

Cyflwynwyd yr ymateb i ymgynghoriad y [Pwyllgor Cydraddoldeb a Chyfiawnder Cymdeithasol](#) ar [Y Bil Partneriaeth Gymdeithasol a Chaffael Cyhoeddus \(Cymru\)](#)

This response was submitted to the [Equality and Social Justice Committee](#) consultation on [Social Partnership and Public Procurement \(Wales\) Bill](#)

SPPP 23

Ymateb gan: Sefydliad Materion Cymreig | Response from: Institute of Welsh Affairs



IWA Response to the Senedd Equality and Social Justice Committee's Consultation on the Social Partnership and Public Procurement Bill

22nd July 2022

1. The establishment of a Social Partnership Council

1.1 The Institute of Welsh Affairs (IWA) supports putting the Social Partnership Council (SPC) on a statutory basis. Due to the devolution settlement there are strong and increasing limits on how the Senedd and Welsh Government can act within the realms of economic governance, with employment law a reserved matter, allocation of economic development funds previously provided by the EU now taken at a Westminster level, and the United Kingdom Internal Market Act 2020 now restricting market regulations on goods and services. The Welsh Government is therefore limited in its ability to act in order to create a successful, clean and fair economy in Wales, and measures to bring these outcomes about should be pursued with the strongest available approach.

1.2 Industrial disputes are usually solved via mediation, and a social partnership approach brings multiple potential benefits, including regular communication between government, employers, and trade unions that can resolve disputes in advance of industrial action. It also allows those involved in the day-to-day running of public services to contribute their expertise and to act as an early warning system of any problems on the ground. It can strengthen the rights of workers by allowing trade unions to flag any unscrupulous practices directly to the top of the Welsh Government.

1.3 Whilst there is clear benefit to social partnership on a tripartite basis at the highest level, it will not be a panacea for workers' rights in Wales. There should be post-legislative monitoring and evaluation of the Bill, examining the extent to which new social partnership models are adopted across public services, and how existent ones seek to adapt or improve their processes as a result of learning from the SPC. There should be additional focus on how this has improved outcomes (such as pay, working conditions, and public services) - the social partnership is a means, not an end in itself. Although there is sound theory and international experience underpinning the Bill, there needs to be a focus on outcomes - with monitoring and evaluation a core part of this.

1.4 The inclusion of a requirement for nominations by Wales TUC for workers' representative members on the face of the Bill is a sensible safeguard. This provision can help to ensure that the provision to allow 'other representatives of its staff' to act as workers' representatives where there is no recognised trade union is not abused and that members are genuinely representative of workers.

2. A statutory duty on certain public bodies to seek consensus or compromise with their recognised trade unions (or where there is no recognised trade union) other representatives of their staff, when setting their well-being objectives and delivering on those objectives under section 3(2) of the WFG Act 2015

2.1 The IWA supports the proposal for a statutory duty on certain public bodies to seek consensus or compromise with their recognised trade unions when setting their well-being objectives, and when delivering on those objectives.

2.2 The IWA has outlined in the past that [trade unions and worker voice can re-balance our current unequal economy](#). As outlined above, social partnership can be of mutual benefit to all social partners including government and employers, who can benefit from those involved in delivering public services and the wider workforce feeding their into systems design and top-level decision-making. However, Social Partnership alone will not reverse the trend of flatlining real wages and increasingly eroded rights at work, such as the significant increase in the use of zero-hours contracts, including in the public sector, and the rise of the gig economy. The Bill will particularly struggle to deliver tangible benefits for workers in the private sector, which are largely uncovered by its provisions. It should therefore be seen as a sensible starting point of a much larger project, with expectations for the potential impact of its provisions kept in check.

2.3 The duty to seek consensus and compromise provides an additional incentive for the included public bodies to establish formal social partnership frameworks (where they do not exist already). The duty to produce an annual report agreed with trade unions or workers' representatives (or to include a statement as to why it was not agreed) is key to ensuring this is followed. The Committee should consider that where an agreement was not reached, there should be consideration given to how trade unions or workers' representatives can give their interpretation of why this happened, given that the report statement currently only appears to require a statement from the public body in their role as employer.

3. A statutory duty on Welsh Ministers to consult social partners, employers and worker representatives through the Social Partnership Council when delivering on their well-being objectives under section 3(2)(b) of the WFG Act 2015

3.1 This duty is sensible and helps to embed social partnership working in practice in the Welsh Government. Consideration should be given to how the impact of this consultation requirement is recorded, in order to establish whether contributions by trade unions and employers are being acted on.

4. Amendment of section 4 of the WFG Act 2015 by substituting ‘fair work’ for ‘decent work’ within the existing “A prosperous Wales” goal

4.1 This is a sensible change that ensures a consistent and easily-understood definition of expectations throughout government, public bodies and employers.

5. Reporting duties to be imposed on the public bodies and Welsh Ministers in relation to the Social Partnership Duty and Procurement duty

5.1 With devolved powers in, and resources for, economic development increasingly limited - particularly in the realms of employment - more focus should be placed on funding distributed by Welsh Government and public bodies, and how this considerable spend results in a more successful, clean and fair economy for Wales.

5.2 Measures to ensure that public procurement and outsourcing are done in a socially responsible way are therefore welcome, particularly with concerns raised during the Committee’s evidence sessions regarding pay and conditions in the construction sector. Outsourcing and procurement should contribute to creating a more successful, greener, and fairer economy for Wales, not be used as a mechanism to bypass public sector standards on pay and rights.