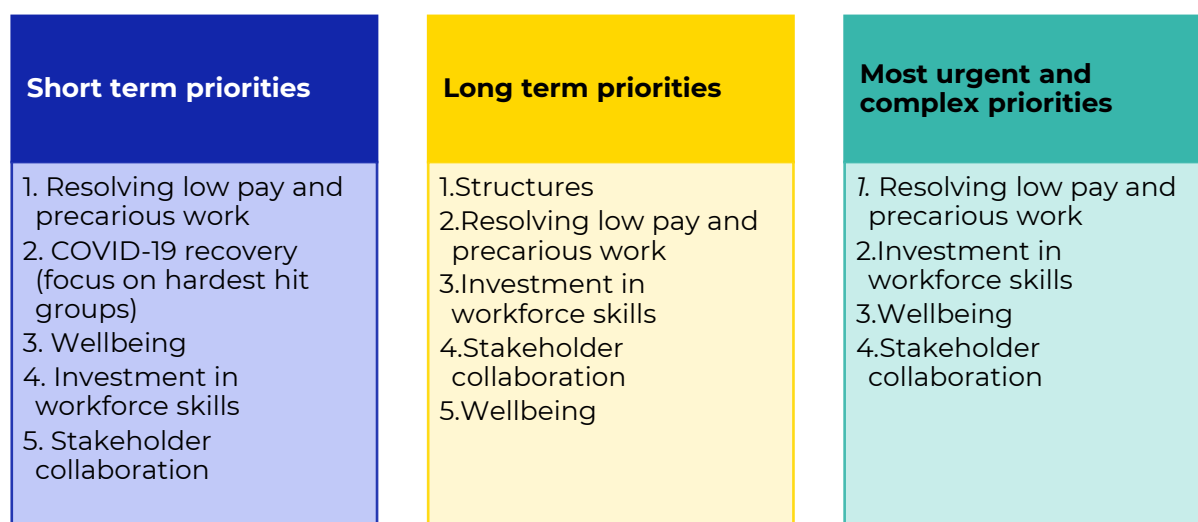


Figure 1: Priorities for Fair Work in the creative and cultural sectors, 2022

The relative consensus reflects findings from earlier stages of the research, and confirms:

- The strong desire for urgent action to tackle the areas that matter and impact the workforce most.
- That implementing change around systemic issues such as pay and sector structure is complex and will take time, but needs to be started now.

Many felt strongly that implementation of Fair Work should consider both the nuances and the capacity of the sector (what can realistically be achieved), and that values, and cultural value particularly, should be central to any framework. A "vision for all things, for all people" was not welcome.

Implementing Fair Work

Key challenges

The Review concludes there are clear, concrete challenges to implementation of Fair Work which are consistent across the creative and cultural sectors in Scotland. Some of these relate to systemic issues which long pre-date COVID-19 such as precarious working, unsustainable business models and limited career progression. Others are new or are issues that have been exacerbated by COVID-19 and other external factors.

While the benefit of public funding, and the agility of the sector and its entrepreneurial approach are regularly cited in the literature, 93% of employers taking part in our Fair Work survey indicated they would face challenges implementing Fair Work. The key challenges can be summarised as:

Competition: The creative and cultural sectors are, and always have been, naturally competitive and fragmented. This fragmentation and competition is at odds with what the Government sees as the most effective approach to implementing Fair Work – which is collaboration and aligned delivery to maximise existing resources and rapidly deliver Fair Work change.

Freelance and casual work: The sector has always relied heavily on freelance and casual work, but this has seen an upward trend in the last two decades. It has many advantages (for individuals and employers) but COVID-19 has further exposed its vulnerabilities. There is a fear voiced through the Review that implementing Fair Work now in such an uncertain economy may have unintended consequences. To save costs employers may have to either employ fewer people, or programme less creative output – either action could disproportionately impact existing freelance opportunities (or create even more impermanence) perpetuating and increasing a problem that Fair Work aims to resolve. And for many small organisations in the sector employing fewer or doing less is not an option - it would simply make their business models unviable. Further research to evidence and inform advocacy, legal and policy change longer term is a key requirement.

Structures: Across the Review it was difficult to separate Fair Work from challenges posed by prevalent business and funding structures, and the systemic barriers and inequalities relating to these which employers feel restrict their capacity to implement it. Development support, proportionality around conditions set, realistic timeframes for change and additional resource are required in the short term. Longer term it will be necessary to consider how funding and support should be structured to remove these barriers if Fair Work is to be sustained across the creative and cultural sectors in Scotland.

Market conditions: There are many market forces which are outwith the individual control of employers in the sector which ultimately affect budgets, resource and capacity to implement Fair Work. The full impact of COVID-19 and Brexit is becoming apparent in rising costs, however the biggest challenge for employers in delivering Fair Work now is the UK economy. The need to increase salaries and fees relative to the cost of living to resolve low pay and precarious work raises a fundamental question - "How is this to be resourced?". Continued evidence building and learning from international approaches must inform lobbying for policy change, increased rights and protections longer term.

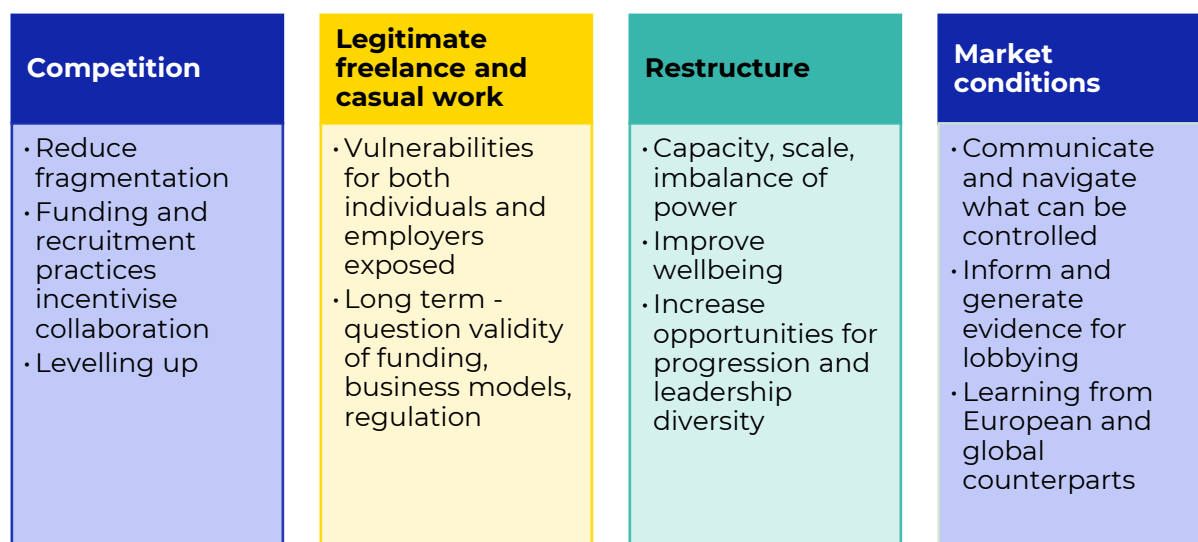


Figure 2: Key challenges to implementation of Fair Work in the creative and cultural sectors, 2022

Key solutions

For employers to implement Fair Work, strategic solutions and practical support need to be in place to assist integration of the policy whilst addressing the challenges and priorities identified. The key solutions can be summarised as:

Leadership: There are a complex range of issues to resolve in implementing Fair Work, and many factors are outwith the control of funders, employers, or Scottish Government powers (such as changes to employment law). The favoured leadership option emerging from the Review is for a collective group including representatives from the Scottish Government, unions, funders and employers who together reflect the sector, but who crucially also have capacity to lead change and take action. In defining a memorandum of understanding for this group, guiding principles for good partnership should be written into the agreement with emphasis on transparency in actions and decision-making, diversity of voices, and protection of the inherent value of culture and creativity. In considering longer term priorities for Fair Work in the sector this 'task force' should, by 2025, be able to challenge government on continuing complex issues, particularly around those which relate to legislation, social benefits and market forces.

Sector standards and conditions: Employers must take responsibility for Fair Work, but to do so they need clarity about the terms and conditions they are expected to meet and 'sign up to'. The Scottish Government's Fair Work First and Fair Work Evaluation Framework provide an overall structure. Development of a creative and cultural sector Fair Work Charter (with union, employer and funder input) could set out statutory obligations, minimum standards and Fair Work best practice in a way that reflects the employment and contracting nuances of the

sector, provides clarity around expectations and requirements and, importantly, ensures the priorities of transparency and cultural value are written into the sector’s implementation approach. Greater promotion and distribution of Fair Work and existing guidance, support and tools from sector unions, support and membership bodies is required to further increase awareness and understanding of best practice in the workplace. There is also potential for unions to be more engaged and active with employers and workers in improving standards and conditions.

Funding and investment conditions: There is a clear request for realistic milestones and proportionate measures to be agreed with and communicated by sector funders in conditions relating to Fair Work. These should reflect the scale and variety of employment and contracting across the sector, the capacity of employers to implement new policy at this time and allow room for incremental change. Employers also wish to see Fair Work demonstrated in the actions and behaviours of their funders, as well as provision of relevant support, training and tools to help them put Fair Work into practice. While implementation of Fair Work can be incentivised to some degree through regular core funding over longer timeframes for some employers, the broader question of “How is this to be resourced?” has to be addressed for the whole sector. This Fair Work Review is a baseline study providing largely qualitative evidence. Building quantitative evidence to fully investigate and mitigate the financial challenges employers will face in resolving low pay and precarious work in the current economic climate is a critical next step. This should be addressed clearly by funders following financial settlement from the Scottish Government for 2023 onwards.

Sector support: A coordinated, sector-wide Fair Work support strategy is required if implementation of Fair Work is to be stepped up over the short term. Key objectives and milestones could include:

- Establishing a Fair Work Resource Hub and service.
- Commissioning of new resources and guidance specifically addressing how to interpret and implement Fair Work when working with freelancers, creative projects and budgets, internships and volunteers, and how to work better with unions.
- Board and leadership development.
- Sector-wide research initiatives and pilots to evidence ‘what works’ covering a range of challenge areas identified by the Review.
- Sector skills, training and career pathways.

Leadership	Sector standards and conditions	Funding & investment conditions	Sector Support
<ul style="list-style-type: none"> • Collective leadership • Capacity to influence and take action • Guiding principles • Implementation schedule • Monitoring and benchmarking 	<ul style="list-style-type: none"> • Employer responsibility (Fair Work First) • Clear sector standards (Fair Work Charter) • Best practice guidance and policies • Increased union and employer engagement 	<ul style="list-style-type: none"> • Clear monitoring & evaluation criteria • Realistic timeframes and proportionate measures • Regular funding and additional resource 	<ul style="list-style-type: none"> • Fair Work Resource Hub • New resources and guidance • Board and leadership development • Sector-wide initiatives and pilots • Skills, training and career pathways

Figure 3: Key solutions for Fair Work implementation in the creative and cultural sectors, 2022

Recommendations

Our recommendations are presented to help the sector act now in response to the priorities identified by the Review and reflect the Scottish Government's ambition to be a Fair Work Nation by 2025.

The recommendations are summarised here and explored in more detail in the report:

1. Establish a creative and cultural sectors Fair Work Task Force

With a remit to 2025, the creative and cultural sectors Task Force will set the direction of travel around Fair Work, agree sector standards and compliance, and respond to large-scale systemic issues and long-term priorities through research, advocacy, planning and incentivising sector activity.

2. Clear public funding requirements and conditions for Fair Work

All public funders in the creative and cultural sectors in Scotland are in the process of developing their own Fair Work strategies. These should include how they will use their regular and strategic resources to support funded organisations and individuals in realising Fair Work objectives. These should give priority to low pay and precarious work, investment in skills, wellbeing and stakeholder collaboration.

3. Incentivise and resource a Fair Work sector support strategy

Sector funders should incentivise key sector support organisations and networks within their portfolios to support Fair Work implementation rapidly and effectively through collaboration and aligned delivery to maximise resources and impact.

4. Develop a sector skills, training and career pathways action plan

Research, design and implement a clear Fair Work career pathway action plan that links Higher and Further Education graduates to employers and employment in the creative and cultural sectors in Scotland, and presents an approach to supported, flexible professional development for sector employees and freelancers at all career stages.

5. Fair Work sector stakeholder communications strategy

All of these recommendations (and subsequent actions to be derived from them) should be viewed as an opportunity for behavioural and culture change that address the sector challenges identified through the Review, but also go beyond the mechanics of implementing Fair Work. There is a positive story to be told by the sector as a whole in how it reviews and improves its working practices over the coming three years, and in how it demonstrates support for creative careers and livelihoods and the value of creative output for society.

Summary of recommendations (2022 – 2025)

1. Establish a creative and cultural sector Fair Work Task Force

- Collaborative leadership group with remit to 2025
- Sets direction of travel for Fair Work
- With employers and unions, agree sector standards (Fair Work Charter)
- Investigate, evidence and mitigate the financial challenges employers will face in resolving low pay and precarious work in the current economic climate
- Incentivise aligned sector support (via targeted funds)
- Responsibility for sector monitoring, regulation, arbitration
- By 2025 – can challenge Government on long term/systemic issues needing resolution (e.g. policies, rights, legislation, tax, competition)

2. Clear public funding criteria and conditions for Fair Work

- Sector funders publish strategic responses and action plans for Fair Work, reflecting their remits and budgets
- Clarity where funder strategies align, particularly around Fair Work support
- Clear funding and investment guidance and conditions
- Support and development tools to aid implementation
- Monitoring and evaluation frameworks

3. Incentivise and resource a Fair Work sector support strategy

- Sector funders incentivise and align sector support organisations around Fair Work support strategy with additional funding
- Focus on aligned delivery and maximising resource
- Guidance, training, tools, Fair Work initiatives and research pilots
- Fair Work support distributed rapidly to networks

4. Sector skills, training and career pathway action plan

- Clear Fair Work pathways that link HE/FE graduates with sector employers and unions
- Fair Work integrated into HE/FE professional practice modules
- Increase potential for apprenticeship programmes
- Supported, flexible professional development for employees and freelancers at all career stages

5. Fair Work sector stakeholder communications strategy

- Sector Fair Work learning and best practice disseminated widely and proactively
- Supports sector monitoring and evaluation of Fair Work
- Hosts accessible and regular open dialogue across sector on Fair Work progress
- Fair Work agenda promoted to and better understood by businesses working in the commercially focussed creative industries
- Best practice recognised by funders, government and future workforce

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