

Circular: Code of Practice on Workforce Matters 2014

SCOPE

1. This circular is directed to the following public sector bodies in Wales –

- county and county borough councils
- community councils
- National Park authorities
- fire and rescue authorities
- Local Health Boards
- NHS trusts
- the governing bodies of maintained schools
- the Arts Council for Wales
- the Care Council for Wales
- the Higher Education Funding Council for Wales
- the Local Democracy and Boundary Commission for Wales
- the National Library for Wales
- the National Museum for Wales
- the Natural Resources Body for Wales
- the Royal Commission on Ancient and Historic Monuments in Wales
- the Sports Council for Wales.

The Welsh Ministers will also have regard to the guidance in this circular.

2. It relates to the approach which those public bodies should take on certain workforce issues when proposing to enter into, or extend, contracts for the provision of services.

3. As indicated in paragraph 20, depending on the body to whom it is addressed, this circular constitutes either –

(a) guidance under sections 19 of the Local Government Act 1999 or section 60 of the Government of Wales Act 2006, or

(b) a direction under sections 12 or 19 of the National Health Service (Wales) Act 2006 or article 11 of the Natural Resources Body for Wales (Establishment) Order 2012.

4. In every case the Code of Practice on Workforce Matters in Appendix A constitutes part of the guidance or direction, as the case may be.

WITHDRAWAL OF EXISTING CODES

5. The Workforce Codes issued in Wales in 2003 in relation to local authority service contracts and in 2005 (and re-issued in 2008) in relation to other public sector service contracts are withdrawn, except in so far as they are incorporated in existing service contracts or are proposed to be incorporated into future contracts i.e. those contracts where instructions to tenderers have already been issued.

STATUTORY BACKGROUND

Section 17 of the Local Government Act 1988

6. Section 17 of the Local Government Act 1988 prevents authorities from introducing political or other irrelevant considerations into the procurement process. It achieves this by defining certain matters as ‘non-commercial’ and prohibiting authorities from having regard to these matters in the contractual process. The relevant matters, as set out in Section 17(5) of the 1988 Act, include:

- ‘*the terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or other opportunities afforded to, their workforces*’ (section 17(5)(a)); and
- ‘*the conduct of contractors or workers in industrial disputes between them*’ (part of section 17(5)(d)).

Section 19 of the Local Government Act 1999

7. Under Section 19 of the Local Government Act 1999 the Welsh Ministers¹ may by Order provide, in relation to relevant authorities, for a specified matter to cease to be ‘non-commercial’ for the purposes of Section 17 of the Local Government Act 1988.

8. Section 19(4) of the Local Government Act 1999 requires relevant authorities to have regard to guidance issued by the Welsh Ministers in exercising a function regulated by Section 17 of the 1988 Act, which is also the subject of an Order made under the 1999 Act.

9. For the purposes of section 19, “relevant authorities” in Wales are county and county borough councils, community councils, National Park authorities and fire and rescue authorities.

The Order

10. In relation to Wales, the section 19 Order is the Local Government Best Value (Exclusion of Non-commercial Considerations) (Wales) Order 2002². The Order provides for the workforce matters described above to cease to be defined as ‘non-commercial’ matters for the purposes of Part II of the *Local Government Act 1988*. The provisions of Section 17(5) of the 1988 Act that are not modified by the Order remain in force.

¹ The section 19 functions were transferred, first, to the National Assembly for Wales and then, by virtue of the Government of Wales Act 2006 (Schedule 11, paragraph 30), to the Welsh Ministers.

² S.I. 2002/678 W.75.

Section 60 of the Government of Wales Act 2006

11. Under section 60 of the Government of Wales Act 2006 the Welsh Ministers may do anything which they consider appropriate to achieve any one or more of the following objects-

- (a) the promotion or improvement of the economic well-being of Wales,
- (b) the promotion or improvement of the social well-being of Wales, and
- (c) the promotion or improvement of the environmental well-being of Wales.

12. The Welsh Ministers consider that the issue of guidance to those public bodies will contribute to the improvement of the social and economic well-being of Wales in that its purpose is –

- (i) better protection of the terms and conditions of transferred staff; and
- (ii) fairness for new joiners (as defined) working on service contracts beside transferred workforces.

13. A body to whom guidance is issued under section 60 should take the guidance into account.

The National Health Service (Wales) Act 2006

14. Under section 12(3) of the National Health Service (Wales) Act 2006 the Welsh Ministers may give directions to a Local Health Board about the exercise of any functions.

15. Under section 19(1) of the National Health Service (Wales) Act 2006 the Welsh Ministers may give directions to an NHS trust about its exercise of any functions.

16. A Local Health Board or NHS trust should comply with such a direction.

The Natural Resources Body for Wales (Establishment) Order 2012

17. Under article 11(1) of the Natural Resources Body for Wales (Establishment) Order 2012 the Welsh Ministers may give the Natural Resources Body for Wales (NRB) general or specific directions as to the exercise of its functions.

18. Under article 11A(5) of that Order the NRB must comply with any such direction.

BACKGROUND TO THE 2003 AND 2005 CODES OF PRACTICE

19. The first Code of Practice on Workforce Matters related to local authority service contracts and was issued in England in 2003³. This was replicated in Wales in 2003⁴. In 2005 similar Codes were issued, in England and in Wales, in

³ ODPM Circular 03/2003.

⁴ Issued by letter dated 2 April 2003.

relation to service contracts entered into by other elements of the public sector (and in Wales the 2005 Code was re-issued in 2008).

APPLICATION OF THE GUIDANCE OR DIRECTION AND CODE OF PRACTICE

20. This circular has a different status and applicability depending upon the nature of the bodies in Wales to whom it is issued.

The Code of Practice applies to various public sector bodies in Wales in the following ways –

A. The Guidance below and the Code of Practice together constitute guidance issued by the Welsh Ministers under section 19 of the Local Government Act 1999 to –

- county and county borough councils
- community councils
- National Park authorities
- fire and rescue authorities.

B. The Direction below and the Code of Practice together constitute a direction given by the Welsh Ministers, under the provisions indicated in the Direction, to –

- Local Health Boards
- NHS trusts
- the Natural Resources Body for Wales.

C. The Guidance below and the Code of Practice together constitute guidance issued by the Welsh Ministers under section 60 of the Government of Wales Act 2006 to –

- the governing bodies of maintained schools and federations of maintained schools
- the Arts Council for Wales
- the Care Council for Wales
- the Higher Education Funding Council for Wales
- the Local Democracy and Boundary Commission for Wales
- the National Library of Wales
- the National Museum of Wales
- the Royal Commission on Ancient and Historic Monuments in Wales
- the Sports Council for Wales.

21. In relation to the governing bodies of maintained schools and federations of maintained schools, it is the intention of the Welsh Ministers to make Regulations requiring the governing bodies of maintained schools and federations to have regard to the Code but until those Regulations are in force, this guidance will apply to governing bodies.

GUIDANCE

22. This guidance is consistent with Public Contracts Regulations 2006⁵ and, in the case of Welsh improvement authorities, with the achievement of continuous improvement. This guidance does not purport to be an authoritative guide to public procurement law, and public bodies will continue to need to interpret the relevant legislation and seek legal advice as necessary. It will always be for public bodies to decide, in the light of their own legal advice, how to handle these matters in each individual contract.

Transferred staff

23. The Cabinet Office Statement⁶ (incorporated in the Code of Practice) provides that contracting exercises (including retendering⁷) should be conducted on the basis that the Transfer of Undertakings (Protection of Employment) Regulations 2006⁸ (TUPE) should apply unless there are genuinely exceptional reasons for it not to do so. The Statement recommends that at the earliest appropriate stage in the contracting exercise, the contracting authority should state that staff should transfer and this should normally have the effect of causing TUPE to apply. The Statement says that the UK Government expects all contracting authorities to follow this policy, which also provides that in circumstances where TUPE may not strictly apply in legal terms, the principles of TUPE should be followed and the staff should be treated no less favourably than they would have been had the regulations applied. Whether TUPE applies is however a matter of law, to be decided on the facts of each case and legal advice should be sought to confirm the applicability of TUPE in individual cases.

24. The Welsh Ministers endorse the Cabinet Office Statement in its application to Wales.

25. Sections 100 and 101 in the Local Government Act 2003 ensure that the principles set out in the Cabinet Office Statement (with the accompanying HM Treasury and Government Actuary's Department guidance) are given effect within local government.

26. Under section 101 of the 2003 Act the Welsh Authorities Staff Transfers (Direction) 2012 was given by the Welsh Ministers on 4 March 2012 (effective from 6 March 2012). The 2012 Direction only applies to staff of county and county borough councils, community councils, fire and rescue authorities and National Park authorities.

27. Under that direction, where the new employer does not seek admitted status under the Local Government Pension Scheme (LGPS), staff must be offered membership of an alternative scheme by the new employer which is actuarially

⁵ S.I. 2006/5.

⁶ The Cabinet Office Statement was first published in 2000 and then revised in 2007, largely to take account of changes to the TUPE Regulations. The Fair Deal guidance was published by HM Treasury in June 1999 as *A Fair Deal for Staff Pensions*. It was subsequently republished in January 2000 as an appendix to the Cabinet Office Statement of Practice. The Fair Deal was revised substantively in October 2013.

⁷ "Retendering" in this Guidance also includes circumstances where the contract for services is terminated and the work is given to another service provider other than through a tendering process.

⁸ S.I. 2006/246.

certified as being 'broadly comparable' with the public service scheme (as defined in the Statement). Where the transfer to a broadly comparable scheme is offered, the relevant body must be in a position to offer bulk transfer terms to the scheme provided by the new employer.

28. Individuals are not required to be party to such a transfer, which should be sufficient to provide service credit in the new employer's scheme on a day for day basis (or such equivalence determined by actuaries taking account of differences between schemes) for those who wish to transfer their accrued rights from the LGPS.

29. Except where the section 101 direction applies, transferring employers will need to apply the 2013 revision of the Fair Deal. In some instances the 2013 version may not be capable of being followed immediately (see paragraph 1.20 of the 2013 Fair Deal).

Until that is possible, negotiations to establish fair treatment in respect of pensions for transferring staff as part of business transfers should be based from the outset of the procurement process on a careful identification of the appropriate pension options, the full costs, liabilities and actual transferee data.

Throughout this whole process, public bodies should ensure that staff are treated fairly, that trades unions are informed and that the operation is open and transparent.

New Joiners

30. The Code of Practice should be applied where a body transfers its employees to a service provider as part of a contract to provide any service to the body. It will ensure that new joiners to the transferred-out workforce are offered terms and conditions which are, overall, no less favourable than those of the transferred staff. This 'no less favourable' formula does not apply to pensions, but under the Code new joiners must also be offered a reasonable pension provision, which may be either membership of the public body's pension scheme (where available) or membership of a pension scheme which meets the auto-enrolment standards under the Pensions Act 2008 (whether or not the Act requires the service provider to offer membership to the new joiner).

31. The Code defines "new joiner" as any employee of the service provider who works alongside the transferred workforce in performing the service required under the contract.

32. The Code will ensure that the provision of quality services is not undermined by poor employment practices in respect to new joiners. It will prevent the damaging 'two-tier' situation where TUPE transferred staff on good conditions work beside other staff on much poorer terms and conditions. The Welsh Ministers are clear that service providers should be selected where these will drive up service performance standards, not in order to drive down staff terms and conditions. Good value is more likely to be achieved in circumstances where all parties are focused on service improvements.

Incorporation of the Code of Practice in the service contract

33. Where the contract for services is to be let by way of tender, the invitation to tender documents, sent to those organisations being invited to bid, would normally consist of the covering letter, instructions to tender, background information, terms and conditions of contract, specification and price schedule. The obligations in the Code of Practice on Workforce Matters should be incorporated in the terms and conditions of contract, whether the contract is let by tender or otherwise.

34. The Welsh Ministers will provide model contract clauses for this purpose.

Alternative dispute resolution

35. A flowchart in respect of the alternative dispute resolution procedure (in the Annex to the Code) is contained at Appendix B.

Monitoring arrangements

36. The revised Code contains provisions for public bodies to provide information to the Welsh Ministers. A pro forma is contained at Appendix C.

DIRECTION

37. The Guidance above applies by way of further introduction to this Direction.

38. This Direction is given to –

- Local Health Boards under section 12(3) of the National Health Services (Wales) Act 2006

- NHS trusts under section 19(1) of the National Health Services (Wales) Act 2006 and

- the Natural Resources Body for Wales under article 11(1) of the Natural Resources Body for Wales (Establishment) Order 2012

(each described as a Directed Body).

39. Where –

- (a) a Directed Body, in exercising its functions, proposes to enter into, or extend, a contract for the provision of any services to or for the Directed Body, and

- (b) before the contract is carried out, staff of the Directed Body are engaged in the provision of any of the services,

the Body must have regard to the Code of Practice on Workforce Matters in Public Sector Service Contracts, as set out in Appendix A.

APPENDIX A

CODE OF PRACTICE ON WORKFORCE MATTERS IN PUBLIC SECTOR SERVICE CONTRACTS

Treatment of transferees

1 In its contracting-out of services, the public sector organisation will apply the principles set out in the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector (the Cabinet Office Statement) and the 2013 revised version of the annex to it, A Fair Deal for Staff Pensions⁹. The service provider will be required to demonstrate its support for these principles and its willingness to work with the public sector organisation fully to implement them.

2 The intention of the Cabinet Office Statement is that staff will transfer and that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)¹⁰ should apply, and that in circumstances where TUPE does not apply in strict legal terms, the principles of TUPE should be followed and the staff involved should be treated no less favourably than had TUPE applied.

3 The Fair Deal annex to the Cabinet Office Statement (prior to October 2013) required the terms of a business transfer specifically to protect the pensions of transferees. Transferring staff had to have continuing access to the local government pension scheme or be offered membership of a pension scheme which was broadly comparable to the public service pension scheme which they were leaving.

The 2013 Fair Deal describes its effect in this way (at paragraph 1.5) –

In future staff who are compulsorily transferred from the public sector will be offered continued access to a public service pension scheme rather than be offered a broadly comparable private pension scheme. In broad terms, all staff whose employment is compulsorily transferred from the public sector under TUPE, including subsequent TUPE transfers, to independent providers of public services will retain access to their current employer's pension arrangements.

For clarity, under this Code but subject to the next paragraph, the Fair Deal principles will apply not just to those transferring under TUPE but also (as mentioned in paragraph 1) to those who transfer where TUPE does not apply in strict legal terms.

4 The 2013 Fair Deal and this Code have no application to staff in so far as their pension provision is secured under the Welsh Authorities Staff Transfers (Pensions) Direction 2012 (the 2012 Direction)¹¹. The 2012 Direction only applies

⁹ The Cabinet Office Statement was first published in 2000 and then revised in 2007, largely to take account of changes to the TUPE Regulations. The Fair Deal guidance was published by HM Treasury in June 1999 as *A Fair Deal for Staff Pensions*. It was subsequently republished in January 2000 as an appendix to the Cabinet Office Statement of Practice. The Fair Deal was revised substantively in October 2013.

¹⁰ S.I.2006/246.

¹¹ The Welsh Authorities Staff Transfers (Direction) 2012 was given by the Welsh Ministers on 4 March 2012 (effective from 6 March 2012).

to staff of county and county borough councils, community councils, fire and rescue authorities and National Park authorities.

5 This Code of Practice (including the application of the Cabinet Office Statement and the accompanying Fair Deal guidance) also applies to transfers of a public service activity, whether permanently or not, and whether or not to a charity or another public service body.

In addition –

- for the purposes of this Code, the Cabinet Office Statement will be deemed to remain in effect even if it is withdrawn by the UK Government;
- the Code is to have effect during any extension of a contract to which this Code applies.

Treatment of new joiners to an outsourced workforce

6 Where the service provider arranges for staff to work on a public service contract alongside staff transferred from the public sector organisation, it will offer employment on fair and reasonable terms and conditions which are, overall, no less favourable than those of transferred employees. The service provider will also offer reasonable pension arrangements (as described at paragraph 10 below).

In this Code “new joiners” means all staff of the service provider, whether they are recruited for the purpose of the public service contract or whether they are existing or future staff of the service provider who are allocated to work on the public service contract beside transferees.

This provision is subject to paragraphs 9 and 10.

7 The principle underpinning the provisions of paragraph 6 is to consider employees’ terms and conditions (other than pensions arrangements which are dealt with in paragraph 11) in the round – as a ‘package’. This Code does not prevent service providers from offering new joiners a package of non-pension terms and conditions which differs from that of transferred staff, so long as the overall impact of the changes to this package meets the conditions in paragraph 6. The aim is to provide a flexible framework under which the provider can design a package best suited to the delivery of the service, but which will exclude changes which would undermine the integrated nature of the team or the quality of the workforce.

8 The service provider will consult representatives of a trade union where one is recognised, or other elected representatives of the employees where there is no recognised trade union, on the terms and conditions to be offered to such new joiners.

(References to ‘trade unions’ throughout this code should be read to refer to other elected representatives of the employees where there is no recognised trade union.)

The arrangements for consultation will involve a genuine dialogue. The precise nature of the arrangements for consultation is for agreement between the service provider and the recognised trade unions. The intention is that contractors and recognised trade unions should be able to agree on a particular package of terms and conditions, in keeping with the terms of this Code, to be offered to new joiners.

9 It is recognised that complications may arise where two or more public bodies enter into a contract with a service provider and there are two or more groups of transferring employees. To provide clarity, the contract should specify which group of employees' terms and conditions should be used for the "no less favourable" comparison.

10. Where the service provider itself is a public body within the scope of this Code and new joiners are employed on the same terms and conditions as that body's other staff, the provision about new joiners does not apply (and accordingly the "no less favourable comparison" is not required).

Pension arrangements for new joiners to an outsourced workforce

11 The service provider will be required to offer new joiners one of the following pension provision arrangements:

- membership of the local government pension scheme, where the employer has admitted body status within the scheme and makes the requisite contributions;
- membership of the relevant public services pension scheme where, under the 2013 Fair Deal, the employer has entered into a participation agreement as mentioned in the Fair Deal and makes the requisite contributions;
- membership of a pension scheme which meets the auto-enrolment standards under the Pensions Act 2008 (whether or not the Act requires the service provider to offer membership to the new joiner).

When a contract to which this Code applies is terminated and the work is given to another contractor, the new service provider will be required to offer one of these pensions options to any staff who transfer to it and who had prior to the transfer a right under the Code to one of these pension options.

Monitoring arrangements

12 The service provider will be required to provide the public sector organisation (throughout the term of the contract and any extension) with information as requested to enable the public sector organisation to monitor compliance with the conditions set out in this Code by the service provider and, where appropriate, its sub-contractors. This information will include the terms and conditions for transferred staff and the terms and conditions for the service provider's, and sub-contractors', employees allocated to work on the contract.

13 Such requests for information will be restricted to that required for the purpose of monitoring compliance; will be designed to place the minimum burden on the service provider commensurate with this, and will respect commercial confidentiality. The service provider and the public sector organisation will also support a review of the impact of the Code, drawn up in consultation with representatives of the public sector organisations, contractors, trade unions and will provide information as requested for this purpose. Such requests will follow the same principles of proportionality and confidentiality.

14 Public service organisations will report annually to the Welsh Ministers setting out:

- the number of outsourcing contracts entered into;
- the number of outsourcing contracts entered into where the Code would apply;
- the number of outsourcing contracts entered into where the provisions of the Code were included in the contract;
- the number of outsourcing contracts entered into where the provisions of the Code were not included in the contract and the reasons why;
- information on the implementation of the Code by service providers; and
- information on any disputes entered into via the Alternative Dispute Resolution process.

Enforcement

15 The public sector organisation will enforce the obligations on the service provider created under the application of this Code. Employees and recognised trade unions should, in the first instance, seek to resolve any complaints they have about how the obligations under this Code are being met, directly with the service provider. Where it appears to the public sector organisation that the service provider is not meeting its obligations, or where an employee of the service provider or a recognised trade union writes to the public sector organisation to say that it has been unable to resolve a complaint directly with the service provider, the public sector organisation will first seek an explanation from the service provider. If the service provider's response satisfies the public sector organisation that the Code is being followed, the public sector organisation will inform any complainant of this. If the response does not satisfy the public sector organisation it will ask the service provider to take immediate action to remedy this. If, following such a request, the service provider still appears to the public sector organisation not to be complying with the Code, the public sector organisation will seek to enforce the terms of the contract, which will incorporate this Code.

16 The contract is to include a provision for resolving disputes about the application of this Code in a fast, efficient and cost effective way as an alternative to litigation, and which is designed to achieve a resolution to which all the parties are committed. The service provider, public sector organisation and recognised trade unions or other staff representatives, are all to have access to this 'Alternative Dispute Resolution' (ADR) process (the Annex to this Code sets out the ADR procedure).

17 Employees or trade unions who need to seek advice in cases where they consider that the public sector organisation has failed to meet its responsibilities under paragraph 15, should contact the Welsh Government.

Sub-contractors

18 This Code sets out procedures for handling matters between the public sector organisation and a primary service provider. Where the primary service provider transfers staff originally in the employ of the public sector organisation to a sub-contractor, the primary service provider will be responsible for the observance of this Code by the sub-contractor.

Operation of the Code

19 The Welsh Government will monitor the operation of the Code, following consultation with relevant employers and trade unions.

Welsh Government 2014

Code of Practice on Workforce Matters: Alternative Dispute Resolution (ADR) Procedure

Introduction

This Annex sets out a procedure for resolving disputes arising from the application of the Code of Practice on Workforce Matters. The procedure should be a last resort and all parties will make their best efforts to resolve problems by agreement. The ADR procedure should be fast, efficient and cost-effective.

The need to exhaust local procedures

The parties must exhaust all normal local procedures as required by paragraph 8 and paragraph 15 of the Code before invoking the ADR procedure provided for in paragraph 16.

Who is responsible for resolving disputes?

The ADR procedure will be under the supervision of an independent person appointed from an approved list supplied by ACAS . If the parties so agree, they may appoint two “wing members” with an employer and trade union background to assist the independent person.

The dispute resolution process

Disputes will be resolved using the following three-stage procedure.

Stage 1: The independent person

The independent person will be invited to answer three questions:

i) Is this a dispute about the application of the Code?

If the answer is no, the matter can proceed no further. If yes, then the independent person will move to question (ii).

ii) Have the parties exhausted local procedures?

If the answer is no, then the parties will be invited to make further local efforts to resolve the dispute. If yes, then the independent person will conduct an independent assessment, by answering question (iii) and giving reasons for the answer.

(iii) Do the terms and conditions of employment on offer to new joiners comply with the Code?

If the answer is yes, then the matter is deemed to be concluded and the contractor can continue to offer the same package of conditions to new joiners. If the answer is no, then the dispute will proceed to Stage 2.

Time limit: Twenty working days.

Stage 2: Discussions with a view to reaching an agreement on compliant terms and conditions

Stage 2 begins with the parties being invited to seek to resolve the matter through further discussions. The independent person will make themselves available to the parties to facilitate the process. The parties also have the option of establishing other arrangements for mediation. If the parties can reach an agreement consistent with the Code then the matter is closed and the new package of conditions of employment will be applied both to new starters and to those employed during the dispute. If no agreement can be reached within the allotted time then the dispute will proceed to Stage 3.

Time limit: Ten working days, with the possibility that this might be extended by the agreement of the parties and with the consent of the independent person.

Stage 3: Final reference to the independent person

The independent person invites the parties to make final submissions. If the independent person then believes it would be worthwhile, the parties may be given a short period of further discussion. If there is no value in giving the parties more time - or if during any discussion the parties were unable to agree on how to bring the matter to a successful conclusion - then the independent person will proceed to a final binding arbitration. Having heard the evidence and reached a conclusion the independent person will impose a revised package of terms and conditions applicable to each of the affected employees.

Time limit: Ten working days

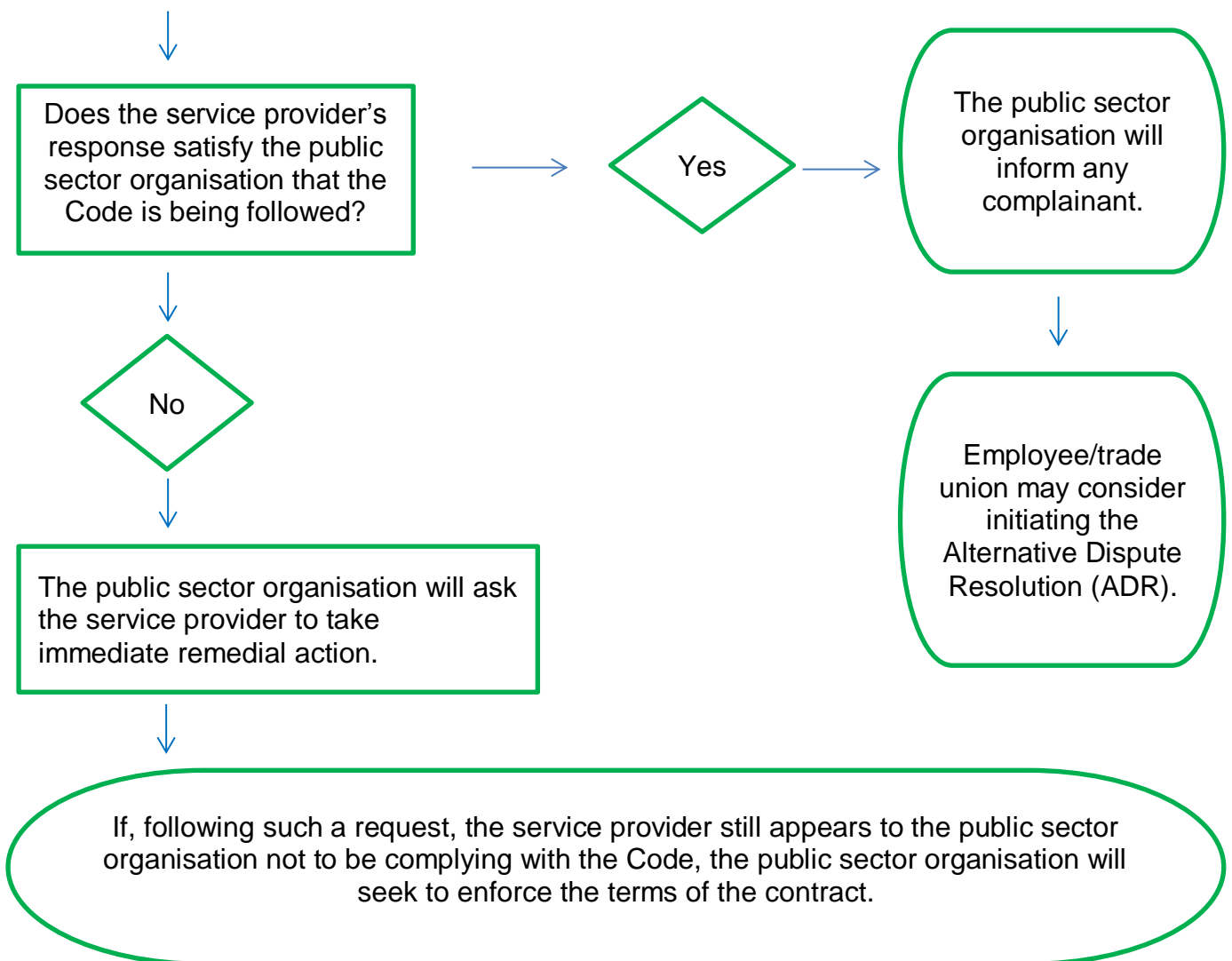
Flow diagram to demonstrate the enforcement procedures for the Code.

The public sector organisation will enforce the obligations on the service provider created under the application of the Code.

Employees and recognised trade unions¹² should seek to resolve any complaints directly with the service provider.

The public sector organisation will seek an explanation from the service provider where:

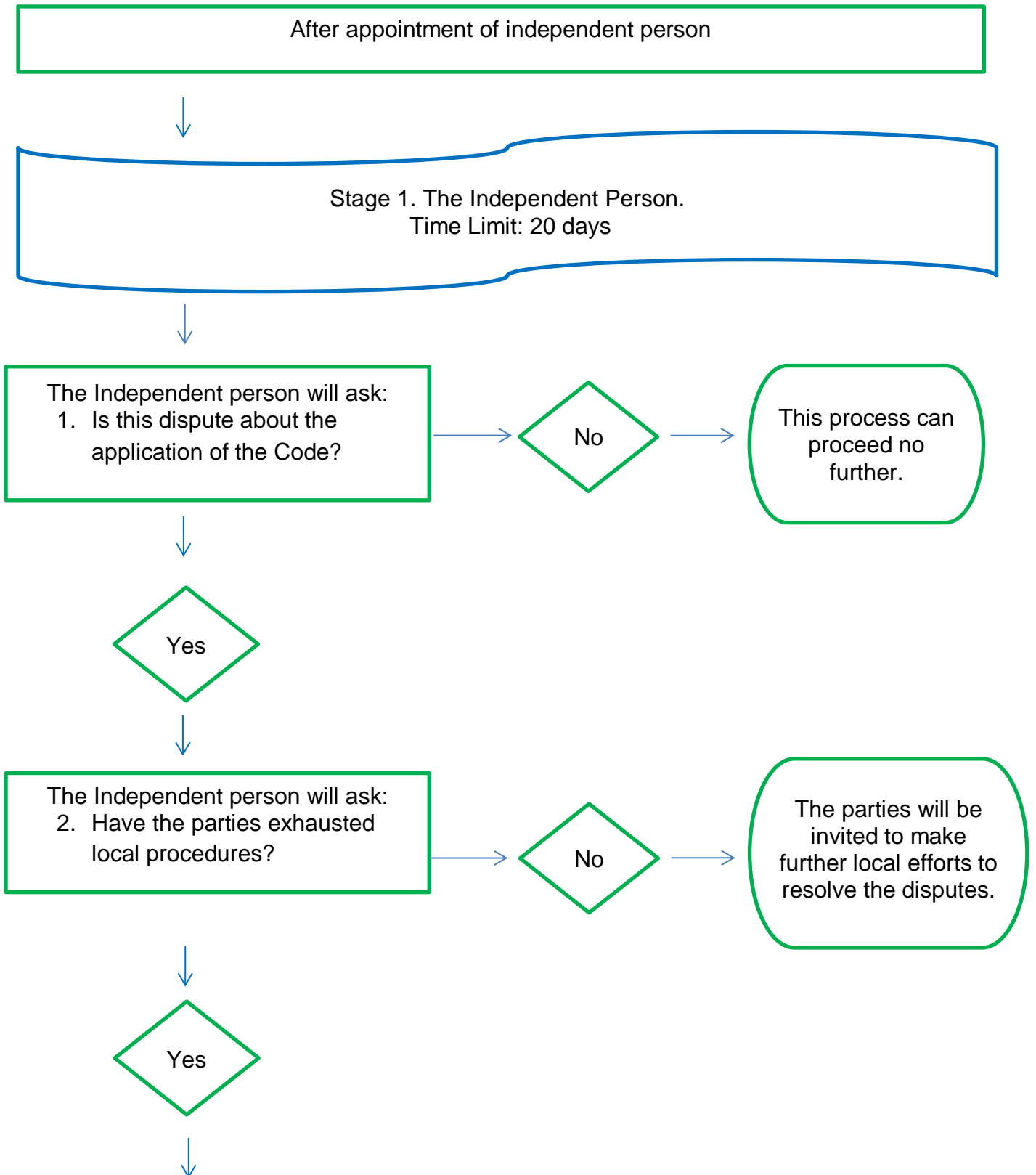
- It appears to the public sector organisation that the service provider is not meeting its obligations; or
- Where an employee/ recognised trade union writes to the public sector organisation to say that it has been unable to resolve a complaint directly with the service provider.

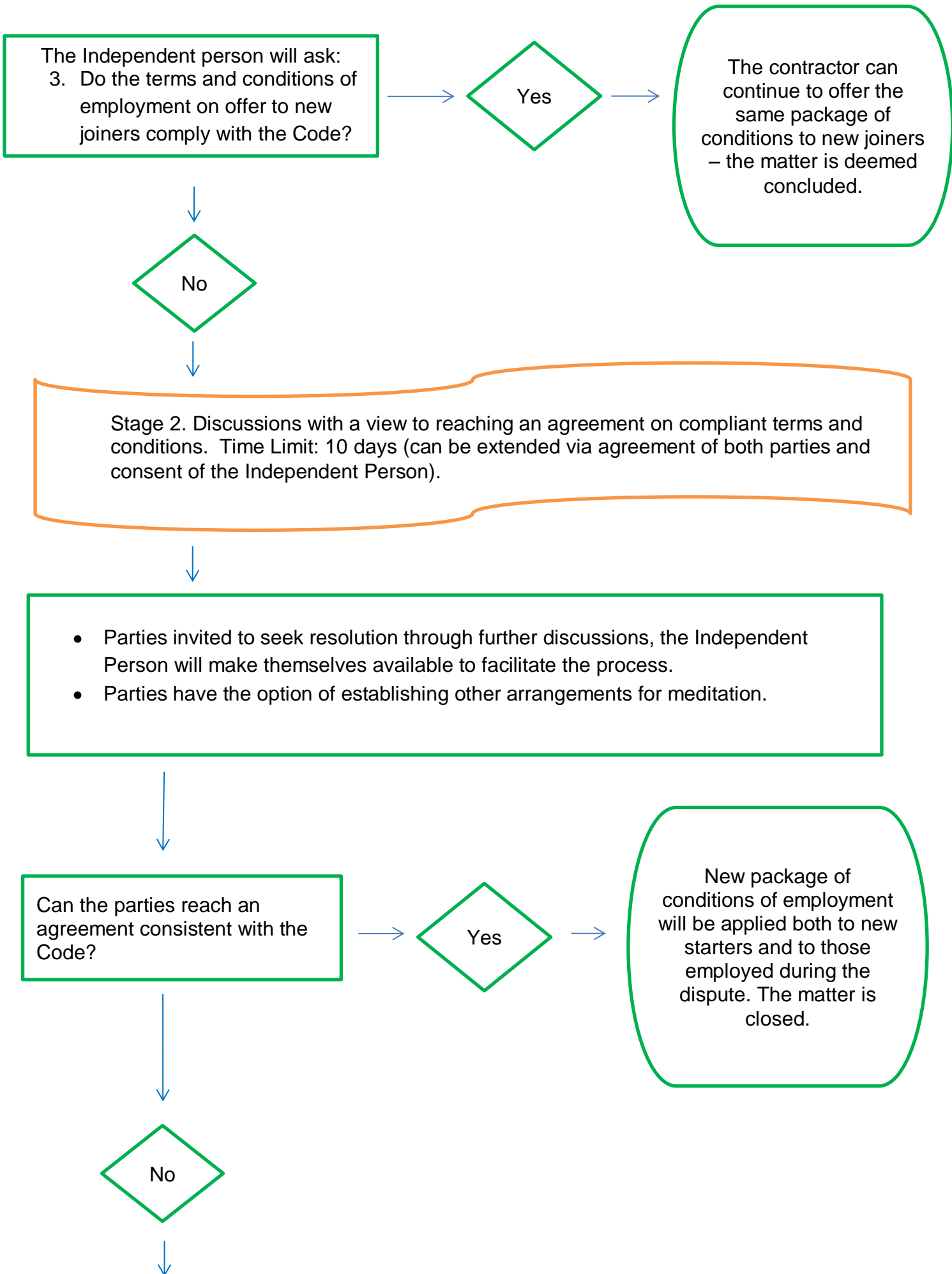


¹² References to trade unions are to be read as referring to other elected representatives of employees where there is no recognised trade union.

Flow diagram to demonstrate the Alternative Dispute Resolution (ADR) Procedure.

The Alternative Dispute Resolution (ADR) is a last resort, and can only be invoked once all local procedures are exhausted. It will be under the supervision of an Independent Person appointed by ACAS.





Stage 3. Final Reference to the Independent Person.
Time Limit: 10 working days



- The Independent Person invites the parties to make final submissions.
- If the Independent Person believes it would be worthwhile, the parties may be given a short period of further discussions.
- If not, or during any discussion the parties were unable to agree on how to bring the matter to a successful conclusion, then the Independent Person will proceed to a final binding arbitration .



Having heard the evidence and reached a conclusion, the Independent Person will impose a revised package of terms and conditions applicable to each of the affected employees.

Code of Practice on Workforce Matters – Annual Monitoring Form

Name of organisation:

Financial Year: 1 Aprilto 31 March

The Number of outsourcing contracts entered into:	
The number of outsourcing contracts entered into where the Code would apply:	
The number of outsourcing contracts entered into where the provisions of the Code were included in the contract:	
The number of outsourcing contracts entered into where the provisions of the Code were not included in the contract and the reasons why:	
Information on the implementation of the Code by service providers:	
Information on any disputes entered into via the Alternative Dispute Resolution process:	

Please return the pro forma to: publicserviceworkforce@wales.gsi.gov.uk by 30 April each year