

# WELSH GOVERNMENT INTEGRATED IMPACT ASSESSMENT

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| <b>Title of proposal:</b>  | <b>Social Partnership and Public Procurement ( Wales) Bill</b>           |
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## HOW TO COMPLETE THE INTEGRATED IMPACT ASSESSMENT

This template should be used to summarise the main impacts of the proposal. In completing it, you should consider how the proposal:

- fits with the priorities and vision of *the Programme for Government*;
- can contribute to the social, cultural, economic and environmental well-being of Wales; and,
- might affect Wales and the people who live here, positively or negatively.

### Full Impact Assessments

To conduct the Integrated Impact Assessment (IIA), you will need to use some, but not necessarily all, of the full impact assessments listed below and annexed at the back of this template. The Integrated Impact Assessment will guide you to the relevant full impact assessments you need to do.

| Annex        | Full Impact Assessment               |
|--------------|--------------------------------------|
| A            | Error! Reference source not found.   |
| B            | Equality Impact Assessment           |
| C            | Error! Reference source not found.   |
| D            | Data Protection Impact               |
| E            | Welsh Language Impact Assessment     |
| F            | Biodiversity Impact Assessment       |
| G            | Socio-economic Duty Assessment       |
| See Intranet | Justice System Impact Identification |

For other assessments which do not have an assessment template provided here (for example Health Impact Assessment and Strategic Environmental Impact Assessment), please see the accompanying guidance to this Integrated Impact Assessment for further information.

## SECTION 1. WHAT ACTION IS THE WELSH GOVERNMENT CONSIDERING AND WHY?

1. The Social Partnership and Public Procurement (Wales) Bill provides for a framework to enhance the well-being of the people of Wales by improving public services through social partnership working, promoting fair work and socially responsible public procurement.

2. In summary, the Bill makes provision for:

- the establishment of a Social Partnership Council (SPC);
- 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;
- a statutory duty on Welsh Ministers to consult social partners, employers and worker representatives through the SPC when delivering on their well-being objectives under section 3(2)(b) of the WFG Act 2015;
- amendment of section 4 of the WFG Act 2015 by substituting ‘fair work’ for ‘decent work’ within the existing “A prosperous Wales” goal;
- a statutory duty on certain public bodies to consider socially responsible public procurement when carrying out procurement, to set objectives in relation to well-being goals, and to publish a procurement strategy;
- certain public bodies to carry out contract management duties to ensure that socially responsible outcomes are pursued through supply chains;
- reporting duties to be imposed on the public bodies and Welsh Ministers in relation to the Social Partnership Duty and Procurement duty.

## Long term

3. The Welsh Government wants to improve the economic, social, environmental and cultural well-being of Wales. These principles are embedded in our flagship legislation, the WFG Act 2015 that requires bodies to think about the long-term impact of their decisions.
4. Over the longer term all public bodies subject to the WFG Act 2015 – including the Welsh Ministers – will need to consider fair work in pursuing the “A prosperous Wales” well-being goal. It will enable fair work to be pursued through the process of public bodies setting and publishing their well-being objectives and reporting on their progress against them. This will support the ability of public bodies in Wales to lead by example in delivering fair work in order to ensure improvements in well-being.
5. The Social Partnership and Public Procurement (Wales) Bill sets out provisions to strengthen and promote consistency in the Welsh system of social partnership, to pursue fair work as part of the ‘A Prosperous Wales’ well-being goal and to achieve socially responsible public procurement. The Bill has two overall purposes, which are to improve the delivery of public services in Wales and to improve well-being in Wales.
6. The Social Partnership duties will underpin the aims and aspirations of the Bill. The duty will provide the platform from which the workforce will have a voice and will play a part in influencing policy going forward.
7. The procurement duties are designed to have longer term benefits by ensuring outcomes that can be measured and reported. Baselines on a number of important metrics, for example on environmental or employment-related data, can be established early on, and progress can be monitored over time.

## Prevention

8. The Welsh Government has a long-standing commitment to addressing social inequality in Wales – there is a well-being objective of tackling regional inequality and promoting fair work through its concept of decent work. This Bill will change the reference to decent work to fair work. Over two decades of devolution the aim has been to support the poorest in society through changing economic circumstances and to mitigate the greatest ever post-war squeeze on public finances and a decade of UK Government austerity policies.
9. The fair work provisions in the Bill will support the clear intention that all public bodies subject to the WFG Act 2015 – including the Welsh Ministers – will need to consider fair work in pursuing the “A prosperous Wales” well-being goal. It will enable fair work within that well-being goal context to be pursued through the process of public bodies

setting and publishing their well-being objectives and reporting on their progress against them.

10. Those involved in public procurement are regularly operating in tensions between competing objectives. For example, they may be asked to achieve cost savings and achieving value for money through competitive tendering and collaborative deals, whilst also delivering important outcomes such as environmental benefits, improved employment practices and opportunities for local businesses and workers. In a context of budgetary pressures, it can be hard to prioritise spending more to deliver longer-term well-being objectives.
11. Procurement timescales often add to difficulties; when money needs to be spent quickly it is harder to identify ways for improving long-term outcomes. It is important that socially responsible procurement, which is designed to help prevent longer term environmental, social and economic problems, is understood as a duty and not an optional extra.
12. The Bill requires designated public bodies to carry out contract management duties and put in place new and strengthened compliance mechanisms. These will help prevent uncertainty in contractual arrangements, which in turn can prevent corner-cutting that can lead to a gradual reduction of social, economic and environmental conditions.

## **Integration**

13. The Bill's overarching goal in promoting social partnership is to:
  - a. improve the delivery of public services in Wales, including by making decision-making in Wales more robust and effective through a strengthened and more consistent social partnership system that supports the delivery of excellent and innovative public services;
  - b. improve well-being, in Wales, by ensuring that the voice and interests of workers are central to decision making; by contributing to addressing economic inequalities; by delivering fair work outcomes; and by ensuring that well-being is a key consideration in public procurement.
14. The draft Bill establishes a social partnership duty on in-scope public bodies to seek consensus or compromise with their recognised trade union(s) or (where there is no recognised trade union) other representatives of its staff when exercising certain functions concerning their well-being objectives. In doing so it will invigorate existing social partnership arrangements, providing certainty and structure in a more comprehensive, integrated, collaborative landscape of public service delivery and regional economic partnerships.

15. The Bill sits within a broader framework of activity to deliver a more equal Wales. This includes our ambitions and commitments set out in the Strategic Equality Action Plan, the Anti-Racist Wales Action Plan, the Gender Equality Action Plan; the LGBTQ+ Action Plan and the Locked Out: Liberating disabled people's lives and rights in Wales beyond Covid-19 Report, along with our work to set a national milestone for the elimination of the gender, race and disability pay gap by 2050. Work has begun on plans to review the Public Sector Equality Duty (PSED). The review had previously been paused due to the need to divert resources to enable the Welsh Government's response to Covid. The work plan for the review is currently being scoped. Once this has been concluded by the end of the year, timeframes and actions needed will be clearer.
16. We will establish how the review aligns with the research findings in the recently published report into 'Strengthening and Advancing Equality and Human Rights in Wales', where there are a number of recommendations aligned to PSED. The review will involve working with key partners, such as EHRC Wales, Welsh Public Sector and Third Sector bodies, along with stakeholders and interested parties across Wales
17. The intention is that the Bill will integrate fair work into the approaches that public bodies take to improve the well-being of Wales. This is because evidence suggests that fair work can contribute to better organisational performance and improved public service delivery, through increased morale, engagement, improved productivity and other aspects of performance. Similarly, evidence consistently demonstrates that individuals in safe, secure and fairly rewarded work lead happier and healthier lives – a vital aspect of individual and collective well-being. In this way, the fair work provisions in the Bill complement the well-being duties in section 3 of the WFGA 2015 and will help Welsh Ministers to pursue activity which contributes to the well-being goals and in particular to the goal of a Prosperous Wales, Healthier Wales, More Equal Wales and A Globally Responsible Wales.
18. For procurement, the Bill requires public bodies to set objectives in relation to the well-being goals, and reporting on these will be streamlined with reporting on the WFG Act 2015. This will encourage a more consistent approach across public bodies and help identify opportunities for more integrated working to achieve well-being and fair work outcomes.
19. To support a coherent approach with the respective duties, the Bill will establish the SPC. The SPC is a tripartite body, the function of which will be to advise the Welsh Ministers on matters dealt with by the Bill (the social partnership duties, the pursuit of the "A prosperous Wales" goal under the WFG Act 2015 and socially responsible procurement). It is intended to provide a channel for the voice and participation of social partners, specifically employers and worker representatives, in the discussion of relevant Government policy.
20. The ultimate purpose of the SPC will be to support the Welsh Ministers in their actions to improve public services and to increase well-being, especially social and economic well-being, including through strengthening and enhancing the consistency of the Welsh system of social partnership.

## Collaboration

21. Social partnership involves partners, such as trade unions, employers and Government working to achieve a mutually agreed upon goal, to the benefit of all involved groups. The basic principle is that the aims and objectives of an organisation can best be achieved through a shared commitment to success. It is a powerful mechanism for change and impacts on issues relevant across the range of social partnership actors.
22. There are many established social partnership arrangements between individual employing organisations or their sector wide representative groups and recognised trade unions in Wales, some of which pre-date devolution and all of which contribute to a collective cultural common practice that defines social partnerships in Wales. The Bill does not have the effect of changing existing arrangements - only of formalising and strengthening them.
23. Social partnership arrangements in Wales have developed over a period of time voluntarily and organically at a sectoral level. They are presently not connected across government or underpinned by any institutional or policy frameworks for social partnership that can provide for a consistent and more formal direction from Welsh Ministers. The proposals strengthen the current arrangements and ensure the creation of the infrastructure to bring about outcomes for the economy and public spending in a way that delivers for everyone; for better public services, for businesses in Wales and for all of the Welsh workforce and ultimately improvement in well-being.
24. The Bill's provision in relation to fair work serves to embed fair work within the Well-being goal of "A prosperous Wales" and in pursuing that goal, relevant organisations will need to take into account the five ways of working in the WFG Act 2015, which includes collaboration.
25. At present many policy expectations are placed on those engaged in public procurement and there are often overlaps between them. For example, developing foundational and local economies involves a focus on fair work as well as on market development. This Bill provides a framework for prioritising policy outcomes and will rely on improved collaboration between those involved in setting and delivering policy within Welsh Government and other bodies.



## **Involvement**

26. The Shadow Social Partnership Council (SSPC), a tripartite cross sector forum, chaired by the First Minister has served as a channel for Welsh Ministers to connect with social partners as part of the emergency response to the COVID-19 pandemic. Regular meetings of the SSPC, with an expanded membership to reflect the current situation, have been used to share information and engage with social partners to strengthen policy development. The SSPC 's membership and functions differ to that of the SPC as set out in the Bill.
27. In consultation with stakeholders, Welsh Government published an 8 week consultation document along with the statutory draft Bill and a detailed Regulatory Impact Assessment in advance of the duty commencing. The consultation concluded on 23 April 2021.
28. In discharging their responsibilities in relation to fair work, we intend that Welsh Ministers are informed by and involve the SPC. More broadly, we also recognise there are others outside of Welsh Government and the social partners (as defined in the Explanatory Memorandum), who have views and ideas in relation to the promotion and encouragement of fair work. This includes the lived experience of members of the public and the knowledge of civic society organisations and interest groups. Whilst the social partnership way of working is at the centre of our approach, this will not inhibit our desire to engage and involve wider voices in ways that are consistent with the five ways of working set out in the WFG Act 2015.
29. Engaging with social partners in the regular review of socially responsible outcomes from procurement will result in an improved focus on the experiences of workers, service users and other stakeholders. Although not included in this Bill, plans are also in place for an improved mechanism for addressing complaints and feedback about how a procurement has been carried out, or how a contract is being managed.

*In addition to the five ways of working above, consider the following areas:*

## **Impact**

30. The establishment of a statutory SPC and the social partnership duties is expected to strengthen and extend current social partnership arrangements, creating stronger representation and plurality of views. Establishing arrangements in law is expected to provide a strong footing for the status of the Council and the output of social partnership arrangements, needed for a more ambitious agenda for a more equal Wales and to improve public service delivery and well-being in Wales.
31. The socially responsible procurement duty will require public bodies to produce a procurement strategy, set objectives and report on outcomes each year. The way we

carry out our procurement and commissioning, and the rigour with which we manage commercial arrangements and supply chains can also have a direct impact on well-being outcomes in Wales and further afield. This will also help to improve public services, address social and economic inequalities and deliver environmental benefits. There is a risk that some businesses may be discouraged from engaging in public sector procurement opportunities, which can be mitigated by setting requirements in a proportionate way, taking account of the impact on smaller businesses and the requirements that are more or less relevant in particular markets. However, this should increase certainty for business and reward those who already exhibit good practices.

32. The impact of amending the WFG Act 2015 to include a reference to fair work is that all public bodies subject to it – including the Welsh Ministers – will need to consider fair work in pursuing the “A prosperous Wales” well-being goal. This approach will integrate fair work into the approaches that specified public bodies take to improve the well-being of Wales. It will enable the use the process of setting and publishing well-being objectives as a mechanism through which public bodies can make progress in relation to fair work.

### **Costs and Savings**

33. The cost of producing guidance would be expected to be met from Welsh Government departmental budgets. The costs are set out in the Regulatory Impact Assessment, which will accompany the Bill when it is introduced.
34. We understand the ‘reporting costs are considered as generally included within the functions of public bodies’ and it is then for said bodies to determine how to manage. There will also be a cost to public bodies in publishing objectives and procurement strategies, collecting data and reporting on outcomes. They will be expected to meet these costs from existing budgets.
35. The aims of the procurement duties are to encourage economic growth, promote fair work practices, fair pay and contribute to achieving Wales’s statutory climate targets. However, in taking a longer-term approach to focus on well-being goals there are opportunities to deliver significant savings in the longer term. Implementation costs will be kept to a minimum by ensuring that the duties are applied proportionately, to the size of organisations and well-being risks that are particular to each procurement and market sector.

## Mechanism

36. It is intended to use legislation to achieve the proposed outcomes.

The Bill will:

- establish a statutory SPC that will enshrine the position of worker and employer representatives in providing information advice to Welsh Government about certain matters set out in the Bill. The SPC will provide a permanent and ongoing mechanism through which worker and employer representatives can influence the activities, policies and priorities of the Welsh Government;
- impose a new social partnership duty to complement the well-being duty in section 3(2) of the WFG Act 2015; it will require specified public bodies in Wales to seek consensus or compromise with their recognised trade unions or other representatives of their staff in carrying out sustainable development. A similar but distinct duty will be placed on Welsh Ministers, when carrying out sustainable development to consult the SPC;
- create new Socially Responsible Procurement duties, which will be a powerful lever in driving the well-being outcomes are needed;
- amend the WFG Act 2015 to replace the reference to “decent work” in the existing “A prosperous Wales” well-being goal with a reference to “fair work”. As a result, all public bodies subject to that Act – including the Welsh Ministers – will need to consider fair work in pursuing the “A prosperous Wales” well-being goal.

37. It is intended that this involvement will take place through bilateral social partnership structures for dialogue and sharing of views, in which there is parity of representation between management/employers of the public body and trade union social partners and where there is a joint commitment to operating in accordance with social partnership principles.

38. Public bodies will report annually to the SPC setting out what they have done to comply with the social partnership duty. The legislation will work alongside the implementation of social partnership at the local level, which relies on the representative relationship between SPC members and their constituent sectors.

39. The socially responsible procurement duties cover procurement as defined broadly to include designing, letting and managing contracts. There is an overarching duty to take account of social, economic, environmental and cultural well-being when carrying out all procurements and to set objectives aimed at their achievement of the well-being goals. Bodies must take all reasonable steps to meet these objectives for their larger

procurements. For construction-related procurement this duty applies to all procurements over £2m (inclusive of VAT). For goods and services the thresholds will be set by regulations, but the policy intention is that these reflect thresholds for application of relevant public contracts regulations.

40. There are specific contract management duties set out in the Bill for the outsourcing of services and large construction contracts. Their inclusion reflects the importance of strengthening the link between requirements included within procurement exercises and due diligence and focus on outcomes required by contract managers.

## SECTION 2. WHAT WILL BE THE EFFECT ON SOCIAL WELL-BEING?

### 2.1 People and Communities

41. The proposals for social partnership will align it more closely to other partnership arrangements, establishing greater coherence with the progressive ways of working as established by the WFG Act 2015. Social partnership and fair work are intrinsic to delivering the well-being goals.
42. Our working lives touch every aspect of our lives outside of work, and fair work or the absence of it can have a transformative effect on the lives of Welsh citizens. Our Government programmes and our public services support people across all aspects of life and ensuring that workers have a voice and work is fair is a universal benefit paramount to the well-being of people of Wales. However, there are employment practices that we consider are damaging to individuals well-being. For example, whilst there may be some instances where zero hour contracts work for both employers and workers when mutually agreed, there are many instances where they create vulnerability and uncertainty in income.
43. Our proposals to embed social partnership draw on evidence of the impact that social partnership, collective bargaining and worker representation through trade unions, can have on delivering a more equal society within Wales. Collective bargaining brings benefits for workers and employers, ensuring that both have equal voice and are able to reach agreements that are fair and equitable.
44. Strengthening social partnership will provide for greater engagement between employers and trade unions and with Government on issues of mutual interest and can better inform policy to improve public services and increase well-being.
45. Work is a social mechanism through which all our communities interact to provide the goods and services upon which our collective well-being depends. At an individual level, fair, safe, secure and rewarding work empowers people to meet their needs, provides a sense of fulfilment and enables individuals to contribute, develop and grow. At a societal level, fair work promotes community cohesion, participation and social and economic development. By amending the 'A prosperous Wales' goal in the WFG Act 2015, the Bill will strengthen the link between fair work and individual and collective well-being.
46. Capturing the lived experiences of our people and communities on matters relevant to the fair work agenda is important in shaping the approach of Welsh Ministers. The social partners and in particular the trade unions, provide a mechanism for capturing lived experiences, but we also recognise the need to continue to engage directly with people and communities, and in particular those with protected characteristics so that we learn from lived experiences and shape our policy approaches with those lived experiences in mind.
47. This engagement will be achieved in part, through Trade Unions' responses to Welsh Government consultations. Most unions are structured in a way that captures the

experiences, concerns and views of those with protected characteristics. Many unions' internal structures also build in proportional representation. So whilst it is clearly necessary to build in other ways to capture those lived experiences, this will (at least in part) be captured through the union structures – albeit this only covers working people. In this context, unions should be viewed a collection of workers voices rather than merely a singular stakeholder.

## 2.2 Children's Rights

48. It has been decided that a full impact assessment is not required. Insofar as the legislation is designed to enhance the well-being of the people of Wales by improving public services through social partnership working, promoting fair work and socially responsible procurement, it will have a positive impact on the rights of children and young people.
49. The proposed amendment to the WFG Act 2015 means those subject to it will need to consider how fair work can contribute to their well-being objectives in general and their pursuit of the “A prosperous Wales” well-being goal in particular. This will only have an indirect impact on children below the age of 16. There is potential for direct impact on 16-18 year-olds who are in work or who are seeking work. This is because those public bodies subject to the WFG Act 2015 will consider what activity they can take to promote fair work in the pursuit of the well-being goals. This could include activity which contributes to efforts to tackle in-work poverty and the impact that has on child poverty. In addition, it could lead to the promotion of more worker centred flexibility that improves the capacity of workers to combine work with caring responsibilities for children. The importance of better quality work to household incomes, living standards and life chances is supported by evidence from the Joseph Rowntree Foundation, Bevan Foundation and others.
50. The socially responsible public procurement duties will increase due diligence in contracting authorities' supply chains across Wales. This will include a focus on addressing risks of child labour and exploitation in supply chains, including those extending overseas. Whilst this will have a positive impact, the extent of this is unquantifiable at this point because it is impossible to know to what extent the duties will prevent the continuation of existing exploitation.

## 2.3 Equality

51. The main provision of the Bill is to enhance the well-being of the people of Wales by improving public services through social partnership working, promoting fair work and socially responsible public procurement and therefore the EIA indicates the Bill may have potential positive impacts on all protected characteristics.
52. Undertaking an EIA is mandatory and the assessment has been completed and is at Annex B.

## **2.4 Rural Proofing**

53. These proposals are not designed to create any differential impacts for people living or working in rural communities as compared with any other communities in Wales.
54. However, the procurement duties in particular are designed to embed policy priorities in procurement and focus on outcomes. One of the priorities for Welsh Government is the development of local and foundational economies. Good procurement practice will promote the growth of local economies and encourage the use of local businesses, which will support the achievement of a more resilient Wales, a Wales of cohesive communities and of vibrant culture and a thriving Welsh language, and building good employment practices will also improve people's well-being.

## **2.5 Health**

55. The Social Partnership duties in the Bill requiring public bodies to seek compromise or consensus with their recognised Trade Unions or with other representatives of their staff will support healthier working environments. These duties in requiring public bodies to work in social partnership when carrying out sustainable development under the WFG Act 2015 will encourage a focus on the long-term impact of policy and decision making and help to address persistent problems such as health inequalities.
56. Unfair work can have a detrimental impact on physical and mental health, whilst conversely fair work can have positive health benefits. All workers have the right to be safe and healthy at work and as part of our approach to fair work, we recognise the importance of workers receiving appropriate information, advice and training provision and ensuring worker voice is heard so that employers make appropriate adjustments. The Bill will help encourage public bodies to consider such issues.

## **2.5 Privacy**

57. A privacy impact assessment has been completed at annex D

## SECTION 3. WHAT WILL BE THE EFFECT ON CULTURAL WELL-BEING AND THE WELSH LANGUAGE?

### 3.1 Cultural Well-being

58. The WFG Act 2015 goal for culture is 'A society that promotes and protects culture, heritage and the Welsh language and which encourages people to participate in the arts and sports and recreation'. Culture includes museums, archives, libraries and the arts; heritage includes the built historic environment as well as intangible heritage such as traditions; arts encompass performance and creative sectors including music, literature, theatre and art, whilst sports and recreation include both elite and community sports as well as opportunities to participate in wider outdoor recreation.

#### **3.1a How can the proposal actively contribute to the goal to promote and protect culture and heritage and encourage people to participate in the arts sports and recreation? (for Welsh Language see section 3.2)**

59. No link is identified between these proposals and aims of the WFG Act 2015 cultural goals.

#### **3.1b Is it possible that the proposal might have a negative effect on the promotion and protection of culture and heritage, or the ability of people to participate in arts, sport and recreation? If so, what action can you take to avoid or reduce that effect (for example by providing alternative opportunities)?**

60. No link is identified between these proposals and aims of the WFG Act 2015 cultural goals.

### 3.2 Welsh Language

61. A thriving Welsh language and cohesive communities are among our goals under the WFG Act 2015.

62. The Bill helps promote and have a positive impact on the Welsh Language and Culture through social partnership by encouraging cooperation between employers and trade unions, within organisations, within sectors and with Government, on workforce matters, including promoting and facilitating the use of the Welsh language in the workplace and in the delivery of our public services and strengthen the local economy.

63. In the statutory guidance supporting the procurement provisions of the Bill, these issues will be given further consideration. The Bill makes explicit reference to “cultural well-being” which includes the promotion of the Welsh language.



64. As a public advisory body, the SPC will be subject to a set of published Welsh language standards to ensure that it is inclusive to Welsh language speakers and promotes the use of Welsh language nationally. Further details on what Welsh language standards the SPC will be bound by will be published before implementation of the Council.

65. See annex E below.

## SECTION 4. WHAT WILL BE THE EFFECT ON ECONOMIC WELL-BEING?

Supporting growth in the Welsh economy, and through this tackling poverty, is at the heart of the Welsh Government's Programme for Government.

### 4.1 Business, the general public and individuals

66. The proposals for the Social Partnership duties and the SPC provide opportunities for business and workers, through their trade unions, to advise Welsh Ministers on business policy outcomes.
67. Experience of the Fair Work Commission has shown that there are factors and issues where employers, trade unions and government want to work together to deliver shared objectives. Social partnership proposes cooperative approaches that jointly address the issues that shape people's ability to engage and prosper in the workplace and the ability of businesses to prosper and will assist in responding to the Fair Work Commission's recommendations for action.
68. It is important that businesses that are employing workers legally and fairly are not undercut by competitors that are cutting corners in these areas. We are keen to understand where this happens and to ensure that government policy and approaches to procurement are supporting good practice. One potential consequence of requiring greater due diligence in this area is that the burdens could fall on smaller businesses with a consequent risk that some may be discouraged from engaging in Welsh public sector procurement opportunities. For those that do engage there may be businesses risks for them in adopting particular terms and conditions for staff working on the contract. These will depend on the particular terms, and it will be important that any implications are considered by engaging with employers and workers across sectors and through the SPC.
69. The proposals strengthen the current arrangements and ensure the creation of infrastructure to manage the economy and public spending in a way that delivers for everyone; for better public services, for businesses in Wales and for all of the Welsh workforce.
70. The proposed socially responsible procurement duties aim to deliver economic benefits in various ways. The broad duty requires all public bodies to consider economic well-being when carrying out procurement, which includes embedding this within procurement design, processes, outcomes and contract management. Organisations will be required to set objectives in relation to well-being goals, which include those designed to deliver economic benefits. Examples would include setting objectives in relation to how projects are structured so that contract opportunities are available to local business, or to develop the foundational economy, or measures to widen access to sub-contracting opportunities.
71. The categories listed for developing social public works clauses include ensuring and enforcing prompt payments in supply chains and providing opportunities to small and

medium-sized enterprises. Embedding these types of clauses within the supply chains of large construction contracts, and requiring them to be monitored and reported on, will increase opportunities, and reduce some of the payment risks faced by small businesses in construction supply chains. The duty will place an expectation on public bodies to ensure that the clauses are replicated through supply chains and acted upon. Compliance will be monitored by Welsh Government.

72. These proposals will also require public bodies to report annually on outcomes of their procurement activity. Metrics that relate specifically to economic benefits will be included, for example on contracts and sub-contracts awarded to small and Wales-based business, use of project bank accounts and on use of, or outcomes from, other mechanisms for improving local and foundational economies.

#### **4.2 Public Sector including local government and other public bodies**

73. The proposals would introduce a duty for in scope public bodies to work in social partnership with their trade unions or other representatives of staff. Social partnership can improve the delivery of public services, which in turn contributes to our goal of reducing inequality. By engaging the workforce in key decisions, we can support a motivated and committed workforce which is critical to the effective delivery of public services. Involving workers in planning and decision-making can also contribute to innovative solutions. The establishment of the SPC will provide a channel for the voice and participation of employers and workers, through their trade unions, to improve the quality of information and advice to Ministers and consequently the development and implementation of Government policy.

74. Strengthening and promoting the consistency of social partnership structures across the public sector is expected to increase cooperation between employers, trade unions and government, enhance the well-being of our workforce and contribute to improved public services.

75. In 2019/20 the Welsh public sector procured products and services worth circa £6.9 billion. The effect of the Bill will be to require contracting authorities to use the power of the public purse as a lever to promote social outcomes, including, fair work and other social partnership principles in order to improve well-being and public services delivery.

76. There are both perceived and real tensions between these wider objectives and the business of letting contracts that represent good use of public money, achieving maximum benefit in service delivery within constrained public budgets. Skilled procurement professionals can help in navigating this tension, for example by identifying where an increased focus on a particular well-being goal can deliver longer-term opportunities and better manage risks. Each procurement is different, and these proposed duties will need to be supported by guidance that can be applied proportionately to contracts in different sectors, of different sizes, by organisations that vary significantly in procurement skill and capacity. This is essential in order for the benefits of these duties to outweigh the implementation costs for public bodies. It will also be essential to provide training to those engaged in procuring and managing contracts.

### 4.3 Third Sector

77. Whilst not subject to the social partnership duty, the membership of the SPC includes provision for a third sector employer representative and for workers, through trade union representative structures. Membership will provide for the participation and involvement of the third sector, as an established provider of public services and a recognised social partner, in efforts increase well-being and improve public services (including through the promotion of fair work).
78. Third sector organisations also bid for public contracts, and are often well-placed to deliver socially responsible outcomes. Moving the focus away from minimising costs towards socially responsible outcomes may make it easier for third sector organisations to secure more public contracts.

### 4.4 Justice Impact

Please answer the following in relation to your proposal:

#### **Are you bringing forward new primary legislation?**

79. Yes

#### **Are you creating, removing or amending an offence?**

80. No

#### **Could your proposal result in any other impact on the justice system e.g. through increased litigation, need for legal aid, appeal against a decision of a public body?**

81. There is some potential for this Bill to result in legally enforceable civil actions relating to public sector procurement in Wales and also, potentially, a very small number of Judicial Reviews.
82. In particular there is potential for litigation to arise under the duties to consider including particular contract clauses in major construction and outsourcing services contract. These will have the effect of focusing more attention on activities in supply chains, which could cause breaches of legal obligations to come to light.
83. In all of these areas existing measures are in place to address breaches in, for example, environmental law or fair payment, through various enforcement bodies which exist for this purpose.
84. Cases are not likely to increase significantly as a result of this legislation, the purpose of which is to increase transparency and therefore to act as a deterrent to organisations that may try to hide non-compliant practices in public sector supply chains;
85. Cases of litigation linked to this Bill, if any, are therefore likely to be small in number.

86. The SPC will advise the Welsh Ministers on matters covered by the Social Partnership and Public Procurement Bill. Any likely impact on the justice system is through identifying any incidences of unlawful practice which necessitate reporting to the relevant enforcement authorities.
87. A full justice impact assessment can be found at annex H which has been approved by the Ministry of Justice.

**SECTION 5. WHAT WILL BE THE EFFECT ON ENVIRONMENTAL WELL-BEING?**

88. Under Section 9 of the Environment (Wales) Act 2016, the Welsh Ministers are required to prepare, publish and implement a natural resources policy and to take all reasonable steps to implement it and to encourage others to take such steps. The Natural Resources Policy was published in August 2017.

|   |  |                             |
|---|--|-----------------------------|
| <p><b>Required for all proposals:</b></p>   | <ul style="list-style-type: none"> <li>Natural Resources Policy national priorities, challenges and opportunities</li> </ul> | <p>5.1a<br/>5.1b</p>        |
| <p><b>Required for all proposals</b></p>  | <ul style="list-style-type: none"> <li>Biodiversity</li> </ul>   | <p>5.2 and Annex F</p>      |
| <p><b>Required for all proposals</b></p>  | <ul style="list-style-type: none"> <li>Climate Change</li> </ul>   | <p>5.3</p>                  |
| <p>Certain plans and programmes requiring SEA under the Environmental Assessment of Plans and Programmes (Wales) Regulations 2004</p> | <ul style="list-style-type: none"> <li>Strategic Environmental Assessment</li> </ul>   | <p>5.4 and IIA Guidance</p> |
| <p>Proposals which may affect a Special Area for Conservation or a Special Protected Area (SAC/SPA):</p>                              | <ul style="list-style-type: none"> <li>Habitats Regulations Assessment</li> </ul>  | <p>5.5 and IIA Guidance</p> |
| <p>Certain projects relating to town and country planning; transport; agriculture; forestry; marine, land</p>                         | <ul style="list-style-type: none"> <li>Environmental Impact Assessment</li> </ul>  | <p>5.6 and IIA Guidance</p> |

|  |  |  |
|--|--|--|
| <p>drainage; and electricity which require EIA under the various EIA Regulations</p> |  |  |
|--|--|--|

**5.1 Natural Resources**

**5.1a How will the proposal deliver one or more of the National Priorities in the Natural Resources Policy (NRP)?**

- 89. Having considered the proposals against the priorities of the Natural Resources Policy, a positive impact is identified and therefore a full impact assessment has not been undertaken.
- 90. The socially responsible procurement duties require public bodies to take action to improve environmental well-being by carrying out public procurement in a socially responsible way. This will include publishing objectives, procurement strategies and annual reports, and also by taking all reasonable steps to meet their objectives in their larger “prescribed” procurements. There are many opportunities to address all three of the National Priorities as part of fulfilling these duties, which cover the whole procurement cycle from design through to contract management.
- 91. The Bill also sets out a duty on the inclusion of social public works clauses in construction contracts. These clauses are grouped into categories in respect of which improvement is sought. The “environment” category describes improvements in “requiring sustainable management of natural resources, use of sustainable materials, resilience to the impact of climate change, reduction of greenhouse gas emissions, and enhancement of the natural environment and biodiversity.”
- 92. The Welsh Ministers will publish model contract clauses to cover these areas. Work is underway to consult on, and develop, the detail of these clauses and the steps that organisations should take to ensure that the outcomes are delivered.

**5.1b Does the proposal help tackle the following national challenges and opportunities for the sustainable management of natural resources?**

- 93. Having considered the proposals against the priorities of the Natural Resources Policy, a positive impact is identified and therefore a full impact assessment has not been undertaken.

**5.2 Biodiversity**

- 94. The Welsh economy and health and well-being in Wales depend on healthy, resilient ecosystems, which provide us with our food, clean water and the air we breathe, the raw materials and energy for our industries and protect us against hazards, such as flooding and the impacts of climate change. Therefore, biodiversity is essential to

sustaining ecosystems that provide the vital services our lives depend on. Where biodiversity is lost and perhaps never fully recovered, it affects the capacity of ecosystems to adapt to changes and disturbances.

95. To demonstrate compliance with Section 6 of the Environment (Wales) Act 2016, a Biodiversity Impact Assessment has been completed at annex F below.
96. A full assessment of the impact that procurement can have on biodiversity has recently been completed in relation to the Welsh Government's Nature Recovery Action Plan<sup>1</sup>. This states 'we will strengthen our current approach to the use of the Sustainable Risk Assessment (SRA), where as part of the procurement planning process, practitioners are encouraged to consider – and record any decisions – around their impact on biodiversity, including how and from where materials are sourced. Our approach will emphasise the importance of the SRA as a tool for sustainable procurement and development, embed training, guidance and support for practitioners in its use, and utilise the planned fitness checks programme to monitor usage and performance'.
97. We will also reiterate and support best practice in environmentally sustainable procurement through our statutory guidance. Expert advice will be sought as guidance is produced to ensure that the latest policy developments and tools are reflected in it. The annual reporting process in the Bill will ensure that relevant metrics are collected and reported.

### 5.3 Climate Change

98. Climate change has been identified as one of the biggest threats facing our future generations. We need to reduce our emissions through decarbonisation action (5.3a) and to adapt to the impacts of climate change by increasing our resilience (5.3b).

#### 5.3a Decarbonisation

**How (either positively or negatively), and to what extent (significant/moderate/minimal impact), will the proposal affect emissions in Wales?**

99. The Wales Procurement Policy Statement includes the principle of prioritising carbon reduction to deliver a net zero public sector by 2030. The statutory guidance on the socially responsible procurement duties will help organisations to address this principle. We expect that the socially responsible procurement duties will link to the WPPS and will therefore help organisation have a positive impact on emissions in Wales, through the general duties and the statutory guidance supporting them, and through the construction contract management duties described in section 5.1a above.

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<sup>1</sup> [Nature recovery action plan | GOV.WALES](#)



**Please explain your decision about whether or not to conduct a more thorough assessment of the effect on emissions.**

100. It is not possible at this stage to quantify the impact of the proposals on emissions.

### **5.3b Adaptation**

**How (either positively or negatively), and to what extent (significant/moderate/minimal impact), will the proposal affect ability to adapt to the effects of climate change?**

101. A full impact assessment adapting to climate change is not required, however the Bill will ensure this is taken into account. It will be a requirement to consider adapting to climate change in the statutory guidance.

### **5.4 Strategic Environmental Assessment (SEA)**

**Please explain your decision about whether or not an SEA is required by law.**

102. The proposals do not relate to any of the following: agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, tourism, town and country planning or land use. Nor does the proposal set the framework for future development consents in the areas above or require assessment under the Habitats Directive.

### **5.5 Habitats Regulations Assessment (HRA)**

**Please explain your decision about whether or not an HRA is required by law.**

103. These proposals will not affect any of the protected sites listed below. Therefore a full Habitats Regulations Assessment has not been carried out.

- Sites of Special Scientific Interest (SSSI);
- Special Areas of Conservation (SAC);
- Candidate Special Areas of Conservation (cSAC);
- Special Protection Areas (SPA);
- Potential Special Protection Areas (pSPA);
- Ramsar Sites (sites designated under the 1971 Ramsar Convention for the internationally important wetlands);
- National Nature Reserves (NNR).

### **5.6 Environmental Impact Assessment (EIA)**

**Please explain your decision about whether or not an EIA is required by law.**

104. The proposals will not involve any of the following items, therefore a full impact assessment is not required:

- Construction, mining, extraction or waste disposal works on land and at sea (including urban development, highways, ports, energy, agriculture and fish farming);
- The change of use of land;
- Afforestation or deforestation;
- Agricultural improvement on uncultivated or semi-natural areas;
- Restructuring of rural land holdings;
- Water extraction or land drainage.

## SECTION 6. SOCIO-ECONOMIC DUTY WHAT WILL BE IMPACT ON SOCIO-ECONOMIC DISADVANTAGE?

### 6.1 The Socio-economic Duty

105. The socio-economic duty requires relevant public bodies, including Welsh Ministers to have due regard to the need to reduce inequality of outcome that results from socio-economic disadvantage. This duty applies only to decisions which are of a strategic nature.
106. To demonstrate that 'due regard' has been given, an audit trail of evidence is kept for all decisions made under the Duty. This impact assessment will form part of this evidence trail.
107. The overall aim of the socio-economic duty is to deliver better outcomes for those who experience socio-economic disadvantage. The socio-economic duty relies on good partnership working and links to plans to strengthen our social partnership arrangements. The Bill seeks to address inequality from different perspectives and supports the duty through ensuring that those taking certain strategic decisions do so through a collaborative approach with social partners.
108. See the full Socio-Economic Impact Assessment Completed below in annex G.

## SECTION 7. RECORD OF FULL IMPACT ASSESSMENTS REQUIRED

109. You have now decided which areas need a more detailed impact assessment. Please list them below.

| Impact Assessment                  | Yes/No | If yes, you should   |
|------------------------------------|--------|--|
| Children's rights                  | No     | Complete the Children's Rights Impact Assessment below                 |
| Equality                           | Yes*   | Complete the Equality Impact Assessment below                          |
| Socio-economic Duty                | Yes    | Complete the Socio-economic Duty Assessment below                      |
| Rural Proofing                     | No     | Complete the <b>Error! Reference source not found.</b> below           |
| Health                             | No     | Refer to the Integrated Impact Assessment Guidance                     |
| Privacy                            | Yes    | Complete the Privacy impact assessment below                           |
| Welsh Language                     | Yes    | Complete the Welsh Language Impact Assessment below                    |
| Economic / RIA                     | Yes    | Refer to the Integrated Impact Assessment Guidance                     |
| Justice                            | Yes    | Complete the Justice System Impact Identification form on the intranet |
| Biodiversity                       | Yes*   | Complete the Biodiversity Impact Assessment below                      |
| Climate Change                     | No     | Refer to the Integrated Impact Assessment Guidance                     |
| Strategic Environmental Assessment | No     | Refer to the Integrated Impact Assessment Guidance                     |
| Habitat Regulations Assessment     | No     | Refer to the Integrated Impact Assessment Guidance                     |

|                                 |    |  |
|---------------------------------|----|--|
| Environmental Impact Assessment | No | Refer to the Integrated Impact Assessment Guidance |
|---------------------------------|----|--|

\* Mandatory for all proposals in order to meet statutory obligations.

## SECTION 8. CONCLUSION

### 8.1 How have people most likely to be affected by the proposal been involved in developing it?

- The Welsh Government engaged stakeholders on the development of policy for the Bill and published a draft Bill and draft Regulatory Impact Appraisal for consultation on 26 February 2021; consultation closed on 23 April 2021.
- The consultation was submitted to a range of organisations such as Chwarae Teg, Welsh Local Government Association, Meithrin Cymru, Bevan Foundation and British Medical Association Wales. Alongside the main consultation document, Welsh Government hosted eight, independently-facilitated stakeholder workshops on the consultation and a range of briefings for interested parties.
- In total 85 responses were received from a range of social partners, other organisations and members of the public. There was substantial support for the provisions within the Bill and widespread agreement about key elements of its content. There was overall agreement from respondents that legislation will strengthen current social partnership arrangements in Wales. A summary report of the responses can be accessed by <https://gov.wales/draft-social-partnership-and-public-procurement-wales-bill>
- Since consultation on the draft Bill last year, there has been extensive and continuing engagement with social partners and other stakeholders. In particular, the Deputy Minister and officials have met several times with Wales TUC and other trade union partners to discuss the development of the Bill policy.
- The views of trusted social partners and stakeholders have been taken into account in formulating the final policy proposals for the Bill.

### 8.2 What are the most significant impacts, positive and negative?

*This section should be used to help complete section 6 of the MA template*

*Summarise the most significant impacts for the people, culture and Welsh language, economy and environment of Wales, expected as a result of the proposed action. Describe the themes that emerged from involving people. Refer to the seven well-being goals and the Welsh Government's well-being objectives. Contrast with the impact of current Welsh Government action if appropriate.*

- The Welsh Government has always sought to work in partnership to solve problems and find solutions to the economic, social and other challenges that face Wales. Social partnership is a participatory process in which social partners engage in co-operation and joint problem solving on areas of mutual interest.
- By placing social partnership on a statutory footing through this Bill, we will:

- significantly enhance the contribution of trade unions and employers in pursuit of our wider well-being goals for Wales;
  - guarantee a strong voice for workers, through trade unions, in shaping delivery of public services and improving well-being;
  - bring renewed focus and fresh impetus to action on fair work in Wales, informed by the work of the SPC;
  - ensure that public procurement becomes a much more effective tool for delivering social value and supporting key strategic policy outcomes.
- The Bill provides a framework for prioritising policy outcomes and will rely on improved collaboration between those involved in setting and delivering policy within Welsh Government and other public bodies. The public bodies within scope of the social partnership and fair work duties in the Act will be the same as those which are subject to the Well-being of Future Generations Act.
  - A key purpose of the Bill is to enhance the contribution of social partnership working between government, trade unions and employers to the delivery of the well-being goals set out in the WFG Act 2015. By creating a statutory SPC, Welsh Ministers will be able to receive better informed, more consistent advice on the long-term impact of policy decisions. The SPC (and other related social partnership structures already in existence) will provide a forum for co-producing effective solutions to important public policy issues and will assist the Welsh Ministers in reviewing the effectiveness of policy interventions over time.
  - The socially responsible procurement duties in the Bill will help to prevent uncertainty in contractual arrangements, which in turn can prevent corner-cutting that can lead to a gradual reduction of social and environmental conditions. They require sustainable management of natural resources, reduction of greenhouse gas emissions, and protection or enhancement of the natural environment and biodiversity.
  - Working in Social Partnership specifically with trade unions will have positive impacts because their democratic, representative structures are able to capture the experiences, concerns, and views of those with protected characteristics. In addition, many unions' internal structures also build in proportional representation.
  - It also found positive impacts on the Welsh language, including greater opportunities for Welsh speakers, greater geographical dispersion of opportunity, an increase in Welsh speaking suppliers within supply chains and strengthening of the principles of the Welsh Language Standards to more employers.

### 8.3 In light of the impacts identified, how will the proposal:

- maximise contribution to our well-being objectives and the seven well-being goals and/or,
- avoid, reduce or mitigate any negative impacts?

*What action can the Welsh Government take to promote biodiversity, children's rights, equalities, the Welsh language or another of the areas covered by your impact assessments?*

*What action can the Welsh Government take to strengthen its contribution to a particular goal or to contribute to additional goals?*

*What action can the Welsh Government take to avoid, reduce or mitigate a negative impact?*

*If no action is to be taken to avoid, remedy or mitigate a negative impact then please explain why.*

- Various key high-level impacts have been identified within this document so they are not repeated here in detail. For example, in striving to improve public services, promote fair work outcomes and social and economic outcomes across the workforce and Wales, this has consequential benefits across society for workers and their families, and employers in the private and public sectors.
- This document highlights how these proposals interface with the well-being goals and how the well-being and social partnership principles will be taken forward together.

### 8.4 How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?

*What plans are in place for post implementation review and evaluation?*

- As part of the consultation process, colleagues from within Knowledge and Analytical Services (KAS) Welsh Government were engaged in designing a theory of change as a basis for an ex-ante evaluation of the Bill. Both internal Welsh Government officials and relevant external stakeholders participated in a series of three workshops which each covered the main components of the Bill; fair work, social partnership and socially responsible procurement. These workshops provided input on the agreed outcomes of the Bill for each of the three components, and discussed risks and unintended consequences of the proposed interventions and appropriate metrics to use to evidence these outcomes.



## Data and Statistics

- As outlined in the KAS report, each of the three components of the Bill are interrelated, and this is reflected in a degree of crossover in the content of the three logic models. Whilst the goals for social partnership and socially responsible procurement are ends in themselves and have their own specific outcomes, they also contribute towards improving fair work outcomes.

### (i) Fair Work

- The Theory of Change work has also continued the discussion around suitability and availability of data initiated by the Report of The Fair Work Commission (2019). As a result, Welsh Government officials responsible for fair work policy, in collaboration with statisticians in KAS, have agreed a set of outcomes for fair work, drawing upon the following sources;
- Employer-level surveys, including; Annual Survey of Hours and Earnings (ASHE) Employer Skills Survey (ESS), National Survey for Wales (NSW), and the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR).
- Individual-level surveys, including; Labour Force Survey (LFS), Annual Population Survey (APS), National Survey for Wales (NSW), Lifelong Learning Wales (LLW), and the Employee Rights and Experiences Survey.
- Regular reporting on relevant metrics to evidence the fair work outcomes, as well as qualitative research undertaken as part of the evaluation will also be undertaken.

### (ii) Social Partnership

- In March 2021, KAS colleagues issued a survey to public bodies and educational institutions, asking them about their existing social partnership arrangements. The aims of the survey were to develop a clear picture of current social partnership arrangements across a range of public organisations and to gauge respondents' understanding of social partnership within these organisations. These data would provide a baseline understanding of social partnership arrangements prior to the passing of the Bill. The data will be made available for future evaluators.
- Building on the survey, further research with this sector, as well as the private and third sector will be undertaken to further understand how social partnership is defined and enacted within these sectors, and measure how the implementation of the Social Partnership Duty and SPC has progressed following the implementation of the Bill.
- Some of the outcomes detailed in the theory of change for social partnership, for example around behavioural and cultural change, lend themselves less to quantitative measures and will therefore be addressed using bespoke evaluation methods at the mid-term or final stage evaluation, for example using focus groups or case studies.

- Consideration of external factors will need to be made when assessing the impact of the Social Partnership Duty and SPC on achieving the fair work objectives.

(iii) Socially responsible procurement

- Assessment of the Bill's impact on achieving the outcomes for socially responsible procurement can be drawn from a range of sources, including;
- Social value measurement tools;
- Existing contract award data held by Welsh Government;
- Procurement advertisement platforms, such as Sell2Wales, All Wales Procure to Pay (NHS), and other equivalents for different sectors;
- Local Authority performance and improvement data;
- Transparency in Supply Chains (TISC) Platform.

110. KAS have made suggestions on which data can be drawn from which sources in the Theory of Change report. Supplementary data would also be collected as part of a formal evaluation.

## SECTION 9. DECLARATION

### Declaration

I am satisfied that the impact of the proposed action has been adequately assessed and recorded.

Name of Senior Responsible Officer / Deputy Director: Neil Surman

Department: Social Partnership and Fair Work

Date: 17 October 2021

**FULL IMPACT ASSESSMENTS**

**A. EQUALITY IMPACT ASSESSMENT**

The Welsh Ministers are subject to the public sector equality duty (the “PSED”) under section 149 of the Equality Act 2010. The Bill seeks to promote and pursue equality of opportunity for all, irrespective of whether or not they share a protected characteristic, driven by working in social partnership.

**Record of Impacts by protected characteristic:**

| Protected characteristic or group                                  | What are the positive or negative impacts of the proposal? | Reasons for your decision (including evidence)   | How will you mitigate Impacts? |
|--|--|--|--------------------------------|
| <p>Age (think about different age groups)</p> <p>People 18- 50</p> | <p>Potential positive impact</p>                           | <p>The proposals in the Bill are directly targeted at improving well-being, including social and economic well-being, and improving delivery of public services.</p> <p>In seeking to strengthen and enhance consistency in social partnership in Wales, in considering fair work as part of the a prosperous Wales well-being goal, and in ensuring that well-being is a key consideration in public procurement, the Bill has a direct positive impact on people of working age.</p> <p>Improved public services created with inclusive decision making can also</p> |                                |

|   |                           |  |  |
|---|---------------------------|--|--|
|   |                           | positively impact on people of this age group.   |  |
| Older people (50+)  | Potential positive impact | <p>The proposals within the Bill address the needs of older people employed in the workplace by seeking to promote fair work outcomes</p> <p>The Bill also, seeks to improve well-being, including social and economic well-being, in Wales, and to improve delivery of public services.</p> <p>Improvements to general well-being and improving delivery of public services have the potential to positively impact on older people and their families, both in general and through more specific potential targeted measures to support older people and their families.</p> |  |
| Disability (consider the social model of disability <sup>2</sup> and the way in which your proposal | Potential positive impact | <p>The proposals in the Bill do not directly address the needs of disabled people.</p> <p>Trade union partners are organised in such a way</p>   |  |

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<sup>2</sup> Welsh Government uses the social model of disability. We understand that disabled people are not disabled by their impairments but by barriers that they encounter in society. Ensuring that your proposal removes barriers, rather than creating them, is the best way to improve equality for disabled people. For more information, go to the intranet and search 'social model'.

|   |                           |  |  |
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| could inadvertently cause, or could be used to proactively remove, the barriers that disable people with different types of impairments)<br><br>Visual impairment |                           | that they naturally seek to bring the views and experiences of those with protected characteristics to the forefront – these views and experiences will then be represented through social partnership arrangements. This will apply to each equality strand.<br><br>The Bill does, however, seek to promote fair work, which includes promotion of fair access to an inclusive workforce and ensuring that the rights of workers are protected. |  |
| Hearing Impairment  | Potential positive impact |  |  |
| Physically disabled   | Potential positive impact |  |  |
| Learning disability   | Potential positive impact | There is potential for positive impact through the socially responsible procurement duties because public bodies will be required to set objectives against well-being goals which also addresses reducing equalities. For example, considering the accessibility of a service to people with disabilities.  |  |
| Mental health problem   | Potential positive impact |  |  |
| Other impairments issues  | Potential positive impact |  |  |
| Gender Reassignment (the act of   | Potential positive impact | The proposals in the Bill do not specifically impact on people   |  |

|  |                        |   |  |
|--|------------------------|---|--|
| <p>transitioning and Transgender people)</p> |                        | <p>because they are transgender or in the act of transitioning. However, the Bill seeks to promote fair work and inclusive decision making by public bodies with consideration for well-being. This can potentially have a positive impact on people who are transgender and transitioning, who are more likely to be subject to discrimination in the workforce and wider society.</p>   |  |
| <p>Pregnancy and maternity</p>               | <p>Positive impact</p> | <p>The proposals in the Bill seek to promote fair work and more inclusive decision making through social partnership. Safeguarding the rights of workers in Wales is particularly important in the context of pregnancy and maternity, where there is particular risk of discrimination and of employers taking decisions, intentionally or unintentionally that would have a particularly adverse effect on pregnant women and mothers in their workforce.</p> |  |

|   |                                  |  |   |
|---|----------------------------------|--|---|
| <p>Ethnic minority people e.g. Asian, Black</p> | <p>Potential positive impact</p> | <p>The proposals in the Bill do not directly address race and background. However, in seeking to improve equality and promote fair work in Wales, the proposals in the draft Bill will have a particular impact on Black, Asian and minority ethnic people, including people in the Gypsy, Roma and Traveller communities, as well as asylum seekers, refugees and other migrants.</p> |   |
| <p>National Origin (e.g. Welsh, English)</p>    | <p>Potential positive impact</p> |  |   |
| <p>Asylum Seeker and Refugees</p>               | <p>Potential positive impact</p> |  |   |
| <p>Gypsies and Travellers</p>                   | <p>Potential positive impact</p> |  |   |
| <p>Migrants</p>                                 | <p>Potential positive impact</p> |  | <p>Evidence shows that these groups are more likely to be subject to discrimination of the basis of race and background and, as evidence shows, are more likely to be working in sectors of the economy where the well-being of workers is less well-protected.</p> |
| <p>Religion, belief and non-belief</p>          | <p>Potential positive impact</p> | <p>The proposals in the Bill do not specifically impact on people because of their religion, belief or non-belief.</p> <p>In seeking to promote fair work and deliver more inclusive decision</p>  |   |



|                     |                                      |  |   |
|---------------------|--------------------------------------|--|---|
|                     |                                      | <p>making, however, the provisions in the Bill are intended to safeguard the rights of workers of all protected characteristics, including religion.</p> <p>Depending on circumstances, procurement duties may require public bodies to consider the needs of those with different religions when designing and procuring public services and products, for example; food.</p> |   |
| <p>Sex / Gender</p> | <p>Potential for positive impact</p> | <p>The proposals in the Bill do not directly address sex / gender.</p>   | <p>Fair work is not ubiquitous or evenly distributed and equality, diversity and inclusion at work is integral to fair work. The Bill is not prescriptive about any particular aspect of fair work. However, we will develop guidance that will help public bodies to better understand fair work and ways in which they may consider it in relation to this Bill. This will include highlighting the importance of public bodies understanding and taking steps to address under-representation,</p> |

|  |                           |   |   |
|--|---------------------------|---|---|
|  |                           |   | occupational segregation and pay gaps in relation to protected characteristics. |
| Sexual orientation (Lesbian, Gay and Bisexual) | No impact                 | The proposals do not specifically impact on people because of their sexuality. However, the Bill seeks to promote fair work and inclusive decision making by public bodies with consideration for well-being. This can potentially have a positive – albeit relatively minor impact on lesbian, gay and bisexual people who according to the <a href="#">LGBT in Britain - Work (stonewall.org.uk)</a> and <a href="#">National LGBT Survey: Summary report - GOV.UK (www.gov.uk)</a> are more likely to be subject to discrimination in the workforce and wider society. |   |
| Marriage and civil partnership                 | No impact                 | The proposals do not specifically impact on people because of their marital status.   |   |
| Children and young people                      | Potential positive impact | The proposals within the Bill address the needs of those younger people employed in the   |   |

|                              |                                  |  |  |
|------------------------------|----------------------------------|--|--|
| <p>up to the age of 18</p>   |                                  | <p>workplace by seeking to promote fair work outcomes</p> <p>The Bill also, seeks to improve well-being, including social and economic well-being, in Wales, and to improve delivery of public services.</p> <p>Improvements to general well-being and improving delivery of public services have the potential to positively impact on families and younger people, both in general and through more specific potential targeted measures to support families and younger people.</p> |  |
| <p>Low-income households</p> | <p>Potential positive impact</p> | <p>The benefits of consistent economic growth are not evenly spread and people are being left behind as in-work poverty rates continue to rise.</p> <p>The measures in the Bill seek to improve the delivery of public services in Wales and enhance well-being, including through the well-being goals, promoting fair work and seeking to create a more equal and more inclusive</p>   |  |

|  |  |   |  |
|--|--|---|--|
|  |  | <p>society and workforce in Wales.</p> <p>These measures will have particular impact on low-income households. Such households are more likely to include individuals excluded from the workforce or in less stable jobs that may not meet the expected standards of fair work with detrimental impacts on well-being. In addition, people in low-income households are more likely to have a greater need for effective public service delivery.</p> |  |
|--|--|---|--|

**Human Rights and UN Conventions**

Do you think that this policy will have a positive or negative impact on people’s human rights? *(Please refer to point 1.4 of the EIA Guidance for further information about Human Rights and the UN Conventions).*

| Human Rights           | What are the positive or negative impacts of the proposal? | Reasons for your decision (including evidence)  | How will you mitigate negative Impacts? |
|------------------------|--|---|---|
| Human Rights including | Positive impact  | The reference to fair work in the Bill underscores Article 4 of the Universal Declaration |   |

|  |  |  |  |
|--|--|--|--|
| <p>Human Rights Act and UN Conventions</p> |  | <p>of Human Rights dealing with slavery and servitude.</p> <p>The procurement duty will also provide an opportunity to further embed measures to tackle modern slavery and human rights abuses in public sector supply chains.</p> <p>In addition, Article 1 on the fundamental rights of human being and Articles 23 and 24 on workers' rights have strong links to fair work. Various additional articles such as Article 25 and Article 27 have strong links to broader concepts of well-being.</p> |  |
|--|--|--|--|

## EU/EEA and Swiss Citizens' Rights

Part 2 of the EU-UK Withdrawal Agreement, along with the EEA EFTA Separation Agreement and Swiss Citizens Rights Agreement ("Citizens Rights Agreements") give EU, EEA<sup>3</sup> and Swiss citizens who were lawfully resident in the UK by 31 December 2020 certainty that their citizens' rights will be protected.

The Citizens Rights Agreements are implemented in domestic law by the European Union (Withdrawal Agreement) Act 2020 (EUWAA)<sup>4</sup>

Eligible individuals falling within scope of the Citizens Rights Agreements will have broadly the same continued entitlements to work, study and access public services and benefits, in as far as these entitlements have derived from UK membership of the EU as well as its participation in the EEA Agreement and the EU-Swiss Free Movement of Persons Agreement.

Subject to certain limited exceptions<sup>5</sup>, individuals will need to have applied for a new residence status (either pre-settled or settled status) through the EU Settlement Scheme. The deadline for making such an application expired on 30 June 2021.

Policy considerations to take into account:

- Have you considered if your policy proposal will impact EU, EEA or Swiss citizens whose rights are protected by the Citizens Rights Agreements?
- If there is the potential for any negative impact on such EU EEA or Swiss citizens, how will any such impacts be eliminated or managed if management is deemed appropriate?
- Is legal advice required?

Please consider the impacts of your policy on the areas below, indicating whether the impact is positive or negative and any action required to eliminate potential negative impact. Please note the basis for your answer, including where legal advice has been sought and please also indicate where a right is not relevant for your policy:

**Residency** – the right to reside and other rights related to residence: rights of exit and entry, applications for residency, restrictions of rights of entry and residence;

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<sup>3</sup> The EEA includes the EU countries as well as Iceland, Liechtenstein and Norway.

<sup>4</sup> Sections 5 and 6 of EUWAA.

<sup>5</sup> E.g. where an individual has Irish citizenship (including dual British and Irish citizenship) or where they had indefinite leave to enter or remain in the UK)

**Mutual recognition of professional qualifications** –the continued recognition of professional qualifications obtained by EU/EEA/Swiss citizens in their countries (and already recognised in the UK);

**Access to social security systems** – these include benefits, access to education, housing and access to healthcare

**Equal treatment** – this covers non-discrimination, equal treatment and rights of workers;

**Workers rights** - Workers and self-employed persons who are covered under the Citizens Rights Agreements are guaranteed broadly the same rights as they enjoyed when the UK was a Member State. They have a right to not be discriminated against due to nationality, and the right to equal treatment with UK nationals.

(Frontier workers (those citizens who reside in one state and regularly work in another) can continue working in the UK if they did so by the 31 December 2020).

## B. DATA PROTECTION IMPACT ASSESSMENT SCREENING

Please send your assessment to the Information Rights Unit (DataProtectionQueries@gov.wales) copied to your Information Asset Owner.

|   |
|---|
| <b>Social Partnership and Public Procurement (Wales) Bill</b>   |
| Neil Surman   |
| PIA reference number (A unique number to identify this PIA such as DivDate or this document's ishare id)?   |
| <p>Please describe your proposal:</p> <p>The SPPP Bill fulfils a Programme for Government commitment to place social partnership on a statutory footing in Wales. The legislation will have significant implications for the way in which the Welsh Government itself works and for specified public bodies in Wales. At the same time we are undertaking a review of Social Partnership working across WG and developing an implementation plan for the legislation.</p> <p>This Bill will establish a statutory Social Partnership Council ("SPC") that will enshrine the position of worker and employer representatives in providing advice to Welsh Government about certain matters set out in the Bill. It will also require the establishment of a procurement sub-group of the SPC. The SPC will provide a permanent and ongoing mechanism through which unions and employers can influence the activities, policies and priorities of the Welsh Government. The SPC will require the processing of personal data relating to (1) people who constitute the Council (its members), (2) WG officials providing secretariat services and (3) representatives of organisations making representations to the Council.</p> |
| <p>Has data protection impact screening or assessment already been carried out?</p> <ul style="list-style-type: none"> <li>• No</li> </ul>  |
| Does the proposal involve the processing of personal data by Welsh Government or any other parties?   |



|  |   |
|--|---|
| <p>Yes</p> <p>Please tick the personal data items that will be processed (this list is not exhaustive):</p> <p><b>Personal</b></p>   |   |
| <p>Name ✓</p> <p>Name address ✓</p> <p>Business address ✓</p> <p>Postcode ✓</p> <p>Email address ✓</p>   | <p>Telephone numbers ✓</p> <p>Date of birth</p> <p>Driving licence number</p> <p>Passport / ID card number</p> <p>Photographs / images (which could be used to identify an individual) ✓</p> <p>Other (please specify) For members of the SPC in receipt of travel and subsistence payments, personal banking information will need to be held.</p> |
| <p><b>Special Category</b></p>   |   |
| <p>Racial / ethnic origin</p> <p>Political opinions</p> <p>Religious / philosophical beliefs</p> <p>Trade union membership ✓</p> <p>Physical / mental health conditions</p> <p>Sexual life</p> <p>Sexual orientation</p> <p>Criminal &amp; court records (inc. alleged offences)</p> | <p>Biometric data e.g. DNA, finger-prints</p>   |

|  |  |
|--|--|
| <p>If special category personal data is being processed, is this data being collected mandatorily (i.e. without the data subjects having an option to not provide it)?</p> <ul style="list-style-type: none"> <li>• Yes – please provide details</li> </ul> <p>Worker representatives who are members of SPC will provide their Trade Union Affiliation.</p> |  |
| <p>Do any of the data subjects whose personal data will be processed fall into the following categories? Yes</p> <p>Children (under the age of 12)</p> <p>Patients</p> <p>Asylum Seekers</p> <p>Welsh Government employees ✓</p>   |  |
| <p>The SPC will process the data of members which consists of members from the WG, 9 members from worker representatives and 9 employer representatives (public sector, third sector, private sector, Higher Education and Further Education).</p>   |  |
| <p>For the personal data being processed, please indicate</p>  |  |
| <p>Who the data controller is?</p>   | <p>Social Partnership Council is the data controller in all circumstances.</p> |
| <p>Any data processors?</p>  | <p>The Welsh Government will be data processor.</p>                            |
| <p>Will the data be shared?</p>  | <p>No</p>  |
| <p>What is the statutory basis for processing the data? NB – GDPR itself does <u>not</u> provide a statutory legal basis to process personal data.</p> <p>The Social Partnership &amp; Public Procurement Bill will set up the Social Partnership Council.</p>   |  |

|   |
|---|
| <p>Have legal Services confirmed that the basis outlined above provides the necessary statutory gateway for processing (including any proposed sharing)?</p> <ul style="list-style-type: none"> <li>• Yes</li> </ul>                                  |
| <p>Will the proposal involve new or significantly changed processing of personal data about each individual?</p> <p>Yes because the SPC is a new body being created this will involve processing a new list of personal data.</p>                     |
| <p>Will the personal data be consolidated, linked or matched with data from other sources?</p> <ul style="list-style-type: none"> <li>• No</li> </ul>   |
| <p>Will the personal data be used for automated decision making?</p> <ul style="list-style-type: none"> <li>• No</li> </ul>   |
| <p>Will the personal data result in systematic monitoring of data subjects?</p> <ul style="list-style-type: none"> <li>• No</li> </ul>  |
| <p>Does the proposal involve new or changed data collection, retention or sharing policies/practices for personal data?</p> <ul style="list-style-type: none"> <li>- Yes</li> </ul>   |
| <p>Do you have a clear retention policy and what practical things are in place for you to ensure that your Retention Policy is applied?</p> <p>A Privacy Notice will be developed for the SPC and published before any data processing commences.</p> |
| <p>Will the proposal involve the introduction of privacy-intrusive technologies such as</p> <ul style="list-style-type: none"> <li>• Smart cards</li> <li>• RFID tags</li> <li>• Biometrics</li> </ul>  |

- Visual surveillance (e.g. CCTV)
- Digital image and video recording
- Profiling, data mining or logging electronic traffic
- Locator technologies (e.g. GPS, mobile phone tracking)
- Other (please provide details)

None of this will be used

Will the proposal involve new or changed identity management or authentication processes?

- No

Will the proposal have the effect of enabling identification of individuals who were previously anonymous?

- No

Please send your assessment to the Information Rights Unit ([DataProtectionQueries@gov.wales](mailto:DataProtectionQueries@gov.wales)) copied to your Information Asset Owner.

For completion by Information Rights Unit

Is a Data Protection Impact Assessment (DPIA) required for this proposal?

- No

This Bill does not require the processing of personal data, so does not meet the criteria for undertaking a DPIA specified by Article 35(1), 35(3) and 35(4) of the UK GDPR.

Has advice on UK General Data Protection Regulation (UK GDPR) compliance been provided?

- No

Article 36 (4) of the UK GDPR imposes a requirement to consult with the Information Commissioner's Office (ICO) when developing policy proposals relating to the processing of personal data. This form is in the process of being completed and sent to the ICO.

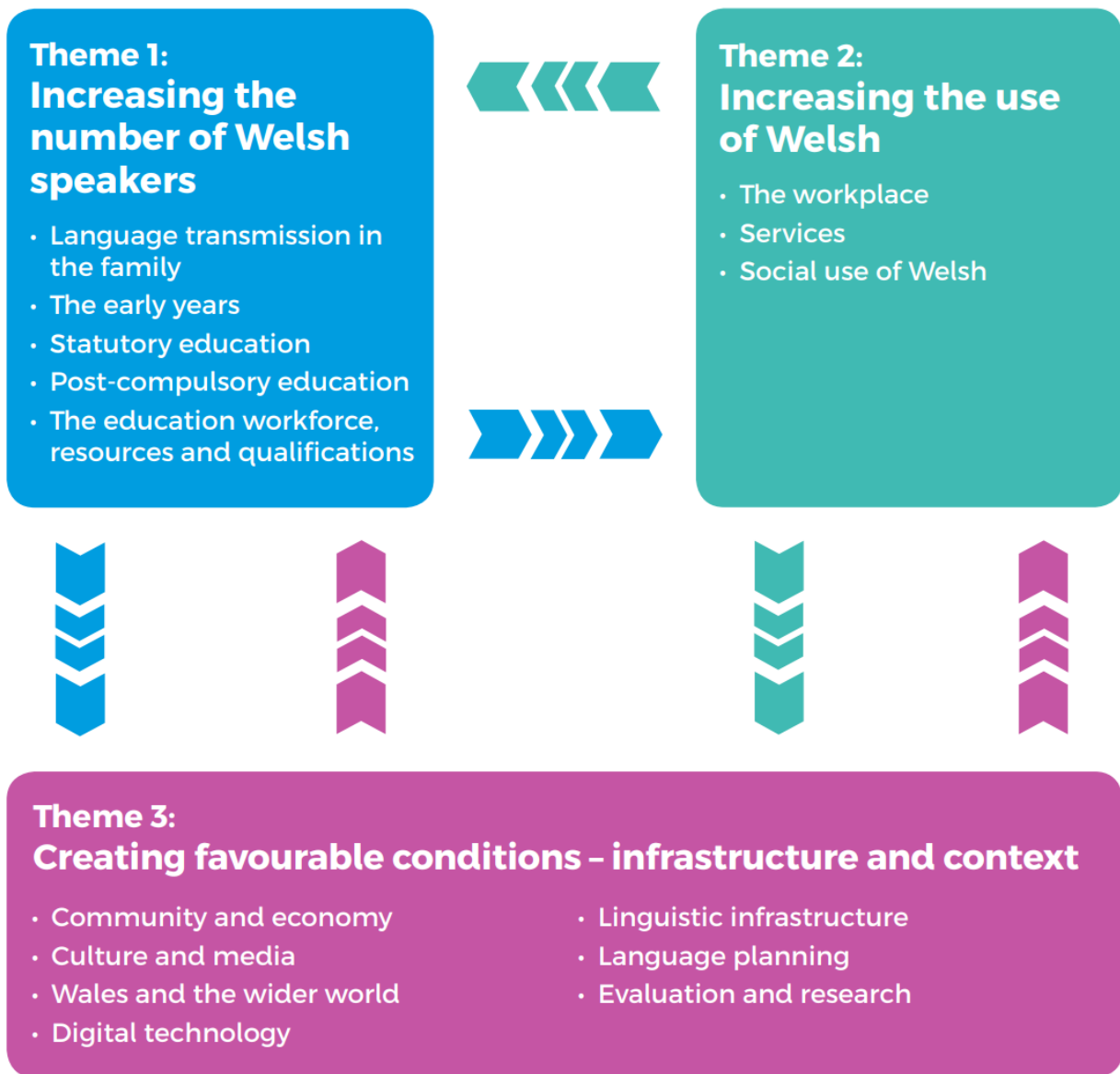
## C. WELSH LANGUAGE IMPACT ASSESSMENT

Cymraeg 2050 is our national strategy for increasing the number of Welsh speakers to a million by 2050.

The Welsh Government is fully committed to the new strategy, with the target of a million speakers included in its Programme for Government. A thriving Welsh language is also included in one of the 7 well-being goals in the Well-being of Future Generations (Wales) Act 2015.

We also have a statutory obligation to fully consider the effects of our work on the Welsh Language. This means that any Welsh Government policy should consider how our policies affect the language and those who speak it.

The *Cymraeg 2050 strategy* has three interrelated themes:



The headings under each theme outline the scope of activities that can affect the language.

As a general rule, if your policy has the potential to impact on people, it will impact in some way on Welsh speakers and therefore on the Welsh language.

- a) Welsh Language Impact Assessment reference number (completed by the Welsh Language Standards Team, email: [Safonau.Standards@gov.wales](mailto:Safonau.Standards@gov.wales)):
- b) Does the proposal demonstrate a clear link with the Welsh Government's strategy for the Welsh language? – *Cymraeg 2050 A million Welsh speakers* and the related Work Programme for 2017-2021?

The Bill has positive impacts on the Welsh language under all three themes, including greater opportunities for Welsh speakers, greater geographical dispersion of opportunity, an increase in Welsh speaking suppliers within supply chains. Many of the bodies that will be subject to the duties under this Bill are already subject to duties in relation to the Welsh language, known as Welsh Language Standards, which were introduced under the Welsh Language (Wales) Measure 2011. In accordance with the Welsh Language Measure, the Welsh Language Commissioner has served a compliance notice on relevant bodies detailing the standards that apply to that particular organisation. This Bill will not affect the need for bodies to comply with the Standards but will reinforce the principles of the Welsh Language Standards to employers.

## Theme 1

### Social Partnership Duty

There are impacts for the education workforce as public bodies will be expected to work in social partnership to set well-being objectives, which include cultural well-being and Welsh language. Working in social partnership involves trade unions, who represent the work force including those with protected characteristics. The Social Partnership duties have the potential to strengthen the worker voice in the education sector. Public bodies will need to report on how working in social partnership has shaped their approach to setting well-being objectives. During implementation of the Bill, there is an opportunity to understand how this way of working has shaped a public bodies approach to achieving Welsh language commitments.

### Social Partnership Council

One of the aims of the SPC will be to improve cultural well-being in Wales in relation to the Bill's provisions, which may involve the Welsh language. The SPC could provide information or advice relating to accessibility or use of Welsh language for public bodies if in scope of the Bill provisions and Welsh Ministers in turn could publish guidance or take other measures to address this.

### Procurement

Accessibility of procurement processes is generally an issue for many small businesses in Wales, and providing opportunities to local businesses and the foundational economy is

central to our approach. At the same time, businesses must feel able to submit bids and discuss contractual issues in their preferred language. There is clearly potential for the profession to play a role in this; by supporting existing procurement staff, focusing on Welsh speakers through the training programme and providing hands-on guidance for those staff who require it, our work will help create a platform that can contribute to increasing the number of people who speak Welsh in the course of everyday business.

## **Theme 2**

### **Social Partnership Duty**

There are impacts for services provided by all public bodies captured by the social partnership duty. Well-being objective setting through social partnership will bring the worker voice into social partnership meetings where there is a need increase the use of Welsh language for service provision. How public bodies have used the voice of workers through working in social partnership is expected to be captured in their annual reports.

### **Social Partnership Council**

The SPC will receive annual reports from public bodies on working in social partnership to set well-being objectives and how the worker voice made a difference to achieving these objectives through service delivery. Members of the SPC will advise Welsh Ministers on these reports and the difference working in social partnership has made to achieve well-being goals through objective setting and better service delivery.

### **Fair Work**

The effect of a change to the 'prosperous Wales' goal (to replace 'decent work' with 'fair work') will encourage public bodies to think about how fair work can contribute to their well-being objectives in general and to their pursuit of the 'A Prosperous Wales' well-being goal in particular. Further steps that public bodies could take to encourage and facilitate the workforce to use the Welsh Language at work could form part of how public bodies consider fair work in this context.

### **Procurement**

By making provision for guidance for existing staff, including Welsh speakers, the Bill will increase the use of Welsh in the workplace and increase availability of public services through the medium of Welsh.

If it is accepted that there is a general scarcity of qualified and experienced procurement professionals in the public sector in Wales, then it follows that there is also a scarcity of qualified and experienced procurement professionals able to run tender exercises and deliver commercial services bilingually. Given that the Welsh Language Standards require certain public bodies to publish tender documents bilingually, where called for by the subject matter or likely market place, and ii) require public bodies to treat bids submitted in Welsh no less favourably than those submitted in English, there is a need to ensure that procurement professionals are able to do so confidently and efficiently. There is a risk that in relying on an authority's translation service or Welsh speaking colleagues, procurement professionals who cannot work in the medium of Welsh could fall foul of both Welsh

language legislation and procurement legislation. If Welsh-English consistency is not achieved in documentation and instructions, for example those provided via electronic tendering systems, this could result in a challenge. It is worth noting however that Welsh is not recognised as an official language of the European Union, which brings additional complexity to advertising contract opportunities in line with the UK's procurement legislation regime, which is directly transposed from EU procurement directives.

To comply with Welsh language requirements, procurement professionals are required to make nuanced assessments based on commercial expertise and understanding of potential and existing markets. They are then required to manage separate advertising arrangements for contract opportunities above the OJEU threshold because advertisements in Welsh will be automatically rejected by the EU's advertising portal. Exit from the European Union notwithstanding, authorities may in future need to advertise contracts more widely than the UK due to legislative or commercial requirements, and this issue will therefore remain one that places demand on the profession.

### **Theme 3**

Language planning is something that is expected to improve as a result of working in social partnership, when public bodies use this way of working to set well-being objectives and take into account the views of their workforce. The result of which may be captured in their annual report and considered by the SPC.

### **Procurement**

Having an infrastructure of public services that are consistent, sustainable, and that encourage local well-being is crucial to our approach. By upskilling Welsh speakers and providing procurement guidance and documentation bilingually we will contribute to that consistent, standardised procurement infrastructure that collectively has the resilience to deliver a public-facing procurement regime that is more equitable, coherent and better planned.

It is also crucial that technological solutions available to procurement professionals are able to support them to tender bilingually. Consideration will be given to how these platforms can support Welsh language users so that they are fit for purpose in this regard. For example, officials within the Bill team are already working with colleagues in the Welsh Language Division to ensure that our Statutory Guidance will maximise opportunities to integrate the bilingual technology toolkit into how services are delivered, and how tenders are constructed. The intention is that the guidance will be accessible, easy to interpret, user friendly and importantly, will also focus on sociolinguistic input i.e. how can products/services not just *be* in Welsh, but *increase* interpersonal use of Welsh by bringing Welsh speakers together.



1. Describe and explain the impact of the proposal on the Welsh language, and explain how you will address these impacts in order to improve outcomes for the Welsh language. How will the proposal affect Welsh speakers of all ages (both positive and/or adverse effects)? You should note your responses to the following in your answer to this question, along with any other relevant information:

- How will the proposal affect the sustainability of Welsh speaking communities<sup>6</sup> (both positive and/or adverse effects)?

While the Bill is a standalone piece of legislation, the aim of improving well-being, especially social and economic well-being and cultural well-being supports delivery in certain areas of the seven well-being goals set out in the WFGA Act 2015.

Section 3 of that Act provides that each public body must carry out sustainable development, which is defined in the Act as “the process of improving the economic, social, environmental and cultural well-being of Wales by taking action in accordance with the sustainable development principle, aimed at achieving the well-being goals”.

In carrying out sustainable development those public bodies must include setting and publishing objectives (well-being objectives) that are designed to maximise their contribution to achieving the well-being goals. Public bodies will need to consider the Goal, A Wales of vibrant culture and thriving Welsh language which is described as a society that promotes and protects culture, heritage and the Welsh language, and which encourages people to participate in the arts, and sports and recreation.

In the context of the well-being goals the Welsh language is clearly covered by the provisions of the Bill and this can contribute to the aim of treating the Welsh language no less favourably than the English language.

### **Positive Impacts**

If successful, Welsh speakers will feel able to conduct their everyday lives, including their working lives more confidently through the medium of Welsh and there may be a greater use of Welsh language services delivered under the Welsh Language Standards. This may be particularly true where local services are delivered by contractors, especially if our proposal is successful in driving up the number of local suppliers delivering contracts that are better tailored to their area. Similarly, businesses will feel encouraged and more confident that they are able to bid for contracts through the medium of Welsh.

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<sup>6</sup> These can be close-knit rural communities, dispersed social networks in urban settings, and in virtual communities reaching across geographical spaces.

Additionally, in our Action Plan we will consider how our approach can best support the aspirations within *Cymraeg 2050* to:

- Develop a new regional focus to economic development to help all parts of Wales to benefit from prosperity and support each area to develop its own distinctive identity, and
- transform the Welsh language digital landscape with particular focus on language technologies.

The following summarises responses to our consultation question regarding the positive effects that the (draft) Bill could have on the Welsh language.

The majority of respondents indicated an expected positive impact on the Welsh language as a result of the Bill including:

- Greater opportunities for Welsh speakers.
- Greater geographical dispersion of opportunity.
- Increase in Welsh speaking suppliers within supply chains.
- Strengthening of the principles of the Welsh Language Standards to more employers.

A number of respondents highlighted ways in which the positive impacts of the Bill could be extended through greater clarity around language arrangements. Additionally, a number of opportunities were identified by stakeholders:

- Emphasis on incentives to meet language requirements rather than punitive measures.
- Opportunity for engagement for those beyond the scope of this bill.
- Inclusion of Welsh speakers in the SPC
- Regular review of proposals.
- Greater informal support of Welsh language learners.

Additionally, respondents highlighted the need for greater embeddedness of Welsh requirements within existing policy including the following:

- The Welsh Language Measure (Wales) 2011.
- The Welsh Language Standards that derive from the Measure.
- The Compliance Notices with which public sector organisations have a statutory obligation to comply.
- Within the Welsh Language Standards, standards 57, 58 and 59.

## **Negative Impacts**

One potential consequence could be that an increase in Welsh language capability could create a momentum that would drive up demand to levels that are higher than authorities are actually able to cope with. This risk is unlikely to materialise, but could lead to demand outstripping the curve being generated and slow down procurement processes and capacity in that area while the profession catches up.

The following summarises responses to our consultation question regarding the negative effects that the (draft) Bill would have on the Welsh language.

A minority of respondents highlighted some negative impacts including:

- Potential negative impact on SME competitiveness due to reduced capacity to accommodate Welsh language requirements.
- Potential negative impact on Welsh businesses reliant on English suppliers
- English businesses treated less favourably to Welsh businesses.
- Potential for production of two pieces of legislation to meet bilingual requirement may cause confusion to businesses. Greater clarity around language requirements.

2. How will the proposal affect Welsh medium education and Welsh learners of all ages, including adults (both positive and/or adverse effects)?

It is difficult to foresee how the Bill will have an impact on Welsh medium education or Welsh learners, as whilst public facing, procurement predominantly engages and contracts with business. One possible consequence may be that it encourages Welsh learners bidding for contracts to do so bilingually, but this would be a residual consequence, however positive. Contracts for Welsh Language education based services and support services are of course already tendered bilingually by the relevant authorities.

3. How will the proposal affect services<sup>7</sup> available in Welsh (both positive and/or adverse effects)? (e.g. health and social services, transport, housing, digital, youth, infrastructure, environment, local government etc.)

As noted above, services delivered locally will receive more support as a result of upskilling procurement and commissioning staff, will be better tailored to local areas and there will be a higher likelihood of their being delivered by local businesses, all of which will encourage and increase the likelihood of enabling end users to be able to receive those services in their preferred language.

4. How will you ensure that people know about services that are available in Welsh and are able to access and use them as easily as they can in English? What evidence / data have you used to inform your assessment, including evidence from Welsh speakers or Welsh language interest groups?

- As part of the Statutory Guidance, our intention is to encourage authorities to ensure that contracts include the requirement to publicise the availability of service

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<sup>7</sup> The Welsh Language Strategy aims to increase the range of services offered to Welsh speakers, and to see an increase in use of Welsh-language services.

delivery through the medium of Welsh where possible. Particular focus can be given to geographical areas where the public's confidence levels in speaking Welsh, or where they feel that more support could be given to Welsh language services, indicate the potential for interventions. To do this we will liaise with Welsh Government colleagues within Knowledge and Analytical Services and the Welsh Language Division to better understand the areas with the most potential for increased Welsh Language use through public services.

We can also use evidence to ascertain where there may historically have been gaps in the availability of Welsh language tender documents, and an analysis can be undertaken using existing tendering software and websites of the proportions of contracts that have been advertised bilingually and of tender exercises that have been carried out bilingually. This sampling would provide a gap analysis that could inform the above approach and also help focus development of and recruitment to our training scheme.

We will also be able to use intelligence provided by the annual reporting regime introduced by the Bill where possible to better understand how Welsh is being utilised in commercial activity, and the extent to which Welsh language planning is being undertaken.

5. What other evidence would help you to conduct a better assessment?

- Two particular sources for assessing demand for Welsh Language tendering and public service delivery are public authorities themselves and Public Service Boards (PSBs). We will work with PSBs as they undertake evidence gathering to understand how they are meeting their own well-being objectives, and use this data to inform the continuous development of our Statutory Guidance.
- Additionally, Welsh Government already hosts a Supplier Feedback Service. This service provides the opportunity for businesses to raise queries regarding public procurement processes. The service is already promoted by some authorities during the tender process, and we will encourage all authorities to do so as part of our Action Plan.

6. How will you know if your policy is a success?

We will link in with both Welsh Government colleagues in Knowledge and Analytical Services and the Welsh Language Division to understand the results and implications of the most recent National Survey, and a report will be compiled on an annual basis detailing the impact of procurement on Welsh Language issues at a business, personal and community level. Insights gained from this process will be used to inform continued development of our Statutory Guidance.



## D. BIODIVERSITY IMPACT ASSESSMENT

The Nature Recovery Action Plan for Wales contains six objectives to reverse the decline of biodiversity which should be used to assess the impacts on biodiversity. They can also help develop and guide actions to comply with the S6 duty. They have been simplified as a set of questions to guide you through the impact assessment.

These questions should be considered whether your proposal has a land management element or not, although some will be particularly relevant if your policy area relates to land management in any way.

You should take a pro-active approach to considering the potential impacts on biodiversity – this is one area where unintended consequences are often overlooked, either through lack of awareness, or because it is difficult to assign a monetary value to biodiversity.

Moreover, the duty requires that we positively seek opportunities to maintain and enhance biodiversity, both directly (where the intervention involves land management or construction), and indirectly (for example, where there may be an opportunity to raise awareness of the importance of biodiversity). In completing this assessment consider how enhancing biodiversity and promoting resilience of ecosystems contribute reciprocally to the aims of your policy or project.

You will need to record decisions and impacts arising from this assessment. Please note how you have answered each question, or you can use the template at the end of the assessment. Further guidance is available on the intranet.

**Consider Questions 1 - 9 for ALL policies:**

### **Embedding biodiversity**

#### **1. How will your proposal integrate biodiversity into decision making?**

- ◆ Have you considered the impacts and positive opportunities for action for biodiversity at the early stages of thinking or project design?
  - What impacts will procurement have on biodiversity, including global biodiversity?
  - Are products sourced sustainably?

- Does your project include the use of materials or practices harmful to biodiversity?
- ◆ Does it require partners and beneficiaries to consider the impacts and opportunities for positive action for biodiversity at the early stages of thinking and project design?
  - Is the consideration of biodiversity a requirement of funding applications and project specifications?
  - Does your evaluation of these seek to ensure that biodiversity is maintained and enhanced?

The Bill provides for the inclusion of social public work clauses within construction contracts with estimated value above £2m (inclusive of VAT). These clauses are grouped into categories in respect of which improvement is sought. The “environment” category describes improvements in “requiring sustainable management of natural resources, use of sustainable materials, resilience to the impact of climate change, reduction of greenhouse gas emissions, and enhancement of the natural environment and biodiversity.” Welsh Ministers are required to publish model contract clauses which will cover these areas.

This duty requires authorities undertaking works projects above this threshold to notify Welsh Ministers if they do not intend to include these clauses. The rationale provided will be assessed and further action may be taken by Ministers. Annual reporting requirements within the procurement duties in the Bill will allow data to be collected and analysed from the Welsh public sector, in order to monitor outcomes in relation to policy expectations. If areas of particular weakness are identified the Bill gives Ministers powers of investigation, allowing further information to be requested, and action taken.

Annual reporting will allow us to better understand what is happening in this policy area and provide an opportunity to improve and work with policy colleagues and make interventions if needed, including developing case studies.

## **2. Has your proposal ensured biodiversity is accounted for in business decisions?**

- ◆ Has it considered whole of life costs which include the value of biodiversity and natural resources within the cost benefit analysis, even if this is an informal process?
  - Have you thought about how enhancing biodiversity can help deliver across WG’s activities for example, to support active recreation, education, flood prevention, and local food growing. (For example, green roofs help to provide wildlife habitats, reduce energy consumption and improve drainage systems.)
- ◆ Has it considered the long term costs of degradation of biodiversity and natural resources, and the potential for savings for health and well-being, flood risk etc?
- ◆ Can it encourage partners and beneficiaries to take these costs and savings into account?

This Bill defines procurement in broad terms, including in the design and planning of requirements. Public bodies will have to set their own objectives in pursuance of well-being goals, including a greener Wales. In major construction procurements this will be strengthened by further duties in relation to contract management. These duties will increase the attention paid to biodiversity in business decisions.

**3. How does your proposal improve understanding and raise awareness of the importance of biodiversity, encouraging others to act?**

- ◆ Can you work with partners and beneficiaries to promote understanding of biodiversity?
- ◆ Can you promote the benefits of access to biodiversity through the delivery of public goods and services such as social care, community development, health and recreation?
- ◆ Can you provide, or source, specialist training where necessary?
- ◆ Can you link to other communications strategies and initiatives for biodiversity, for example award schemes, local events?

Welsh Ministers will be required to produce and publish statutory guidance around best practice which will include bio diversity.

**Improving our evidence, understanding and monitoring**

**4. Have you used the best available evidence of biodiversity to inform your proposal and this assessment?**

- ◆ You **must** have regard to
  - the lists of species and habitats of principal importance published under Section 7 of the Environment (Wales) Act
  - the State of Natural Resources Report
  - any relevant area statement published by NRW.
- ◆ If your proposal is in regard to construction or land management directly or indirectly, it should reference biodiversity records available through
  - Local Environment Record Centres
  - Atlas of Living Wales



Whilst this a broad overarching procurement duty, we will work with policy colleagues to ensure that statutory guidance reflects statutory requirements and best practice in procurement.

**5. Have you used up to date knowledge of the key impacts on biodiversity to make evidence-based decisions?**

- ◆ Do you know what the drivers of change and key negative factors are which could arise from your proposal?
- ◆ Are you satisfied that these do not apply or have been avoided?
- N/A

**6. Can your proposal contribute to our body of knowledge for biodiversity?**

- ◆ Can it support citizen-science initiatives, and monitoring schemes?
- ◆ Have you ensured that any biodiversity data collected is made publicly available?

No

**Governance and support for delivery of biodiversity action**

**7. Can your proposal support biodiversity action in any way?**

- ◆ Can staff get involved in practical action?
- ◆ Can you fund action directly, or indirectly?
- ◆ Can you support partnerships and/or collaboration for local and community-based biodiversity action?

Potential for encouraging positive action through promoting community benefits through larger contracts, particularly in construction, where bidders are asked to consider ways in which they can enhance biodiversity through the contract, and with their proposals becoming contractual.

**8. Can your proposal help to build capacity for biodiversity action?**

- ◆ Can you support skills acquisition and training?
- ◆ Does your proposal ensure the appropriate level of qualifications of those involved in decision making regarding biodiversity?
- ◆ Can your proposal fund capacity building for biodiversity action?

No

**9. Have you recorded decisions and actions to maintain and enhance biodiversity?**

- ◆ A report on what the public authority has done to comply with the duty must be published by the end of 2019 and then every three years after this date.

No impacts have been identified and therefore none are recorded.

**If your proposal concerns construction or management of land and/or sea, please also consider Questions 10 – 16:**

**Safeguarding species and habitats of principal importance**

**10. Is all legislation complied with to ensure protection of marine and terrestrial species and habitats?**

- ◆ Has any requirement for licences, monitoring and/or enforcement been considered and actioned?
- ◆ Has any requirement for EIA/SEA/HRA been identified and actioned?
- ◆ Have any impacts or opportunities for positive action for Section 7 species and habitats been identified and actioned?

**11. Does the proposal seek first to maintain and enhance biodiversity?**

- ◆ Have you selected the option which avoids loss and/or damage to biodiversity, and promotes the resilience of ecosystems?

- ◆ Only where the balance of environmental, economic, social and cultural benefits<sup>8</sup> provided by your proposal is such that there may be some loss of habitat or species, have you sought to enhance biodiversity elsewhere on the site, or, where there is no other option, offsite?
- ◆ Does your proposal contribute to maintaining and enhancing biodiversity across Wales?

### **Increasing the resilience of our natural environment**

#### **12. Does your proposal contribute to building the resilience of our ecosystems?**

- ◆ Does it work with nature, and consider the use of nature-based solutions first and foremost?
- ◆ Are any nature-based solutions native and bio-diverse?
- ◆ Can it restore or contribute to the restoration of degraded habitats?
- ◆ Can it contribute to building resilient ecological networks of habitats?
- ◆ Does the proposal improve site management to improve habitat or species condition at **any** scale? e.g. planting native species, providing wildflower areas for pollinators, leaving areas of unmown grass; and improving connectivity between valuable habitats?

#### **13. Does your proposal contribute to the creation of new habitat?**

- ◆ Does your proposal support the creation of new habitats, such as local orchards, native hedges, wildflower meadows or other areas of native, bio-diverse green space?
- ◆ Can habitat creation contribute to developing resilient ecological networks?

### **Tackling key pressures on species and habitats**

#### **14. Will the proposal have any negative impacts on habitats or species through**

- ◆ change in land use?
- ◆ causing air, water, light, noise or vibration pollution?

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<sup>8</sup> Taking proper account of the benefits and intrinsic value of natural resources, including biodiversity, and ecosystems

**15. Has all legislation regarding the pressures on species and habitats been complied with?**

**This would include:**

- ◆ Pollution control
- ◆ Invasive non-native species
- ◆ Sustainable Urban Drainage Systems
- ◆ Climate Change etc.

**16. How will any negative impacts be mitigated?**

- ◆ Have whole system approaches and native, bio-diverse nature based solutions been used to reduce pollution and mitigate climate change?
- ◆ Does your proposal employ best practice for the sustainable management of agriculture, fisheries, forestry and construction?
- ◆ Does your proposal include action to support pollinators?

| Question number | Opportunities for positive action | Negative impacts of the proposal | Actions needed to maximise positive opportunities and prevent negative impacts |
|-----------------|-----------------------------------|----------------------------------|--|
|                 |                                   |                                  |  |
|                 |                                   |                                  |  |

## E. SOCIO-ECONOMIC DUTY ASSESSMENT

### **What evidence has been considered to understand how the proposal contributes to inequalities of outcome experience as a result of socio-economic disadvantage?**

The overall aim of the socio-economic duty is to deliver better outcomes for those who experience socio-economic disadvantage. The socio-economic duty relies on good partnership working and links to plans to strengthen our social partnership arrangements. The Bill seeks to address inequality from different perspectives and supports the duty through ensuring that those taking certain strategic decisions do so through a collaborative approach with social partners.

One of the elements of the Bill is to ensure improvements in economic and social well-being, which will be addressed in part through addressing economic inequality. This will complement the Socio-economic Duty and encourage public bodies to consider all future decision making in social partnership. The procurement duties will help to promote better health and well-being outcomes for contracted workers. At a societal level, fair work helps to promote cohesion, participation and social and economic justice. For these reasons, promoting fair work contributes to the economic, social, environmental and cultural well-being of Wales.

Social partnerships are usually concerned with economic and social policies (Andersen and Mailand, 2002) and can act as a critical tool in addressing and tackling social problems (Crane and Seitanidi, 2013). Multipartite agreements can go so far as to address social problems at all levels of society, including unemployment, training, education, health and human rights (Andersen and Mailand, 2002). Because these types of social problems tend to be very complex, multiple partners from across a range of sectors are needed to tackle them (Contu and Girei, 2014).

*Have protected characteristics been considered?*

A full equalities impact assessment has been completed.

Working in social partnership with trade unions, employees and employers will have positive impacts because unions are structured in a way that captures the experiences, concerns, and views of those with protected characteristics and many unions' internal structures also build in proportional representation.

*Provide a summary of evidence and links*

Andersen, S.K. and Mailand, M. (2002) The Role of Employers and Trade Unions in Multipartite Social Partnerships, Copenhagen: The Copenhagen Centre

**How could the proposal potentially further exacerbate inequality of outcome experienced as a result of socio-economic disadvantage?**

There is no evidence to suggest that the Bill will further exacerbate inequality of outcome.

However, In practice, partnership working is more high-maintenance than traditional ways of working because it requires a culture change of trust, openness and commitment (Marshall, 2008). Part of this change also involves the public sector becoming an 'institution for change and social progress' (Marshall, 2008:pp). The benefits of this way of working tend to be shown in the longer-term too, perhaps making the short-term difficulties of adapting to partnership working even more challenging (Marshall, 2008).

Susha et al (2019) note that, despite an increase of social partnerships, there is still a lack of any academic, systematic research into it. They argue that this makes it difficult to explore the extent to which partnerships (they talk specifically about data partnerships) can be used for social good or not (Susha et al, 2019).

*Please provide detail regarding inequalities of outcome likely to be impacted and those people and communities likely to be impacted*

The application of the provisions of the Bill will, in practice, improve outcomes of people likely to be impacted by socio economic disadvantages. People with disabilities are already less likely to earn a Living Wage than non-disabled people (Coleman, Sykes and Groom, 2013). They are also more likely to report being unfairly treated at work because of their disability – these types of treatment include the type of work, being ignored, working hours, assessment of performance/appraisal and workload (Coleman, Sykes and Groom, 2013). The Bill will bring renewed focus and fresh impetus to action on fair work in Wales, informed by the work of the SPC and hope to improve the outcomes of all citizens in Wales.

*Provide a summary of evidence and links*

Marshall, H. (2008) Trade Unionism and Social Partnership: Why does Wales provide a way forward? Bevan Foundation.

Susha, I., Gronlund, A. and Van Tulder, R. (2019) 'Data driven social partnerships: Exploring an emergent trend in search of research challenges and questions', *Government Information Quarterly*, 36 (1): 112-128

Coleman, N., Sykes, W. and Groom, C. (2013) Barriers to employment and unfair treatment at work: a quantitative analysis of disabled people's experiences, Manchester: Equality and Human Rights Commission

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**How could the decision potentially improve outcomes for those who experience socio-economic disadvantage?**

Social partnership is a key mechanism in achieving improved well-being and public service delivery, driving fair work, as well as achieving socially responsible procurement. In order to achieve the latter two elements, co-operation between stakeholders from public, private and third sector is required, as well as from government and trade unions. This ensures that workers voices are heard, and leads to improved public services and addresses social and economic inequalities.

The effect of amending the Well-being of Future Generations Act is that all public bodies subject to it will need to consider fair work in setting their well-being objectives under section 3(2)(a) of the 2015 Act (which they will then be under a duty to take all reasonable steps to meet (see section 3(2)(b) of the 2015 Act). It will use the established legislative setting and publishing of well-being objectives as a mechanism through which public bodies can make progress in relation to fair work.

The public procurement provisions in the Bill will help to ensure that public procurement becomes a much more effective tool for delivering social value and supporting key strategic policy outcomes. The procurement and contract management duties will require public bodies to account for the well-being outcomes achieved through their procurement activity, and through increased due diligence in supply chains.

*Provide a summary of evidence and links*

**How will you monitor the impact of this decision? (Please consider wider outcomes)**

The Internal Research Programme (Knowledge and Analytical Services, Welsh Government) were commissioned by the Social Partnership and Fair Work Directorate (Office of the First Minister, Welsh Government) to develop a theory of change and make recommendations on the construction of an evaluation framework to enable measurement of impact of the passing into law and implementation of the Bill.

In order to ensure the objectives of the Bill can be measured, and to determine what 'success' looks like post implementation, a theory of change can be used to provide consensus between stakeholders on the key outcomes and provide a monitoring and evaluation framework.

The aim of this piece of work was to work with policy officials and external stakeholders to produce a Theory of Change which accurately maps the key inputs, activities and outcomes of the key interventions of the Social Partnership and Public Procurement (Wales) Bill. This will provide a logic model which can serve as a reference point for future evaluation. The objectives were as follows:

- Consult with policy colleagues responsible for delivering the draft Bill and external stakeholders to construct a Theory of Change; producing logic models for the three main areas of the Bill;
- Draw together existing evidence on social partnership, fair work and socially responsible public procurement to understand current data availability and gaps to inform the Explanatory Memorandum;
- Support policy colleagues in administering of a short survey to public bodies and educational institutions around existing social partnership arrangements and awareness of the development of the draft Bill. This will support baseline evidence to inform both the Theory of Change and a subsequent evaluation.
- Engage with the Deputy Minister for Social Partnership and special advisors to gauge their understanding of the outcomes and impacts of the Bill and to build consensus between Ministers and officials.

Outputs from the work were as follows:

- Three logic models for each component of the Bill: fair work; social partnership and socially responsible procurement, each clearly stating the links to the other logic models and how they interconnect to deliver the stated outcomes of the Bill;
- Baseline survey data about social partnership arrangements in public bodies and educational institutions, which can be used as a starting point to track changes over time post Bill implementation, as part of any future programme of evaluation;
- Recommendations on an evaluation framework for the Bill, informed by the workshops with external stakeholders and an analysis of data requirements and data availability.



The Social Partnership and Fair Work Directorate required support from IRP to collect data from public bodies and educational institutions about their current social partnership arrangements. The objectives of the survey were as follows;

1. To develop a clear picture of current Social Partnership arrangements across a range of public sector organisations;
2. To establish the gaps in understanding and implementation of Social Partnership arrangements;
3. To compare data with a previous survey issued in 2019 and to encourage organisations to proactively take steps consistent with Social Partnership;
4. to provide baseline data to inform the production of a theory of change and framework for evaluating the future impact of the Social Partnership and Public Procurement (Wales) Bill.

Data sources identified from the work to produce a theory of change framework include the Labour Force Survey, ONS labour market surveys covering the COVID-19 pandemic period and the CPP work index.

A number of sources were identified which could provide metrics to evidence progress in socially responsible procurement. Existing sources of data included;

- Themes, Outcomes, Measures Framework (TOMS), developed by the Social Value Portal (SVP) and used by some public bodies in Wales; provides guidance on adopting a consistent approach to measuring social value of procurement contracts and the metrics used to achieve this;
- Existing data held by Welsh Government; including spend analytics for procurement contracts across the public sector;
- Procurement advertisement platforms, such as Sell2Wales, All Wales Procure to Pay (NHS), and other equivalents for different sectors, which provide information on the nature and value of contracts and can give an indication of the amount of spend across sectors, and to which suppliers.
- Local Authority performance and improvement data;
- Transparency in Supply Chains (TISC) Platform; an open-source resource for companies to share their TISC status and for others to view. The TISC report is a

platform for companies to demonstrate that they are compliant with Welsh Government's Ethical Employment in Supply Chains Code of Practice.

- National data, including from ONS; this was noted as potentially useful in monitoring progress in procurement in the social care sector and comparing Wales' progress with the rest of the UK on identified measures. However, it would need to be understood whether these metrics could be directly related to activity falling under the Bill, and whether Wales' data can be disaggregated from the other UK nations.

Welsh Government needs to do some work to address data gaps because poverty rates; data on debt in Wales averages over three years because of small sample sizes, meaning timely data will not always necessarily be readily available.

WG acknowledges some indicators that the Bill is expected to achieve are difficult to measure (for example culture change and other, softer outcomes).

*Does new monitoring information need to be collected? If so, what?*

Measuring the softer outcomes of the Bill, particularly around behavioural and cultural change relating to social partnership, were also identified by stakeholders as being challenging. This is an issue that the proposed evaluation approach addresses, in that it is suggested that bespoke methods are used, in addition to regular reporting, in order to measure these outcomes.

Social Partnership and Public Procurement (Wales) Bill: Theory of Change.