



Report of the SPC Sub-Group on Fair Work in Welsh Government Business Grants

12 February 2026

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Summary

The sub-group was convened for a short cycle of six meetings to explore proposals for fair work interventions in Welsh Government grants to business as agreed at the SPC in the Autumn of 2025.

Membership of the group were drawn from the business representative organisations and trade unions. The group took key aspects of evidence from an ongoing external evaluation of the Economic Contract and from Scottish Government officials about the experience of their Fair Work First policy. Alongside external evidence the group considered the shared historical experience of fair work through social partnership in Wales and the current legislative, policy and economic environment.

The subgroup recognised the longstanding commitment to social partnership as a way of working in Wales, along with the close relationship between social partnership and fair work. In addition to representing a set of shared values, both social partnership and fair work have a strong policy and institutional foundation through the Social Partnership Council, the Social Partnership and Public Procurement Act, and the policy commitment to use devolved levers to promote fair work. The group focussed on the three key areas of payment of the Real Living Wage, trade union access on request, and requiring the offer of guaranteed hours contracts. These areas were referenced in the originating SPC discussions.

In Autumn 2025 the current First Minister made clear an intention to leverage the three policy interventions considered by this report in a new Senedd term. And this report is submitted on the understanding that any decisions on the matters it covers will ultimately be for a future Government to determine.

Given the limitations on time the sub-group considered it could most usefully provide advice on a credible starting point for Welsh Government policy development to be initiated, alongside proportionate guard rails and limitations for sensible proposals to emerge.

Outline

Over the period that the sub-group was convened, the Employment Rights Act received Royal Assent, the Economic Contract was in the process of being evaluated and the Scottish Government were preparing to have their Fair Work First policy evaluated. The group considered each of these evolving developments and sought to draw out lessons to help inform the future policy direction.

During consideration of trade union access by the group the (then) Employment Rights Bill was strengthened from a right to request into a right of access. This significant change superseded ongoing discussions in the group about thresholds, definitions of access and time commitments that would constitute a sensible policy starting point. The provisions in the Employment Rights Act 2025 mirror the policy notes that were emerging from the sub-group on trade union access and zero-hours contracts.

Time limits meant that of the three areas, zero-hours contracts were considered the least by the sub-group. However, the ERA provisions which will require all employers to offer eligible workers a guaranteed hours contract based on working patterns over

a reference period to some extent mirror the Welsh Government guidance on their use in devolved Welsh Public Services, and as set out in the Welsh Government fair work policy statement: [A guide to fair work | GOV.WALES](#).

Outside the remit of the ERA there was more variability in the discussion about the positioning of the Real Living Wage. The group settled on the Real Living Wage elements of Scottish Government's Fair Work First policy as a pragmatic starting point for further policy consideration and development, but they stopped short of endorsing the merit of the policy.

All discussions about individual areas of fair work took place in a wider context of proportionality and potential thresholds for conditional arrangements - mostly thresholds related to the level of grant funding and business size (by employees). Discussions outside the main policy proposals, prompted by a presentation about the Economic Contract evaluation, included direction that any grant conditions should be clear, consistent and simple to apply, also referencing the interface with implications for the extant policy framework currently executed through the Economic Contract.

Conclusion

The group undertook a light-touch review over six meetings and concluded that recommendations on guard rails and starting points for the Welsh Government to initiate a policy development process was a sensible response at this stage.

The group has not considered or made recommendations on the intrinsic merit, the benefits, costs or risks of the policy intention and this initial report is an exploratory rather than an exhaustive assessment of the issues and next steps.

This report has been prepared by a subgroup of SPC members and other appointees with a remit to work towards consensus, in cooperation and compromise. It is not considered to reflect independent views of any individual party or organisation. Throughout discussion a range of views on each element of the report were expressed.

Finally, the sub-group considers that there is more to explore in developing the policy proposals than could be considered in the time allocated for the sub-group.

Continuing engagement, and likely reconvening of the group, should be considered by the SPC in a new Senedd term.

The group members extend their thanks to those who took the time to give evidence.

Recommendations

R1: That the SPC should be engaged in the further development of policy proposals in a new Senedd term.

R2: In making policy proposals the Welsh Government should set out the perceived benefits, risks and impact on the economy, Welsh businesses, the labour market, and workers in Wales.

R3: In making policy proposals to strengthen fair work, the Welsh Government should consider the broader policy framework, and explore measures to support and encourage the wider representative reach of social partners.

R4: The Welsh Government should consider the interaction of fair work elements and make clear the priorities exploring where incentivisation would be appropriate.

R5: The Welsh Government should explore minimum thresholds that are proportionate, clear and consistent across grant schemes.

R6: The Welsh Government should consider arrangements for trade union access and zero-hours contracts which reinforce the provisions of the Employment Rights Act 2025.

R7: The Welsh Government should consider the provisions of Fair Work First as a starting point for developing policy proposals on the Real Living Wage.

Section A: Constitution and Remit

The Sub-Group on Fair Work in Business Grants was convened following agreement at the SPC about supporting fair work through Welsh Government grant funding.

Those discussions focused on elements of conditionality and supporting strategies to strengthen fair work outcomes from grants to business on the basis that an evaluation of the current Economic Contract programme had been initiated, with the wider application of any recommendations to be considered in due course.

Proposals were made for a short six meeting cycle divided into convening (1 meeting) evidence-taking (2 meetings) and policy discussion (2 meetings). With a limited series of meetings, the purpose of the group was focused on particular specific elements of conditionality:

- payment of the Real Living Wage (rLW) as set by the Living Wage Foundation
- trade union access to businesses; also considering
- safeguards around the use of Zero-Hours Contracts (or NGHAs)

The key purpose of the report is to:

- provide an outline of social partner feedback for the SPC to agree and commend to the Welsh Government about conditional elements in grant funding to business; and
- advise on next steps the Welsh Government should consider in making a policy decision.

It is noted that there are broader interventions Welsh Government may consider that are outside of the scope of the sub-group.

The initiating papers are attached at **Annex A** and **Annex B**. The terms of reference agreed by the sub-group are attached at **Annex C** and set that the function of the group is to work co-operatively to:

- review the current approach to fair work in Welsh Government grants to business, as delivered through the Economic Contract.
- consider a meaningful and effective approach to the promotion of fair work in Welsh Government grants to business that is reasonable and proportionate, includes, but is not limited to, conditionality, and is mindful of the wider policy and regulatory environment.
- make recommendations for the SPC to consider in providing advice to Welsh Ministers.

The terms of reference acknowledge that social partners, joint chairs and other members act with the representative capacity of their membership and an understanding that social partnership brings an expectation of consensus and compromise.

This report is an outcome of those conversations, and, therefore, is influenced by stakeholder interests but should not be considered the view of any individual stakeholder.

Membership details are referenced in the Terms of Reference at Annex C. During the term of the sub-group note that the following changes to membership took place:

- Josh Miles (FSB) replaced Ben Cottam as a member of the sub-group,
- Peter Hughes stood down as Joint Chair and was replaced by Shavanah Taj,
- Each member was able to nominate a second to attend in their absence.

Section B: Context

1. Background

Discussions at the sub-group explored direction and constraints of Welsh Government fair work policy levers, with the aim of providing a policy steer within an agreed set of guard rails for next steps in the policy development process. The sub-group recognised that government will need to develop proposals and re-engage social partners at a later stage.

The sub-group notes that the Welsh Government, working with public sector employers and trade unions, typically through the Workforce Partnership Council, has delivered:

- Adoption of the Real Living Wage across the public sector beginning with NHS Wales (2014), local authorities (2018), more recently extended to social care workers (2022) alongside a prevailing narrative that encourages adoption of the Real Living Wage by all employers that can afford to do so. Earning at least the Real Living Wage is one of the national wellbeing indicators.
- Following a 2015 commission to understand where ZHCs were being used in public services guidance was issued (in 2016) to ensure fair treatment and regular contract reviews with trade union involvement. In 2017 sector regulations were implemented across domiciliary care which required reviews after 12 weeks and possible contract conversion. Successive statements indicate the Welsh Government views zero-hours contracts as insecure and potentially exploitative, emphasising that they should not be used inappropriately or imposed unilaterally and that workers must have fair notice of changes in shifts, predictable earnings, and access to standard employment rights. The quantum of workers employed on permanent contracts are a feature of the same wider work-related national wellbeing indicator as that which references the Real Living Wage.
- Trade union recognition is embedded across the public sector, and the Welsh Government has formerly created specific fora for social partnership engagement between employers, government and trade unions starting with the workforce forum that evolved into Workforce Partnership Council (2012). The Welsh Government has disapplied UK government restrictions introduced on industrial action in devolved public services and introduced a statutory Social Partnership Council. A specific Social Partnership and Fair Work Directorate has been established and the Social Partnership and Public Procurement Act 2025 introduced statutory duties for public bodies to engage unions in Welsh Government well-being objectives and strategic decisions. In 2021 the Welsh Government updated 'Partnership and Managing Change' - a key social partnership agreement with trade unions and employers, establishing principles for collaboratively managing change in public services, emphasizing fairness, consultation, workforce planning, and continuity, aligning with fair work goals and a *Working Together for Wales* framework.
- Several other agreements have been made across the public sector and the Welsh Government has a national wellbeing indicator for the proportion of employees whose pay is set by collective bargaining. The Welsh Government promotes trade unions as the best means through which workers can improve

pay, terms and conditions and ensure their voice is heard, while for employers working with trade unions brings benefits of simplifying negotiation processes, resolving issues early, addressing health and safety concerns, and assisting with training and development.

The Welsh Government places fair work at the centre of its economic and social ambitions, consistently framing it as essential to creating a fairer, more secure and more prosperous Wales. Fair work is described as being 'at the heart of [the] Programme for Government' and is allocated as a shared responsibility across all Ministers, building on Fair Work Wales - the report of the Fair Work Commission published in 2019.

Any historical context and government commitments on fair work are not considered further in this report but are set out here as pragmatic framing that social partners understand of the Welsh Government policy position and delivery or fair work outcomes.

2. Evidence

The sub-group is grateful to the Scottish Government and to the Economic Contract evaluation team for taking the time to prepare presentations and provide critical evidence for the group to consider.

This section summarises the key findings of the evidence-sessions provided by the Scottish Government's Fair Work First policy and the Welsh Government's Economic Contract evaluation team. It aims to inform discussion of a strengthened fair work model for Wales, aligned with established fair work principles and broader social value ambitions.

2(a) Fair Work First

Vision, Purpose and Impact

Scotland's fair work policy followed an overall objective by the Scottish Government to become a Fair Work Nation by 2025. Fair Work is defined as work that offers effective voice, opportunity, security, fulfilment, and respect. The policy seeks to improve productivity, recruitment, retention, and wellbeing through better employment practices.

Public sector funding is used to leverage fair work practices, including:

- Payment of at least the Real Living Wage (rLW).
- Effective voice mechanisms (including but not limited to trade union recognition which is considered best practice).
- Investment in workforce development.
- No inappropriate use of zero-hours contracts.
- Addressing workplace inequalities
- Offering flexible and family-friendly working practices.
- Opposing fire-and-rehire practices.

Most significantly for the work of the sub-group, conditionality is applied to grants and procurement. Organisations must demonstrate compliance with the Real Living Wage and effective voice criteria. Exceptions are allowed only with affordability evidence.

Like the Economic Contract programme, Scotland's fair work first policy is currently subject to evaluation expected to be concluded in July. The sub-group expects the evaluations of Fair Work First and the Economic Contract will inform policy development beyond the scope of this report.

Whilst evaluation of Fair Work First will be useful additional information in the presentation the Scottish Government reflected that there are indications of improved productivity and business support for the scheme.

Over £2.6bn of public grants have been subject to Fair Work First conditionality (Jul 2023–Mar 2024). Scotland leads the UK in Real Living Wage adoption. An evaluation will assess delivery, impact, and lessons learned.

2(b) Summary of the Welsh Government's Economic Contract Evaluation

Overview

The Economic Contract is underpinned by the 'something for something' principle, where businesses receiving Welsh Government support are expected to demonstrate their contribution to social, environmental, and economic goals. Since am refresh in January 2022, over 600 Economic Contracts have been issued, including 150 in the most recent period (April 2024–March 2025). The Contract has also been extended into new areas of business over that time extending the reach of social value in business support services.

A toolkit aligned with the Wellbeing of Future Generations Act supports the application of EC principles. A mid-term evaluation report was considered by the sub-group with a final report expected in April 2026. The EC is embedded in the Economic Mission (2021) and the Priorities for a Stronger Economy (2023), which emphasise fair work, sustainability, decarbonisation, stronger regional partnerships, and youth platforms for skills development.

Businesses make development pledges aligned to four pillars (including fair work) across a range of grant schemes to business.

Key Relevant Findings Emerging from the Evaluation

The interim evaluation report suggests that the scheme is widely supported by businesses and embedded in Welsh policy. It suggests the EC acknowledges existing good practice more than driving new behaviours, and that there could be greater clarity in the purpose of the programme between providing assurance in business practice and changing business behaviour.

Recommendations

Emerging recommendations particularly relevant to the sub-group:

- The purpose of the programme should be clarified to either provide assurance about responsible business practice or to drive business behaviour change.
- It should be further aligned with Wellbeing of Future Generations Act and Social Partnership and Public Procurement Act.
- That the programme should target larger businesses and higher value grants.

Comparative differences between Fair Work First and the Economic Contract

Below is a brief summary of the comparative differences between the current approaches adopted in Wales and Scotland:

Feature	Scotland: Fair Work First	Wales: Economic Contract
Conditionality	Yes - Consistent and mandatory for grants & procurement	No – bespoke agreement with the business which is applied to some grant schemes.
Monitoring	Workforce sign-off, reporting required	Limited monitoring on agreement.
Scope	Focused on employment practices	Broader (economic, social, environmental)
Branding	Strong identity and guidance	Branding recommended for amendment in evaluation
Impact	Evidence of progress on pay gaps, rLW	Evidence suggests reinforcement of existing good practice

2(c) The Policy and Legislative Landscape in Wales

The Economic Mission (published in 2021) includes an undertaking to evolve, expand and strengthen the Economic Contract in the pursuit of social value, emphasising engagement with social partners, which is consistent with key programme government commitment, also to '*strengthen our economic contract.*'

Additionally, there are two related wellbeing goals, published alongside the Programme for Government, that emphasise fair work, sustainability, and a stronger, greener economy as progress is maximised towards decarbonisation and national indicators which measure progress against Wellbeing goals.

In Autumn last year the Welsh Government published 'Priorities for a Stronger Economy,' to update the economic mission in line with our current financial and economic circumstances. The four national priorities identified in the paper emphasise a just transition and green prosperity, a platform for young people, fair work, skills and success, stronger partnerships for stronger regions, and growth.

Finally, the Social Partnership and Public Procurement (Wales) Act 2023 legislates for a system of social partnership and a Social Partnership Council with participants appointed under the Act by the First Minister that includes employer and worker representatives. It also introduces new socially responsible procurement duties which will require public bodies to pursue economic, social, cultural and environmental well-being when undertaking procurement seeks to strengthen procurement arrangements and drive social value outcomes from public spending.

The Employment Rights Act 2025 represents a major overhaul of UK employment law. It is part of the UK Government's 'Plan to Make Work Pay', aiming to modernise employment rights, improve job security, and raise living standards across the country.

The Act is wide-ranging and contains around 28 measures on different aspects on employment and trade union law including a strengthened right of trade union access and measures to limit exploitative practices in the use of Zero-hours Contracts.

The Well-being of Future Generations (Wales) Act 2015 supports economic and fair work outcomes through several key provisions that align with its overarching goal of sustainable development.

The 'A Prosperous Wales' goal directly supports economic and fair work outcomes by aiming to create:

- An innovative, productive, and low-carbon society.
- An economy that generates wealth and provides employment opportunities.
- A skilled and well-educated population.
- Conditions that allow people to secure fair work and benefit from the wealth generated.

2(d) Specific Legislative Requirements

The sub-group notes the specific provisions of the Social Partnership and Public Procurement Act 2024 that information and advice submitted to Welsh Ministers by the SPC must be agreed by all members and wider expectations that the sub-group is working towards consensus through compromise.

Whilst the sub-group has developed its thinking against this framework, the sub-group has not sought legal advice and any duty to meet legal requirements in the development of policy rests with the Welsh Government and not the sub-group or the SPC.

Section C: Conclusions and Recommendations

1. Strategic Recommendations

Recommendations pertaining to specific policy considerations are contained in the next section. As part of the strategic consideration and the process of policy development the sub-group recommends:

The policy process

The sub-group recognises the longer-term advancement of fair work policies primarily through public sector intervention and as applied to grant-supported businesses through the Economic Contract since 2018.

SPC engagement should be maintained if current proposals for strengthened fair work interventions are developed in a new Senedd term. The development of policy should include further investigation of emerging evidence considered by the sub-group.

R1: That the SPC should be engaged in the further development of policy proposals in a new Senedd term.

As part of a presentation from the Economic Contract evaluation team, the application of conditionality in other comparable wellbeing nations and others was set out to inform policymaking in Wales. In reflecting on useful further research, the group advised that greater contextual reference about the economies of the relevant nations would be helpful. In addition, the evaluation team have been asked to provide more insight into comparable nations conditional arrangements that focus on labour market interventions.

R2: In making policy proposals the Welsh Government should set out the perceived benefits, risks and impact on the economy, Welsh businesses, the labour market, and workers in Wales.

Evidence from the evaluation team included reference to alignment with a strengthened social partnership environment. In discussion at the group there was support for greater recognition of the policy and statutory environment and the fair work functions of social partnership. Emerging from those discussions are that an alternative regime should include thinking about the context, including:

- where current interventions should be withdrawn to ensure consistency, clarity, simplicity and the avoidance of duplication,
- the congruence and overall burden of business of concurrent schemes and policy decisions external to this specific area,
- strengthening the legitimacy and reach of social partnership and fair work outcomes is improved with both higher levels of trade union membership and higher membership levels of representative trade organisations in Wales.

R3: In making policy proposals to strengthen fair work, the Welsh Government should consider the broader policy framework, and explore measures to support and encourage the wider representative reach of social partners.

The Welsh Government has made clear that it considers trade union recognition a measure of worker protection and a key indicator of good employment practice, mirroring statements made in Fair Work Wales (2019). Therefore, the Welsh Government should consider if, where a trade union is recognised by a business for collective bargaining purposes, conditional requirements should be disapplied.

R4: The Welsh Government should consider the interaction of fair work elements and make clear the priorities exploring where incentivisation would be appropriate.

The sub-group recognises that proposals for conditionality would represent a strengthening of interventions focused on fair work. As such the group considered that clear minimum thresholds for their application should be set in alignment with public law principles of reasonableness and proportionality.

The group discussed thresholds without making firm conclusions but considered that the Welsh Government should make proposals that meet the criteria with an expectation that these align with current legislative thresholds for intervention. For example, it is noted thresholds for trade union access being considered by the group were later adopted into the provisions of the ERA.

Beyond public law principles and proportionate application of thresholds, the sub-group recognises that being in receipt of a grant support is not necessarily a binary and transactional process, but the product of establishing a relationship between government and businesses in Wales, likely to begin with non-grant support, possibly moving to some financial support or signposting, and culminating in more substantial grant funding. It is acknowledged that there is in practice a pipeline of milestones that leads up to investment, and a balance to be measured that ensures businesses are not unduly discouraged from accessing grant support through disproportionate requirements.

R5: The Welsh Government should explore minimum thresholds that are proportionate, clear and consistent across grant schemes.

The sub-group considers that grant monitoring and accountability practices will apply to any conditions applied to grants by Welsh Government but has not made firm recommendations ahead of further policy development by the Welsh Government.

2. Specific Recommendations

This section sets out the sub-group findings guided by the group function to consider a meaningful and effective approach to the promotion of fair work in Welsh Government grants to business.

It is focused on the key specific proposals for conditionality around the Real Living Wage, trade union access and zero-hours contracts as proposed at the SPC in the discussion that led the sub-group to be convened.

Trade union access and zero-hours contracts

Both the initiating trade union paper to the SPC and the Welsh Government consistently articulate trade union representation as a key driver of and a strong proxy of fair work practices. Various statements by the Welsh Government reinforce the policy emphasis on fair work and, within fair work, have a particular focus on trade union representation.

Discussions at the sub-group were initiated on the nature and definition of access, thresholds, time commitment, and disclosure arrangements. During discussions the final iteration of the Employment Rights Bill, now the Employment Rights Act following Royal Assent in December 2025 strengthened provisions for a right to request access, into a right of access.

Because of time restrictions there was limited discussion about zero-hours contracts, and the provisions of the ERA were established before discussion could take place at the group.

The final provisions of the ERA mirror the course of discussion on trade union access that had begun in the sub-group, and Welsh Government guidance to the public sector on the use of zero-hours contracts. Therefore, the sub-group concluded that the law has been updated to closely match the ambition set out in the initiating papers.

It followed that the starting point for developing policy on trade union access and zero-hours contracts should be limited to match the new legislative requirements, not least for reasons of clarity and consistency.

It is noted that this leaves residual matters, such as disclosure arrangements for trade union access, that relate to conditionality but not to the legislation. The group had some initial discussion about residual issues but not enough to arrive at firm conclusions.

R6: The Welsh Government should consider arrangements for trade union access and zero-hours contracts which reinforce the provisions of the Employment Rights Act 2025.

Real Living Wage

The real Living Wage is a voluntary hourly pay rate that reflects the actual cost of living. It is set by the Living Wage Foundation and differs from the statutory National Minimum Wage and National Living Wage set by the UK Government.

The new rate, announced on 22 October, is £13.45 (5.83% higher than the NLW) and covers the UK apart from London which has a higher rate. Accredited RLW employers have 6 months (until 1 May 2026) to implement the new rate. For comparison the National Living Wage will increase to £12.71 in April 2026.

Following publication of the ERA the RLW remains a policy area at the forefront of discussions about fair work that is unaffected by the new legislation.

In 2024 the current UK Government updated the guidance to the Low Pay Commission (LPC) issuing an amended criteria the LPC should consider when making a recommendation on NLW rates.

The updated criteria includes an express requirement to include cost of living indices, with a 'hard floor' of two-thirds median income, and plans to remove age bands applied to adults.

The Welsh Government consistently references the importance of the RLW as a core value of fair pay and an aspiration that it should be the baseline for pay in Wales. The background at the outset of this report highlights the action that has been taken to improve RLW coverage where leverage exists across the public sector.

The sub-group arrived at a conclusion that the Scottish Government's Fair Work First provisions were a sensible and pragmatic starting point, although a range of perspectives featured in discussions.

Key issues raised for consideration in the overall policy development included the overall impact within an environment of greater regulation and the rising cost of doing business.

The impact on smaller businesses and pay differentials across businesses were identified as areas that would need consideration. Alongside this, the long-term benefits of a higher wage floor and better working conditions should be considered. Discussion on the RLW prompted reflection on the Economic Contract evaluation discussion and the request made to the evaluation team for economic context to be added into the report alongside approaches to conditionality. The group notes that there are constitutional similarities between devolution settlements in Scotland and Wales that lend themselves to similar solutions, there are also key differences in the economies of the two nations.

R7: The Welsh Government should consider the provisions of Fair Work First as a starting point for developing policy proposals on the Real Living Wage.

Annex A: Origination TUC Cymru Paper to SPC (July 2024)



Use of Welsh Government financial support to ensure fair work: the next phase of fair work policy

Issue

1. This paper was provided by Wales TUC on behalf of the worker representative's side.
2. The purpose of the paper is to develop the policy that sits behind Welsh Government's commitment to "use every lever [Welsh Government has] to promote and enable fair work, address labour exploitation and tackle modern slavery."
3. It builds on the work which has already created policy in this area, including the Economic Contract, guidance on fair work, work on modern slavery, sector social partnership arrangements, and amending the Well-being of Future Generations Act.

Background

4. Trade Union partners recognise that the ability to leverage specific outcomes from procurement that go above statutory minimums is not something that Welsh Government believes it could legally mandate, but we understand that there are far fewer restrictions on what can be mandated as a result of grant funding and so we anticipate that this will be where the most ambitious fair work criteria is introduced.
5. There are also criteria that could be introduced which do not require additional spend, but seek to minimise the risk that public funding will end up with employers that do not uphold basic human rights, including labour rights, and that there should be at least a basic set of fair work criteria which apply across procurement and grant funding.
6. This paper proposes how the Social Partnership Council (SPC) can guide the next phase of fair work policy, so that there is a step-up in consistent application across the Welsh Government. It sets out a three-stage approach, beginning with the 'red lines' that should be introduced across all devolved public spend as contractual criteria to limit the risk of public spend going towards exploitative labour practices.
7. Making these straightforward, no-cost conditions a requirement of all public spend across the Welsh Government (in the broadest sense, including devolved bodies and arms-length organisations, such as the Development Bank for Wales) would be the first step in achieving the 'every lever' policy

commitment made by the Welsh Government, and the next steps could look at how to eradicate exploitative contracts (especially zero-hour contracts) in workplaces that benefit from public investment.

The next phase of Fair Work policy

8. This paper seeks to start the process of the SPC producing a set of recommendations for the Welsh Government on how the 'fair work' element of the 'Prosperous Wales' Goal can be achieved more effectively, and how a whole government approach is necessary to do this.
9. It recommends that the **first step** to achieving comprehensive application of fair work policy is to create 'red lines' in the form of contractual obligations for public spend which starts to deliver on the commitment to "use every lever [Welsh Government has] to promote and enable fair work, address labour exploitation and tackle modern slavery."
10. The **second step** is to expand and standardise use of the Economic Contract as a gateway to public funding, setting out the Welsh Government's expectations in relation to pay, contract type and other employment practices that make work fairer. It will be inspired by the [Fair Work First approach](#) adopted by the Scottish Government, which mandates certain employment practices (such as payment of the Real Living Wage) through government grant funding. Alongside this, Trade Union partners suggest that awareness of labour exploitation – including which sectors and occupations it is more prevalent in and what it looks like – is raised across government, and that this learning is embedded into the Socially Responsible Public Procurement approach. By establishing a basic level of awareness of what labour exploitation looks like in Wales including who is at greater risk, based on individuals' characteristics, sectors, roles and geography, as well as how this can be addressed structurally, the Welsh Government can operate with a risk-based approach in all work which has repercussions for the workforce.
11. The **third step** is for the SPC to review implementation, understanding how all parts of government are delivering on fair work. Trade Union partners know that data is already published for the relevant National Indicators, and labour market data is analysed and collected routinely. This review would be more focussed on hearing from officials in different departments who are more likely to impact on workers at higher risk of exploitation (for example, construction), to understand the steps they are taking in their department to achieve the fair work policy aim, and strengthen relationships with social partners.
12. Trade Union partners suggest this phased approach as the SPC is in its infancy, and all sides are keen to see it swiftly make an impact. So rather than approach this as a lengthy review of fair work policy overall, these steps set out how the Welsh Government can fulfil its commitment to use 'all levers' and put the SPC in the position to advise on incremental progress.

Red lines

13. The SPC will first need to consider how fair work policy serves to minimise the risk of labour exploitation as a result of public spend, before we can consider how to raise employment standards through it.
14. Contractual 'red lines' will ensure that employers who are openly hostile to adhering to basic labour rights are put off from taking public funds, and there is route to claw back funding if an employer breaches employment law.
15. The Economic Contract in its current form is not the right lever for the 'red lines' we are proposing as it is not linked to the *conditions* of grant funding, it is not used by all Welsh Government departments for all grant funding, there have been numerous iterations and the wording is relatively ambiguous, and it is a *bipartite arrangement* between government and an employer. Trade Union partners recognise that it serves as a gateway to accessing funding, and can be quite a resource-intensive approach as it goes beyond headline criteria and seeks to work with a business to improve certain practices, but we are not confident that it would ever result in an employer not being able to access public funds.
16. Instead, a core way to manage the risk of labour exploitation from public spend and indicate to employers that government will not tolerate it in organisations they have a financial arrangement with is to **set out explicitly** that a proven breach of employment law or a refusal to allow trade union access to workers would be deemed a breach of contract, and could therefore result in a contract being terminated or funding clawed back. This should be used across the Welsh Government as standard practice and not be seen as criteria which can be negotiated by an employer – this is a red line of public funding in Wales.
17. Funding contracts already contains a reference to illegal activity as a condition:
 - a. *“(d) You must not use any part of the Funding for any kind of activity which in our opinion could bring us into disrepute, including but not limited to ... (6) any kind of illegal activities.”*
 - b. This would expand on this to specify that a breach of employment law is something that Welsh Government is especially concerned about and would result in consequences linked to the contractual arrangement the employer has with the Welsh Government.
18. A declaration that an employer would permit and enable trade union access to the workforce comes with no cost, and is an indication that an employer is not hostile to unions. A refusal to commit to this is a clear indication that an employer is seeking to block their workforce from accessing their basic labour rights, so we cannot imagine this being a barrier to any employer that the Welsh Government would want to be in receipt of public funds. A more detailed, usable definition of 'trade union access' to make this meaningful could be developed via the SPC.
19. Trade Union partners recommend that the first step is implemented urgently, so that there is a basis for universal 'fair work' criteria across public spend.

This must reach all parts of the Welsh Government, including the Development Bank for Wales, funding bodies and all departments.

To achieve this, it is necessary to create:

20. A set of red-line criteria that will apply to all public spend, requiring employers to at the very least commit to complying with employment law (so that an proven violation can result in a contract being withdrawn) and trade union access as a condition of contract.

The SPC is asked to agree to work on the three steps set out in this paper to support the Welsh Government to deliver the next phase of fair work policy, and to advise that the 'red line' criteria set out in this paper is submitted to Cabinet with the advice that it becomes Welsh Government policy as soon as possible.

Annex B: SPC Paper Convening the Sub-Group (September 2024)



Agenda Item 3 - Improving fair work through Welsh Government financial support

Decision Required

SPC Members are asked to:

- I. agree that measures to promote fair work through Welsh Government grant support to business should be considered by social partners.
- II. decide if an SPC Working Group should be established for the purpose described in 1, or if engagement arrangements with social partners in Economic Policy would be preferred.

Issue

1. A paper to inform next steps and respond to proposals for the engagement of social partners in the development of measures to improve fair work through Welsh Government financial support.

Background

2. At the July SPC a paper tabled by TUC Cymru made proposals for a working group to consider the use of financial support to ensure fair work outcomes from public spend in Wales. Proposals included contractual requirements as conditions of grant funding (described as 'red lines'), expansion and standardisation of the Economic Contract, and a review of implementation.

Improving Fair Work

3. A structure that engages social partners to advise Welsh Ministers about improving fair work outcomes from our support to business would be a timely next step.
4. Subject areas and themes raised in the July SPC paper correlate with aspects of a recent Welsh Government commission to externally evaluate the Economic Contract, the flagship agreement between Welsh Government and grant funded businesses to support the economic, social and environmental well-being of Wales. A summary of the current programme objectives is attached at Annex A for background information.

5. An interim evaluation report is in the process of being finalised and the research is considered sufficiently advanced to inform the planning of improvements in the programme.
6. The commission includes an assessment of implementation and review processes, and an international comparison of what other similar governments are doing to encourage responsible business practices including, but not limited to, the use of conditionality. The final interim report will draw key conclusions about the current programme and make provisional recommendations for the Welsh Government to consider.
7. In response the Welsh Government will consider how the programme can be improved and explore more focus on discrete areas that reflect our policy priorities, including fair work outcomes, implementation and standardisation.

Working group remit and constitution

8. Section 8 of the Social Partnership and Public Procurement (Wales) Act allows for the SPC to establish relevant subgroups. The remit and constitution of any subgroup is a matter for the SPC.
9. Proposals in this paper are limited to Welsh Government business grants within the remit of the current Economic Contract, prompted by an evaluation of the current programme and the proposals set out in the TUC Cymru paper. It is acknowledged that this responds in part, but not fully, to the broader ambition set out in the July SPC submission.
10. The SPC may decide that a working group should be established for the broader purpose of providing advice to Ministers about improving fair work outcomes through Welsh Government financial support or public spend. In those circumstances, it is proposed that the subgroup work is sequenced to consider fair work in Welsh Government grant support to business, currently delivered through the Economic Contract, as a starting point. The advice would then inform Ministers' policy response to the evaluation of the Economic Contract.
11. An alternative option to an SPC working group would be to engage business representative organisations and trade unions by making arrangements through the Economic Policy Division. There are longstanding arrangements for engagement of social partners on matters of economic policy, and members of the SPC may prefer that these issues and the formation of advice to Ministers is integrated into those arrangements.
12. Organisations typically engaged on matters of economic policy are included at Annex B for the purpose of informing SPC discussion about subgroup membership.
13. It is proposed that a first activity for the Working Group would be to consider the interim report of the evaluation and to discuss the findings and recommendations with Old Bell 3 and Cwmpas, commissioned to evaluate the Economic Contract, and authors of the interim report.

14. Officials in economic policy are content to facilitate an SPC working group or other arrangement, on matters of economic policy, working with the SPC Secretariat.
15. A final interim evaluation report is expected shortly and is likely to be within any timeframe the SPC would wish to establish for an initial round of working group meetings.

Limitations

16. Separate consideration will need to be made of financial support arrangements that are outside the scope of this paper. Should a subgroup be established with a broader purpose similar to that outlined in paragraph 10, then the SPC would want to consider the management of membership and sequencing of a workplan to ensure that appropriate organisations and Welsh Government officials are engaged for each policy area, at the appropriate time.

SPC Members are asked to:

- **agree that measures to promote fair work through Welsh Government grant support to business should be considered by social partners.**
- **decide if an SPC Working Group should be established for the purpose described in 1, or if engagement arrangements with social partners in Economic Policy would be preferred.**

Next Steps

17. If members agree that a Working Group should be established, then the next steps would be for the SPC to nominate a chair or co-chair (one worker and one employer representative on rotation) from amongst its membership. The SPC Secretariat would then work with the chair/s on the composition of the working group and its terms of reference.

Annex A: The Economic Contract

Background

The founding principle of the Economic Contract (the EC) is that it is an agreement between the Welsh Government and the businesses Welsh Government support to create resilient organisations that offer an attractive place to work.

It is typically promoted as a commitment to provide public investment that prioritises the social and environmental needs of Wales whilst building a more resilient and prosperous wellbeing economy, and often described as our ‘something for something’ approach.

Through the EC businesses demonstrate the contribution they will make to these principles and the Welsh Government sets out the support it will give in return.

Since 2019 the flagship vehicle for the EC has been the Economic Futures Fund (EFF), a consolidated fund of grant schemes across creative production funding, innovation, tourism and core support for SMEs, amongst other flagship schemes. The EFF was launched alongside the Economic Action Plan (EAP). The EAP was underpinned by a principle described as investment with a social purpose. The EC is not limited to these funds and other support schemes use either an EC or apply EC principles.

More recent programme and policy changes

In 2021 a refresh of the EC introduced new pillar names bringing more overall shape and direction to the policy around economic sustainability, fair work, decarbonisation and wellbeing.

A programme of development associated with the refresh aims to progress and improve our application of the principles underpinning the Economic Contract. Next steps associated with the refresh programme included an evaluation of the programme, and a further intention of strengthening arrangements to include standardised indicators (or metrics), with longer term ambition for extension of the EC into new areas of business support and the development of lighter touch elements to be proportionate to different levels of support and to business composition.

There is a continuing emphasis on the development of the EC that runs through the policy frameworks which follows the EAP. The **Economic Mission** (published in 2021) includes an undertaking to evolve, expand and **strengthen the Economic Contract** in the **pursuit of social value**, emphasising **engagement with social partners**, which is consistent with key programme government commitment, also to **‘strengthen our economic contract.’**

Additionally, there are two related wellbeing goals, published alongside the Programme for Government, that emphasise **fair work, sustainability**, and a **stronger, greener economy** as progress is maximised towards **decarbonisation** and our national indicators which measure progress against our Wellbeing goals.

In Autumn last year the Welsh Government published '**Priorities for a Stronger Economy**,' to update the economic mission in line with our current financial and economic circumstances. The four national priorities identified in the paper emphasise a just transition and green prosperity, a platform for young people, fair work, skills and success, stronger partnerships for stronger regions, and growth.

Finally, the Social Partnership and Public Procurement (Wales) Act 2023 legislates for a system of social partnership and a Social Partnership Council with participants appointed under the Act by the First Minister that includes business representative organisations (BROs) and trade unions. It also seeks to strengthen procurement arrangements and drive social value outcomes from public spending.

Annex B: Economic policy and social partner engagement

Social partner organisations that are typically included and engaged in matters of economy policy are listed below:

Business Groups

- CBI Cymru
- FSB Wales
- Make UK

Trade unions

- TUC Cymru
- Unite
- GMB
- Prospect
- Usdaw
- CWU
- Community

Annex C: Sub-Group Terms of Reference

Social Partnership Council (SPC)

SPC Working Group: Fair Work in Welsh Government Grants to Business

Terms of Reference

1. Background

1. The Social Partnership and Public Procurement (Wales) Act 2023 (“the Act”) became law on 24 May 2023 and established the Social Partnership Council (the SPC). The Act provides that membership of the Social Partnership Council (“SPC”) is to consist of:
 - (a) members from the Welsh Government (“Welsh Government members”),
 - (b) 9 representatives of employers in Wales (“employer representatives”), and
 - (c) 9 representatives of workers in Wales (“worker representatives”).
- 1.1 The SPC provides information and advice to Welsh Ministers concerning social partnership duties, the pursuit of the ‘A Prosperous Wales’ well-being goal by public bodies and socially responsible public procurement. The SPC provides leadership on issues related to social partnership and will help define how social partnership is expected to operate within a devolved Welsh context.
- 1.2 At the July 2024 SPC meeting, a paper tabled by TUC Cymru made proposals for a working group to consider the use of financial support to ensure fair work outcomes from public spend in Wales. Proposals included contractual requirements as conditions of grant funding, standardisation of the Economic Contract, and a review of implementation.
- 1.3 The SPC agreed the principles of that paper, but that further work was required. A subsequent paper was discussed on 30 September where SPC members agreed to establish a working group.
- 1.4 The Working Group will consist of 8 individuals nominated by social partners, to convene relevant expertise and develop advice to Welsh Ministers on the promotion of fair work in Welsh Government grant funding to business.

2. Purpose

- 2.1 This Group is being established on a task and finish basis and progress will be reviewed after six months, subject to change as work progresses.

Membership

- 2.2 Membership will be established with equal representation from employers and trade unions. The group will be supported by Welsh Government officials.

- 2.3 Members will be sourced from nominations by social partners at the SPC and will need to have expertise relevant to the subject matter under discussion.
- 2.4 The Group may, at any time, co-opt additional members with specific knowledge and expertise of the subject under discussion as required and will be required to have designated authorisation to reflect the views and perspectives of the constituent group they represent.
- 2.5 At least one member from each partner side to be in attendance during meetings to allow agreement on decisions. The group will be jointly chaired by an employer representative and a trade union representative who are also members of the SPC. It is recognised that each chair is drawn from a constituency of interests that they will represent in addition to their functions Chairing meetings.

3 Secretariat

- 3.1 The Secretariat will organise and administer all meetings.
- 3.2 Meetings will be held in an accessible format having regard to any reasonable adjustments that may be needed for members to participate along with Government advice.
- 3.3 A schedule of meetings will be agreed and the agenda and any papers will be circulated prior to the meeting.

4 Functions

- 4.1 Members will be required to work co-operatively to:
 - review the current approach to fair work in Welsh Government grants to business, as delivered through the Economic Contract.
 - consider a meaningful and effective approach to the promotion of fair work in Welsh Government grants to business that is reasonable and proportionate, includes, but is not limited to, conditionality, and is mindful of the wider policy and regulatory environment.
 - make recommendations for the SPC to consider in providing advice to Welsh Ministers.

5 Frequency

- 5.1 The Group will aim to meet on a monthly basis. The Group will be convened for an initial period of six meetings to be held within the 2025 calendar year, before subject to review by the SPC.
- 5.2 Work will progress outside of meetings with members as required to maintain progress. Decisions can be agreed outside of meetings.

7 Governance Arrangements

- 7.1 The Group will provide updates to the SPC on progress and provide a draft report document to the SPC for consideration. If endorsed by the SPC, the document will be submitted to Welsh Ministers to advise on next steps.

8. Conflicts of interest, Media

- 8.1 Any conflicts of interest will need to be declared at the start of each meeting. It will be for the group to determine whether such declarations prevent a member from participating further with the work of the group. Documentation may be subject to access to information requests made under the Freedom of Information Act 2000. Where such requests are received the Welsh Government's standard Freedom of Information procedures will be followed.
- 8.2 To facilitate openness of discussion, certain documents for discussion at SPC meetings will be marked as 'Protect/Members Only' and will be issued for members' consideration only.
- 8.3 Members must not contact the press or other media to discuss any 'in confidence' matters classified 'Protect/Members Only' or discuss them in any context where they may become public knowledge, or be picked up by the press/media, without first contacting the Welsh Government secretariat.
- 8.4 However, in the event that such an approach is made by the press or media and a member is asked for their views on the SPC's work and/or policy concerns, they should proceed as follows: If -
- a. the question relates to confirmation of a matter about which a member is confident is already in the public domain, they should confine their comments to factual information. They should not give an opinion on the issue as this could be taken as the collective view of SPC. They should also let the FM and the secretariat know about their conversation immediately after the event;
 - b. the question is clearly sensitive and could well make headlines, the member should not comment and should refer the journalist directly to the FM and the secretariat;
 - c. a member inadvertently makes comments about the SPC to someone whom they later realise is a member of the press or other media, they should inform the FM and the secretariat as soon as possible;
- 8.5 Except with the prior written consent of the Welsh Ministers, members shall not make any press announcements or carry on any activities in their role as member of the SPC sub-group. This shall apply during the continuance of this appointment.

Working Group Membership

Social Partner	Name	Representing
Joint Chairs	Ben Cottam (FSB Wales)	SPC (Employers)
	Peter Hughes (Unite)	SPC (Trade unions)
Trade Unions	Shavanah Taj	Wales TUC
	Ceri Williams	Wales TUC
	TBC	TBC
Employers	Leighton Jenkins	CBI Wales
	Janis Richards	Make UK
	Lloyd Powell	ACCA Global
Supporting Welsh Government Officials	Chris Hartwell	Economic Policy
	Stephen Layne	Fair Work
	Robert Hobbs	SPC Secretariat