

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

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

**SPPP 11**

**Ymateb gan: Amnesty International Cymru | Response from: Amnesty International Wales**

---





Cae Elan  
Y Ferwig  
Cardigan  
SA43 1PX

21 July 2022

## **Consultation on the Social Partnership and Public Procurement (Wales) Bill**

### **Response from Amnesty International in Wales.**

Thank you for the opportunity to comment on the Social Partnership and Public Procurement Bill (Wales). Our comments are aimed at the sections of the Bill relating to public procurement.

#### **General comments**

1. Amnesty International believes that public procurement policy can be a powerful tool for creating positive change while also demonstrating the intentions of Wales in terms of its place in the world.
2. We have been in communication with both the Minister for Finance and Local Government (Rebecca Evans) and the Minister for Deputy Minister for Social Partnership (Hannah Blythyn) requesting that public bodies in Wales be advised by the Welsh Government to include human rights provisions when awarding contracts through tenders. The proposed mechanism for this was through the Grave Professional Misconduct clause in the Public Contracts Regulations 2015 (regulation 57) which would allow public bodies to disqualify entities from tendering for contracts if they have caused or contributed in a significant way to human rights abuses. We have received a legal opinion from a QC and procurement lawyer that use of this clause to advance human rights would be lawful provided this was done proportionately and on a case-by-case basis.
3. 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](#)).
4. Our specific concern has been to ensure that public bodies in Wales do not enter into contracts with entities which conduct business with Israeli settlements in the Occupied Palestinian Territories as these settlements are illegal under international law. From our communications with the Welsh Government we believed that this bill could be a mechanism for addressing this issue.

We are disappointed that this Bill does not include any such provision.

## **Specific comments on clauses**

We have three key comments to make.

Chapter 2 of the bill deals with the Socially Responsible Procurement Duty. We welcome this approach.

1. Clause 24 (2) states: *A contracting authority carries out public procurement in a socially responsible way by taking action, in accordance with the sustainable development principle, aimed at contributing to the achievement of the well-being goals listed in section 4 of the WFGA 30 2015 (referred to for the purposes of this Part as the “socially responsible procurement goals”).*

One of the well-being goals is that of a “Globally Responsible Wales” defined as:

*A nation which, when doing anything to improve the economic, social, environmental and cultural well-being of Wales, takes account of whether doing such a thing may make a positive contribution to global well-being.*

However, the Bill does not attempt to define how this specific goal will be achieved. We are particularly concerned that no mention of the human rights impacts of procurement by public bodies in Wales is made. This absence is a missed opportunity to create change but also to support the establishment of Wales as a country supportive of the rights of those outside its borders. Other government initiatives have clarified Wales’ position (such as the Nation of Sanctuary policy) but this Bill is silent on human rights issues.

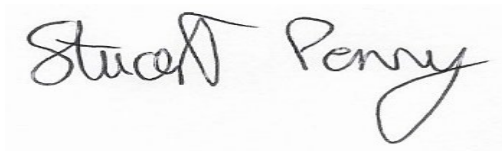
2. We welcome the provisions of Clause 38 (Procurement Strategy) requiring contracting authorities to set out a procurement strategy. It is not clear, however, that the strategy should include reference to procurement supporting human rights. It is not clear to us how this will be achieved (in the context of the Globally Responsible Wales goal).

The Bill states that Ministers may amend subsection 2 *“to specify other matters which procurement strategies must address;”* but it is not clear to us how this will be achieved. It would seem to be more sensible to build in some key principles from the start.

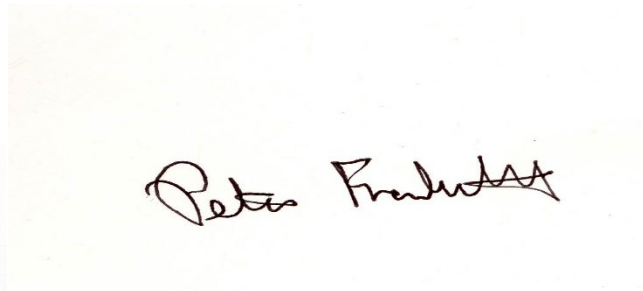
3. We also welcome the provisions in sections 39 and 40 for annual reports from authorities to describe the steps they have taken to meet their social responsibility requirements plus the requirement for the publication of a Contracts Register. Once again, these would be more useful if there was more guidance from the start on how authorities should meet their requirements within the Globally Responsible Wales goal.

Thank you, again, for the opportunity to comment on the Bill. We look forward to your deliberations and ask you to look closely at our comments and make the necessary recommendations to ensure that the human rights implications of public procurement are included in the final bill.

Yours sincerely,

A handwritten signature in black ink that reads "Stuart Penny". The signature is written in a cursive style with a large, looping 'y' at the end.

Wales Representative  
Amnesty International

A handwritten signature in black ink that reads "Peter Frenkel". The signature is written in a cursive style with a large, looping 'l' at the end.

Programme Director Economic Affairs  
Amnesty International