



Social Partnership and Procurement Bill Stage 1 Debate

Briefing

Summary

1. The Social Partnership & Public Procurement (Wales) Bill (referred to as 'the Bill') seeks to provide a “framework to enhance the well-being of the people of Wales by improving public services through social partnership working, promoting fair work and social responsible public procurement” (Welsh Government, 2022).
2. Earlier this year, a coalition of NGOs, including Cytûn, Fair Trade Wales, the Size of Wales, the WCIA and WWF Cymru [provided evidence](#) to the Senedd’s Equality & Social Justice Committee on the draft Bill. We were pleased to see a number of our recommendations adopted by the Committee. Since that time, our coalition is now supported by Amnesty International and Oxfam Cymru.
3. We believe the Bill provides an important opportunity to use the power of public procurement to deliver social, environmental, economic and cultural outcomes in support of Wales 7 well-being goals. This is particularly true for the achievement of the [‘globally responsible Wales’](#) goal, which aims to make a ‘positive contribution to global well-being’.
4. We note that the Equality & Social Justice Committee’s [Stage 1 Report](#) notes the Deputy Minister’s view that “the legislation links socially responsible procurement directly to the well-being goals, which include global responsibility and that this link will be clarified in the statutory guidance”.
5. However, within the draft Bill, actions to advance a globally responsible Wales through ethical procurement are notably absent; and notwithstanding the Deputy Minister’s comments, we remain deeply concerned that references to global responsibility are not explicit and on the face of the Bill. We fear such an omission will mean Wales falling behind on its international obligations.
6. This briefing outlines a number of recommended changes, several of which are supported by the Equality & Social Justice Committee in its Stage 1 Report.

The problem

7. The Bill should align with key pieces of legislation, policy and strategy, including the Well-being of Future Generations (Wales) Act (referred to here as WFGA); Welsh Government's [international strategy](#) and [Wales and Africa Action Plan](#); recommendations from the Welsh Government's Gender Equality Review and the Anti-Racist Wales Action Plan. Further, the Bill fails to sufficiently demonstrate how public procurement will drive forward Wales' net zero ambitions and tackle Wales' overseas deforestation footprint (a commitment made at COP26).
8. Wales prides itself on being the world's first Fair Trade Nation and in its [international strategy](#) and [Wales and Africa Action Plan](#); the Welsh Government restated its commitment to promoting the adoption of 'fair and ethical trade'. According to the [World Bank](#), 689 million people globally live in extreme poverty, and whilst some progress has been made in recent decades, progress has stalled. Humanitarian crises, the climate and nature emergencies, the impact of the Covid pandemic and the looming global recession are all adding to the problem of global poverty.
9. For Amnesty International, ethical procurement can be a powerful tool for tackling human rights abuses. Examples of problems where ethical procurement could improve human rights include the import of products from the Xinjiang region of China on grounds of forced labour, the import of products from Myanmar companies controlled by the military, or the import of products from Russian companies linked to oligarchs. In the Public Contracts Regulations 2015 (PCR), there are discretionary grounds for exclusion in regulation 57(8), allowing contracting authorities to exclude companies from participation in a procurement procedure where the company can be found to be culpable of 'grave professional misconduct which renders its integrity questionable.' The Bill, as it currently stands, does not contain any such provision. The governments in Scotland ([guidance](#)) and Northern Ireland ([NI human rights in public procurement policy note](#)) have taken steps to ensure human rights are included in their public procurement policies, while in Ireland there has been a Parliamentary initiative along these lines ([Control of Economic Activity \(Occupied territories\) Bill 2018](#)).
10. If ethical practices are not considered throughout the supply chain during procurement, many of Welsh Government's international commitments will remain unmet, meaning Wales will continue to contribute to social and environmental harms, such as the deforestation and exploitation of workers and abuse of Indigenous Peoples' rights caused by Welsh imports of a handful of agriculture commodities such as palm oil, beef soy, cocoa, timber, paper, pulp and rubber. The greenhouse gas emissions associated with the conversion of natural ecosystems and changes in land cover for the production of just four of those commodities (soy, cocoa, palm and natural rubber) total 1.5 million tonnes of CO₂e each year. This is equivalent to 4% of Wales' total estimated domestic and imported goods carbon footprint, or 22% of the GHG emissions from transport in Wales (see *Shea et al 2021* as an example). Furthermore, Wales would continue to fall short on the ambitions of the Anti-Racist Wales Action Plan due to the disproportionate impact of harm upon ethically and racially diverse communities.

11. With an annual procurement spend of £6.3 billion, the Welsh public sector has a huge role to play in helping to drive responsible consumption and production. Ignoring these issues now, would mean that Wales risks being left behind as other nations are actively bringing legislation on this topic. France has a deforestation free procurement strategy, whilst in the United States, California and the US Congress are both considering legislation. Public procurement is a global issue, and this should not be omitted from this Bill.

We recommend:

1. The Bill is amended in line with Recommendation 12 from the Equality & Social Justice Committee's Stage 1 Report: "The Welsh Government should bring forward amendments to section 24(l) of the Bill so that it sufficiently considers the global responsibilities that public bodies have as well as those to their local area".
2. The Bill should be amended to include additional clauses detailing specific measures to promote ethical procurement, as follows:
3. The Bill should be amended so that the aims of the Bill explicitly state an intention to promote ethical procurement, and it should align with existing legislation in this field and state that the policy and priority of public bodies in Wales must be to progress ethical procurement. Such language should be included within the general aims of public procurement duties within the Bill.
4. The Bill should be amended so that key concepts are clearly defined, and we note calls in the committee report for terms such as "global responsibility" and "fair work" to be defined. We support this call and would further recommend that the Bill should include a definition of ethical procurement encompassing fair trade, ethical and sustainable standards; human and environmental rights; and net zero targets within global supply chains.
5. To achieve this, procurement by the public body (and within its supply chain) shall ensure observance of international law and follow the UN Guiding Principles on Business & Human Rights. The Bill should contain provision for public bodies to exclude companies from participation in a procurement procedure should the company not be compliant with these.
6. The Bill should place a duty on the Welsh Government to prepare a five-year 'Ethical Procurement Plan', which should set out how the Welsh Government intends to support and enable the wider public sector to progress in this area.
7. Further, the Welsh Government should report annually on its progress in delivering its 'Ethical Procurement Plan'.
8. The Bill should stipulate that the proposed Social Partnership Council should include at least one member with expertise in ethical procurement. Further, we support the Equality & Social Justice Committee Stage 1 Report Recommendation 18 that "a clarification of the roles and relationship between the Procurement Centre of Excellence and the SPC's procurement sub-group [and] how it intends to ensure that the Procurement Centre of Excellence and the SPC's sub-group will play a role in driving the collaboration agenda forward". We would further

add that clarity should be given as to how ethical procurement will be taken forward within this framework; and how expertise on ethical procurement will be included with the work of the SPC and the Procurement Centre of Excellence within the implementation of the legislation.

9. The Bill requires public bodies to produce procurement strategies. Whilst it may be implicit that such strategies should align with the Well-being of Future Generations (Wales) Act 2015, specific references should be included within the Bill to instruct public bodies to give due consideration to ethical procurement and fair trade within such strategies.
10. We agree with the Equality & Social Justice Committee's Stage 1 Report observation that "there are challenges that could impede implementation [of the Bill's vision of procurement] including inconsistent contract management, cultural resistance, and a lack of capacity and resources, all of which will need to be addressed". We concur with the Committee's view that the Welsh Government must address issues of capacity, capability and collaboration.
11. Ethical and sustainable certifications can be used to deliver global responsibility, for example Fairtrade, FSC, MSC, Electronics Watch, and Organic. Recording data on these purchasing commitments would also provide a clear route to evidence our positive impacts. The Bill should instruct public bodies to deliver staff training to promote a greater understanding of how public body activities and consumption can have both negative and positive global impacts.
12. Further, as recommended by the [Feminist Scorecard 2022](#) (WEN Wales and Oxfam Cymru) Welsh Government should include women's right and global solidarity with women within the scope of the Bill. A practical example of how this might be achieved would be to stipulate that training on gender equality, safeguarding and ethical procurement must be mandatory for key staff within public bodies.
13. Net Zero targets should be inserted on the face of the Bill. This would enable the Bill to meet the recommendation in the Future Generations Commissioner for Wales report *Procuring well-being in Wales* that "to meet carbon emission targets every public body should set out clearly how they have considered the carbon impact of their procurement decisions and in the case of construction or infrastructure contracts should clearly require schemes to be net-zero carbon over their lifetime".
14. Commitments made at COP26 by the Welsh Government to tackle Wales' overseas deforestation footprint, starting with public procurement¹, should be referenced on the face of the Bill.

For further information, please contact:

¹ <https://www.bbc.co.uk/news/uk-wales-59199514>

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