

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 15**

**Ymateb gan: RTM | Response from: RMT**

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# Policy Briefing

22<sup>nd</sup> July 2022

## Social partnership and Public Procurement (Wales) Bill

### Written Evidence to the Equality & Justice Committee of the Senedd

#### **Background**

The Wales Government has committed to introduce legislation mandating social partnership and other improvements to workers rights and industrial relations in the public and private sectors of the economy. The Fair Work Commission's recommendations from March 2019 are the origins of this Bill and the Wales Government initially consulted on the draft proposals in the Bill in spring 2021.

RMT responded to the consultation and welcome the opportunity to comment on the general principles of the Bill, which was introduced in the Senedd on 7 June 2022. We stand ready to assist members of the Equality and Social Justice Committee in their scrutiny of this important piece of legislation for all workers and trade unions in Wales.

#### **Key points**

- The tri-partite structure of the Social Partnership Council is welcome and offers workers in the private sector in Wales improved protections from employers who may be hostile to trade unions. This is a vital principle for the Bill to build on.
- The SPC should also consider new as well as existing employer and trade union forums, particularly in harder to regulate industries, such as shipping.
- RMT welcome the inclusion of Transport for Wales in the scope of the Bill, subject to the preservation of existing collective bargaining agreements and arrangements in TfW.
- The link between the procurement duty and outsourcing is welcome and the secondary regulations should be strong enough to encourage insourcing of work by public bodies, as Transport for Wales has done with cleaning contracts on the rail network.
- The Bill's redefinition of work as 'decent' is in line with the core mandate of the International Labour Organisation to promote decent work, as well as the Future Generation Commissioner's targets in A Prosperous Wales.
- Supply chain conditions will be an important lever for workers and their trade unions in the private sector to improve or maintain good collectively bargained terms and conditions of employment particularly in large construction and infrastructure projects.

#### **Social Partnership Council**

We are reassured that the SPC and the accompanying Social Partnership Duty in the Bill will strengthen trade union rights in Wales, including collective bargaining coverage in the public sector. As we have consistently pointed out, this should not interfere with or dilute

existing collective bargaining arrangements between trade unions and employers. We do not think that this will be the effect, including in public bodies such as Transport for Wales.

The emphasis on the private sector in the Bill, whilst acknowledging the bounds of competencies, is also welcome. The general principle of using the SPC to obtain the perspectives of employers and trade unions from across the public, private and third sectors is particularly important. We support that principle and support subsequent detail through the Bill which delivers an SPC framework that increases decent employment and the median income in Wales.

We would also point out developments in the UK Parliament on seafarers wages and employment conditions, following P&O's scandalous dismissal of nearly 800 UK resident seafarers, immediately replaced by inexperienced agency crews, some on pay below the legal minimum on land. Whilst these egregious actions did not take place on ferries operating from Welsh ports, it has huge implications for major employers of seafarers in Wales, particularly Stena Line.

The UK Government's response to P&O includes a *Seafarers Wages Bill* and discussions around a national framework for seafarer employment conditions on international shipping routes from ports in Wales and the UK, based on collectively bargained terms and conditions. This includes the collective bargaining agreement between RMT and Stena Line in Holyhead and Fishguard.

The *Seafarers Wages Bill* received Second Reading on 20 July and the voluntary (at this stage) Framework Agreement will be published next month. The Framework Agreement creates a Seafarer Protection Forum, comprised of trade unions, employers and the Department for Transport. Assuming this Bill becomes law, we believe that it is worth exploring how the proposed Forum complements the plans for a Social Partnership Council in Wales.

The P&O scandal highlighted, once again, the exploitative and fatigue-inducing contracts that shipping companies use to employ non-UK resident crews. This includes Irish Ferries, which uses this 'low-cost' crewing model on routes from Wales to Ireland, undercutting Stena Line and threatening further job losses. The legislative response to P&O at UK level has real potential to complement the Wales Government's proposals in the Social Partnerships etc Bill, particularly the SPC framework.

The Regulatory Impact Assessment section of the Explanatory Memorandum refers<sup>1</sup> to 'opportunity costs' through the existing Workforce Partnership Council. Expanding on the welcome principles in the Bill, the use of other forums involving private sector employers and trade unions would provide additional value to the work of the SPC on behalf of all workers and trade unions in Wales. This is especially important in harder to regulate industries such as shipping which are a permanent and essential element in the national supply chain.

## **Transport for Wales and public bodies**

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<sup>1</sup> Para. 188

The original proposals for this legislation did not include Transport for Wales and we are pleased that the Wales Government intend to include TfW and seven other public bodies in the Bill. This is subject to a separate Wales Government consultation<sup>2</sup> on the inclusion of the additional public bodies which closes in October.

The general principle of expanding the list of public bodies to which the Bill applies is welcome and the list should be kept under review. It is important that the positive aspects of this two-strand approach are emphasised during the passage of the Bill, including in any powers to create secondary legislation.

### **Procurement Duty and outsourcing**

This is an extremely important principle in the Bill. RMT strongly welcomed Transport for Wales' decision to bring the outsourced cleaning contract with Axis back in-house.<sup>3</sup> That case clearly supports the general principle in the Bill on linking public procurement and direct public sector employment on trade union negotiated terms and conditions.

In our view, the Procurement Duty should also cover nationally significant infrastructure projects, from ports, railways and roads. An overlapping of the Procurement Duty with the Bill's general principles on supply chain employment standards could be particularly effective here, within the bounds of competencies. This would help address the over reliance on contractors and the culture of 'umbrella companies' that this encourages on the national rail infrastructure in Wales.

### **Fair and decent work definition**

We support the general principle behind the Bill's definition of work as 'decent' as opposed to 'fair.' The core mandate of the International Labour Organisation is to promote decent work, and the ILO definition of decent work informs the UN's Sustainable Development Goals, which in turn inform the seven goals in the Well Being of Future Generations Act 2015, particularly around prosperity and equality.

This strengthens the Bill. It also raises the impact of the UK Government's introduction, earlier this week, of secondary legislation<sup>4</sup> overriding Section 2 of the Trade Union (Wales) Act 2017 preventing the use of agency workers to replace workers taking industrial action. No doubt that this point will come up in the Committee's deliberations on the general principle of the Bill, given the impact on workers' fundamental right to withdraw their labour which is a key component of meaningful tri-partite structures.

### **Supply chains**

The Bill is ambitious in this area and RMT welcome this. The general principle of securing ethical employment in supply chains offers real potential of improving the conditions of workers in parts of the economy where short-term contracts, seasonal work and imported labour are common. The shipping and maritime sectors are good examples of where these improvements are most needed for workers.

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<sup>2</sup> <https://gov.wales/additional-public-bodies-subject-well-being-duty-part-2-well-being-future-generations-wales-act>

<sup>3</sup> <https://www.rmt.org.uk/news/rmt-suspends-cleaners-strike-action-and-welcomes-transport-for/>

<sup>4</sup> Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2022

The recent agreement with the UK Government on seed funding for Freeport sites in Wales confirm the importance of strong employment protections in the supply chain. This is of particular significance for workers and communities around the sites that will bid for Freeport status, which includes Holyhead – the second busiest ro-ro freight port in the UK.

In addition, the recent confirmation<sup>5</sup> of leasing contracts for offshore wind farm sites, including the 3GW projects planned off the Wales coast by BP and EnBW supports this general principle in the Bill.

Ethical and principled legislation to protect workers rights and conditions is particularly important to the future well-being of workers and communities in Wales, including the benefits of Net Zero. A recent report by the Offshore Wind Industry Council<sup>6</sup> predicts that employment (direct and indirect) will more than treble in the UK over the next eight years, employing over 97,000 people by 2030.

However, despite the development and construction activity that will take place in the Irish Sea during this period, including the Awel y Môr, Morgan and Mona developments OWIC forecast that the number of offshore wind jobs in Wales will actually decline to 585 by 2030.<sup>7</sup> We believe that a failure to fully account for the potential of supply chain jobs in Wales, from manufacturing steel components to crewing operation and maintenance vessels from Welsh ports, are not properly reflected in OWIC's report and the general principles in this Bill provide grounds for addressing this.

In our view, supply chain principles in the Bill and covered by the SPC should also take into account non-devolved public bodies such as Network Rail and the Crown Estate. These bodies have ultimate responsibility for tiered supply chains which can often conceal unethical employment practices, including rates of pay below the voluntary Living Wage cited in Future Generation Commissioner's goals in 'A Prosperous Wales.'<sup>8</sup>

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<sup>5</sup> <https://renews.biz/79249/beis-approves-8gw-of-leases-for-r4-winners/>

<sup>6</sup> OWIC [Skills Intelligence Report](#) 13 June 2022

<sup>7</sup> Fig 25, Pg. 44 OWIC [Skills Intelligence Report](#) 13 June 2022

<sup>8</sup> <https://www.futuregenerations.wales/aop/become-a-living-wage-employer/>