

Consultation Response Form

Your name: Aled Roberts

Organisation (if applicable): Welsh Language Commissioner

Is this a collective response on behalf of your organisation / group of organisations (please specify): /

Email / telephone number: post@cyg-wlc.cymru / 0345 6033 221

Address: Welsh Language Commissioner, Market Chambers, 5-7 St Mary Street, Cardiff, CF10 1AT

Question	Response
Why the Bill is required	
Question 1: Do you agree with the reasons set out regarding the need for the Bill? Do you have any comments concerning the case for change?	
Key provisions of the draft Bill: Social partnership	
Question 2: What is your view on the social partnership duty set out in the draft Bill?	
Question 3: What is your view on the social partnership principles listed and defined in the table in this section?	
Question 4: What is your view on the list of bodies that are subject to the social partnership duty in the draft Bill? Should the list of bodies be wider than those subject to the well-being duty in the Well-being of Future Generations (Wales) Act 2015?	<p>We would like to emphasize, at the beginning of our response, that we are contributing to this consultation from a policy perspective rather than an employer's.</p> <p>The Welsh Language (Wales) Measure 2011 places a duty on a number of bodies, through the standards, to promote and facilitate the use of the Welsh language. It should be ensured that those bodies that will also be subject to the proposed Bill continue to fulfil their duties under the standards.</p> <p>We urge the Government to take advantage of the opportunity offered by</p>

	<p>the Bill to promote and facilitate the use of the Welsh language in the third and private sectors, which are not within the scope of the Measure.</p> <p>On a related issue, consideration should be given as to how the Bill will encompass relevant new bodies established in the future.</p>
<p>Key provisions of the draft Bill: Fair work</p>	
<p>Question 5: What is your view on the proposed duties on Welsh Ministers concerning fair work objectives?</p>	<p>We note that the Bill’s definition of fair work is expected to be framed by the <i>Fair Work Wales</i> report (2019), in which the Fair Work Commission describes six main characteristics. Of these, we would like to draw particular attention to employee voice; opportunity for growth and progression; inclusive working environment and legal rights respected. Ensuring the opportunity to use Welsh at work, to develop Welsh language skills or to acquire new language skills is vital for fair work.</p> <p>This is already a requirement for those organizations subject to the relevant operational standards. It reflects the principles established by the Welsh Language Measure, that the Welsh language is an official language in Wales and that people have the freedom to use it. It also supports the Government’s emphasis on the workplace within the <i>Cymraeg 2050</i> Welsh language strategy. The Welsh language should be clearly referenced within the Bill.</p>
<p>Question 6: What is your view on key challenges and priority areas for pursuing and promoting fair work?</p>	
<p>Question 7: Do you have a view on how to frame a legal definition of fair work which meets the limits of our legislative competence and progresses our ambitions for a ‘Fair Work Wales’?</p>	

<p>Question 8: In addition to what is set out in the draft Bill, what other levers could be used by Welsh Ministers to promote and achieve fair work?</p>	
<p>Key provisions of the draft Bill: Socially responsible public procurement</p>	
<p>Question 9: What are your overall views concerning the provisions and thresholds set out regarding the socially responsible procurement duties, including the categories listed within the social public works clauses?</p>	<p>We agree with the aim of ensuring improvements through the model clauses in terms of well-being, and especially from a cultural perspective. We note Category 4: Providing appropriate training for workers. There is an opportunity through this category to convey the importance of offering Welsh language and Welsh-medium training to employees. Some organizations are already under a duty to provide such training under the requirements of the Welsh language standards.</p>
<p>Question 10: What is your view on other potential measures outside of those outlined that could be taken in pursuit of ensuring socially responsible public procurement?</p>	
<p>Question 11: What is your view on the table of contracting authorities above concerning the socially responsible procurement and social public workforce (Two-tier Code) duties?</p>	<p>See the response to Question 4 above. We would like to know whether there is an intention to include the Regional Partnership Boards, if enabled to employ staff, hold budgets and commission and deliver regionally, as proposed in the Government White Paper, <i>Rebalancing care and support</i> (2021).</p> <p>In the context of regional initiatives, we urge the Government to give careful consideration to the role of other cross-border bodies, such as the corporate joint committees created by the Local Government and Elections (Wales) Act 2021.</p>
<p>Question 12: Should the current list of contracting authorities included within the Two-tier Workforce Code be retained or should this be brought in line with the rest of the procurement duties?</p>	

Should any additional changes be made to the way in which the Code operates?	
Question 13: How can greater due diligence be achieved in construction supply chain management whilst keeping costs to a minimum, especially for smaller contractors in supply chains?	
Question 14: What are your views on a potential future expansion of the contract management duty regarding the application, maintenance and monitoring through the supply chain of socially-responsible clauses to other sectors beyond construction (for example, social care)?	
Key provisions of the draft Bill: Social Partnership Council	
<p>Question 15: What is your view on the provisions set out in the draft Bill concerning:</p> <p>a. Membership of the Social Partnership Council;</p> <p>b. The proposed nomination process?</p>	<p>The draft Bill does not require an understanding of Welsh language issues by Council members. This requirement should be included.</p> <p>There is an intention to create a statutory Social Partnership Council. However, there is no clarity on the governance and administration of the Council and, subsequently, how the proposed Council will be subject to the Welsh language standards.</p> <p>Consideration should be given at an early stage in the legislative process to how assurance can be given that the body will be added to Schedule 6 of the Welsh Language (Wales) Measure 2011 or alternative legal mechanisms should be considered to enable the Welsh Ministers to make it applicable to the standards regime when legislating.</p> <p>We are of the opinion that more clarity and guidance are needed regarding the status of the body in the context of the Welsh Language Measure and what practical steps will be taken to provide assurance regarding the body's use of</p>

	Welsh and considering the language within the scope of its work.
Question 16: What is your view on the proposals concerning the establishment and operations of the Social Partnership Council and its subgroups?	
Question 17: What is your view on the outlined social partnership system in Wales, including the system leadership role of the Social Partnership Council and the links between different levels of social partnership?	
Supporting improvement and ensuring compliance	
Question 18: Concerning the social partnership duty, should an improvement and compliance mechanism be developed to ensure that all bodies meet their duties and make a collective contribution to the delivery of the proposed outcomes? If yes, do you have any suggestions as to how this might work in practice?	
Question 19: Should there be an adjudication mechanism at national Social Partnership Council level for the escalation of any failure to agree at sector level? If yes, do you have any suggestions as to how this might work in practice?	
Question 20: What are your views on the enforcement and compliance measures proposed in the draft Bill concerning socially responsible procurement and contract management? What other measures could be applied? Do you have any suggestions as to how any additional enforcement and compliance measures might work in practice?	
Equalities and impacts	
Question 21: Do you agree with the impacts that are outlined in this section? Are there potential unintended	

<p>consequences on certain groups that should be considered?</p>	
<p>Question 22: Concerning the Regulatory Impact Assessment, do you agree with the assessment of the likely costs and benefits associated with the provisions in the draft Bill? If not, please explain which specific element(s) you disagree with and why.</p>	
<p>Question 23: Do you have any additional or alternative evidence which could help to inform the final Regulatory Impact Assessment?</p>	
<p>Question 24: We would like to know your views on the effects that the proposals set out in the draft Bill would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favorably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?</p>	
<p>Question 25: Please also explain how you believe the proposed policy in the draft Bill could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favorably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favorably than the English language.</p>	<p>Recommendations received during the consultation on the White Paper, <i>A More Equal Wales</i>, are discussed in the Consultation Document. Some were concerned with how procurement provisions could specify what will be required in terms of Welsh language provision and services. The Consultation Document explains that these issues will be considered further when developing the statutory guidance relating to the policy areas of the draft Bill. We would welcome further discussion about this issue.</p> <p>Following on from our response to Question 15 above, we believe that enabling the Commissioner to set Welsh language standards on the new body in due course would enable standards to be set relating to the use of the Welsh</p>

	<p>language and consideration of the Welsh language within the scope of its work. We consider it essential, as noted above, that new bodies are created having regard to the Welsh Language Measure and its role in protecting the rights of Welsh language users, and that the status of the Welsh language has a prominent place in the decisions of such a statutory body.</p> <p>The Consultation Document notes that promoting the Welsh language is an example of what needs to be considered in the context of cultural well-being in the socially responsible procurement duties. The draft Bill refers to socially responsible procurement goals that achieve the well-being goals of the Well-being of Future Generations Act and the fair work goal set by the Bill. The Well-being Act includes the aim of a ‘Wales of vibrant culture and thriving Welsh language’ and I agree that this aim should underpin the procurement principles set out in the Bill. As noted in the response to Question 5 above, the Welsh language should be clearly referenced within the Bill in the context of fair work. This can contribute to the aim of treating the Welsh language no less favourably than the English language.</p>
<p>Question 26: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.</p>	