

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 20

Ymateb gan: Chambers Wales | Response from: Chambers Wales



CONSULTATION

Consultation on the Social Partnership Council and Public Procurement Bill

Chambers Wales South East, South West and
Mid

**CHAMBERS
WALES**

SOUTH EAST / SOUTH WEST / MID

Foreword

We welcome Welsh Government taking an active stance during the current challenging economic climate. By having this legislation, we can ensure social partnership is at the forefront of Wales' future, in improving the economic, environmental, social and cultural wellbeing of the nation. As a part of this strategy, we look forward to working with Welsh Government on economic recovery and how best to serve Welsh businesses across all sectors.

This Social Partnership Council is being brought in to replace the Shadow Social Partnership Council whose last meeting was on 14th of July and formally becoming a part of legislation. We recognise how important this council is in the pursuit of social partnership and how the Welsh Government interacts with key stakeholders to effectively understand the Welsh landscape when making key decisions. It therefore must be stressed that the economy and businesses' place within it becomes a priority for the council going forward. The Shadow Social Partnership Council demonstrated the effectiveness of a motivated group that could advise ministers on complicated issues from all angles of society during the height of the COVID-19 lockdown in March 2020. This model can be replicated to advise the First Minister and other officials in the wake of the economic and social challenges that have arisen since, from business struggles and an economic downturn, to the cost-of-living crisis, the fuel and utility crisis and the effects that they have on our communities. It is vital therefore, that there is transparent and open debate within the SPC about the value that businesses can bring in alleviating these issues. To facilitate this, it is of the upmost importance that the SPC has a **clear agenda** as well as a concise mandate. This will give the SPC a laser focus on key issues and will enhance the effectiveness and efficiency of the group.

The procurement part of the bill will affect businesses owed to the implementation of the goals set out in the Future Generations Act (WFGA 2015) requiring fair work to be integrated into this legislation. In return, this will affect the supply chain and influence the behaviour of businesses. Despite not being written formally into the bill, collective bargaining is the driving force behind this implementation (and is integrated into what later becomes the responsibilities and "duties" of Welsh gov and firms). The link between the public procurement section of the bill and the public procurement subgroup of the SPC section of the bill is crucial in recognising the role that Welsh government plays in public procurement, laying out a clear and concise approach for businesses is vital.

Considering these potential changes that could drastically affect businesses, Chambers Wales has laid out the following recommendations to be made to ensure that Welsh firms get a "fair deal". We ask that these recommendations be considered by the Welsh Government in their entirety, and as a collective.

Recommendations

Recommendation 1 – The Social Partnership Council must consider private sector-based solutions when assessing policy issue (where appropriate).

Recommendation 2 – Ensuring the Social Partnership Council has a focus on outcomes, rather than structure, a clear agenda with a sense of purpose and a retained pace and agility that has served it so well.

Recommendation 3 – Welsh Government works with BROs to engage businesses with the Social Partnership Council and Public Procurement bill.

Recommendation 4 – Shorten the lead time on the Social Partnership Council.

Recommendation 5 – Welsh Government commits to buying from Welsh businesses under this bill.

Recommendation 6 – Protections are put in place to ensure smaller Welsh businesses are not at disadvantage to larger international, national or local ones through exploitative bids.

Recommendation 7 – Welsh government outlines a clear and concise set of terms and conditions that businesses can understand for procurement, utilising help from Business Representative Organisations where necessary.

Recommendation 8 – Ensure a streamlined process in all public procurement works, with any delays taking no longer than necessary.

Recommendations in detail

Recommendation 1 – The Social Partnership Council must consider private sector-based solutions when assessing policy issue (where appropriate).

In the current economic circumstances, businesses are struggling more now than they were during the first COVID-19 lockdown in March 2020. Chambers Wales believes in the good that the Social Partnership Council can do, having been a part of its predecessor first-hand. Therefore, we ask Welsh Government and the First Minister to consider the private sector's role to play when addressing the Social Partnership Council's agenda items, and to take an equal view on private and public challenges and solutions.

Recommendation 2 – Ensuring the Social Partnership Council has a focus on outcomes, rather than structure, a clear agenda with a sense of purpose and a retained pace and agility that has served it so well.

In order to ensure the most effective and efficient Social Partnership Council possible, it is recommended that the council has a clear agenda and purpose, as this will help bring the outcomes that the Council wishes to achieve into stark focus. The focus on outcomes is highly important as clear goals and objectives then will avoid the council working to the structure of meetings, or prioritising outputs for outputs sake. Neither of these will fulfil the council's goal of improving the economic, environmental, social and cultural wellbeing of Wales and therefore is a key operational objective to get right first time. The Social Partnership Council must also retain the flexibility and pace that made it a successful and efficient forum for government engagement in the first place. Similarly, it is important that other forums to for engagement with Welsh Government are developed to focus on other aspects of Welsh society. The Social Partnership Council cannot be used as a catch-all and other forums will be necessary to ensure that the Social Partnership Council is able to keep focus and other issues are addressed in the appropriate channels. It would also be pertinent to have provisions in place to measure the success of the Social Partnership Council. The council should be able to measure its own success as long as it has a clear agenda, purpose and focus, however formal procedures should be put in place to ensure that the Social Partnership Council remains an efficient and successful body.

Recommendation 3 – Welsh Government works with BROs to engage businesses with the Social Partnership Council and Public Procurement bill.

Firms are struggling to understand what the Social Partnership and Public Procurement Bill is and are unsure how it affects them and their business going forward. Many businesses will continue to run as they were even if this bill can positively affect them. Therefore, it is highly important that the bill is publicised in a manner that can be understood by business owners and that Welsh Government can demonstrate to business owners how this bill benefits them through their cooperation with Business Representative Organisations such as Chambers Wales.

Recommendation 4 – Shorten the lead time on the Social Partnership Council.

The current bill states that the First Minister must appoint all members of the SPC within 6 months of this legislation coming into effect. Chambers Wales belief is that this is too long to wait, as the SPC is unlikely to make meaningful or major decisions until most if not all major stakeholders of the SPC have been invited and accepted. Businesses are struggling now and need help from the Social Partnership Council as soon as possible, not in 6 months' time when prices will be even higher and margins even slimmer because Welsh businesses will have no safety net. Our recommendation would be to expedite this process to be as quick as possible, if necessary, grandfathering in the members of the shadow social partnership council to act as a makeshift body while selections to the Social Partnership Council are made. This will allow the Social Partnership Council to begin functioning as soon as possible.

Recommendation 5 - Welsh Government commits to buying from Welsh businesses under this bill.

There is currently no provisions in the bill, or in the Welsh Public Procurement Policy Statement that require an obligation for Welsh Government and contracting authorities to buy Welsh, not even an obligation to buy a percentage of services from Welsh businesses. This recommendation sets out a goal for Welsh Government to increase their target from 50% spent in Wales to 60% within the first year, incrementally increasing by 5% for the following 4 years for a total of 80% and to enshrine it within this legislation. This is of paramount importance, not just to support Welsh businesses, help firms recover and improve the economy, but also to strengthen Welsh communities, infrastructure and the people that rely on those businesses, while providing innovation without the need to buy elsewhere. Welsh businesses are struggling heavily due to cost of living, cost of utilities, fuel and raw materials and Welsh Government in applying this target would be a strong step in supporting Welsh businesses.

Recommendation 6 - Protections are put in place to ensure smaller Welsh businesses are not at a disadvantage to larger ones through exploitative bids.

Public procurement in the general landscape does not have rules in place to protect SMEs from being outcompeted on certain contracts from larger businesses owed to uncompetitive bids for goods and services that SMEs cannot afford. This stifles small business growth massively as they are unable to compete with larger firms. Nurturing that growth through fair competition in bidding (where larger and smaller firms have equal footing) will be beneficial for Welsh businesses, the Welsh economy and Welsh communities. We recommend the bill introduce an accompanying appendix clause outlining a strategy to ensure that there is fair competition for small businesses bidding against larger ones for public procurement contracts.

Recommendation 7 – Welsh government outlines a clear and concise set of terms and conditions that businesses can understand, utilising help from BROs where necessary.

In reference to the public procurement section of the bill, it is important that there is a simple, appropriate and effective set of terms and conditions. Businesses do not have the time to assess long documents and it will result in those businesses not engaging with the public procurement section of the bill. Furthermore, any terms and conditions will also need to be written in a language that businesses understand rather than legalese or jargon. If the terms are too complicated it will not get read. Therefore, our recommendation is that Welsh Government should consult, collaborate with and take the advice of BROs on how to format a brief set of terms and conditions written in a language that business owners will understand and engage with.

Recommendation 8 – Ensure a streamlined process in all public procurement works, with any delays taking no longer than necessary.

It is highly important for any business contracted under the new public procurement section of the bill to begin working as soon as possible in the current economic climate, especially when considering stockpiling, huge fluctuations in material costs and inflation. The longer that any construction project takes to begin, the worse it will be for businesses, and it is vital that this process is not artificially slowed down in any way. The process for businesses to engage with Welsh Government for contracts, negotiations and any necessary bureaucracy needs to be as streamlined as possible to allow work to begin quickly.

Summary

Overall Chambers Wales welcomes this legislation, if utilised correctly with a clear agenda, purpose and focus, the Social Partnership Council can be a powerful tool that can benefit Wales greatly in advising key ministers when making informed decisions.

It has the potential to be a strong forum that, when encased in legislation, will have greater legitimacy and influence. However, this can only be realistically achieved by ensuring the founding principles of the Shadow Social Partnership Council are included, that of agility, speed and a unique dynamism among its core members.

The public procurement section of the bill is highly important to ensuring that businesses can operate smoothly when contracting for the Welsh Government while being in accordance with fair work under the Future Generations Act, however the public procurement section of the bill still has room for improvement and the recommendations within this consultation can go far in making the SPC and PP Bill the best it can possibly be for communities, businesses and for Wales as a whole.

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