



Llywodraeth Cymru
Welsh Government

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Proposed approach to the provision of information and advice by the SPC to the Welsh Ministers

Social Partnership Council meeting, 1 February 2024: agenda item 4.

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Issue

1. This paper provides background information for SPC members on the role of the SPC in relation to the social partnership duties placed on certain public bodies by the Social Partnership and Public Procurement (Wales) Act 2023 (“the SPPP Act”), and the pursuit of the 'A Prosperous Wales' well-being goal by public bodies under the Well-being of Future Generations (Wales) Act 2015 (“the WFG Act”).
2. The paper sets out proposals as to how the SPC might undertake its function of providing information and advice to Welsh Ministers in relation to the social partnership duties placed on public bodies. SPC members are asked to consider the proposals at paragraphs 14 to 18 below.

Background

Well-being Objectives

3. Since 2017, public bodies subject to the provisions of the WFG Act have been required to set well-being objectives which maximise their organisation's contribution to achieving each of the seven national well-being goals set out in the WFG Act.
4. The setting of well-being objectives should be an integral part of each public body's corporate planning process, with agreed objectives published in a well-being statement to be included in the body's corporate plan (or equivalent). The well-being statement must also include details of the steps the public body intends to take to meet its objectives. Once set, public bodies are then expected to take all reasonable steps, when exercising their statutory functions, to meet those objectives. They are also required to review their well-being objectives

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each year and to publish an annual update on the progress they are making towards achieving them.

The SPC

5. The purpose of the SPC as described in the SPPP Act is to “improve economic, environmental, social, and cultural well-being (including by improving public services) in Wales”. In order to do this, the SPC may provide information and advice to the Welsh Ministers in relation to:

(a) the social partnership duties which Part 2 of the SPPP Act imposes on public bodies and the Welsh Ministers;

(b) the pursuit of the 'A Prosperous Wales' well-being goal by public bodies when carrying out sustainable development under the WFG Act; and

(c) the socially responsible public procurement functions conferred on contracting authorities and the Welsh Ministers under Part 3 of the SPPP Act.

6. The SPPP Act explains that the SPC “may provide information or advice on these matters of its own accord, or in response to a request made by the Welsh Ministers. Where the SPC receives a request from the Welsh Ministers, it must provide the information or advice as soon as reasonably practicable.”

The Social Partnership Duty

7. Part 2 of the SPPP Act places a social partnership duty on those public bodies subject to the well-being duty in the WFG Act, and separately on Welsh Ministers.

8. The social partnership duties will be commenced on 01 April 2024. Thereafter, public bodies subject to the legislation will be required to seek consensus or

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compromise with their recognised trade unions (or other representatives of staff where no trade unions are present) when setting their well-being objectives or making decisions of a strategic nature about the steps they intend to take to deliver those objectives, whilst the Welsh Ministers will be required to consult the SPC when making decisions of a strategic nature about the reasonable steps they are taking to meet their well-being objectives.

9. Given that the social partnership duties will complement existing well-being duties under the WFG Act, Annex A provides an explanation of how the social partnership duty on public bodies will align to each stage of the existing well-being duty.

10. Each public body subject to the social partnership duty will be required to publish and provide to the SPC an annual report at the end of each financial year explaining what they have done to comply with the duty in the preceding 12 months. Each public body must agree its report with its recognised trade unions (or where there is no recognised trade union, other representatives of its staff) or, if has not been agreed, the report must contain a statement explaining why it was not agreed.

The pursuit of the A Prosperous Wales Well-being Goal by Public Bodies

11. The 'A Prosperous Wales' goal is one of the seven national well-being goals set out in the WFG Act and from 1 April 2024 will be described in the Act as follows:

"An innovative, productive and low carbon society which recognises the limits of the global environment and therefore uses resources efficiently and proportionately (including acting on climate change); and which develops a skilled and well-educated population in an economy which generates wealth and provides employment opportunities, allowing people to take advantage of the

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wealth generated through securing fair work."

12. This description originally referred to 'decent work' rather than 'fair work' but was amended by the SPPP Act. The purpose of amending the description was to ensure that public bodies subject to the well-being duty give consideration to the pursuit of fair work when setting, reviewing, and taking steps towards meeting, their well-being objectives.

13. The SPPP Act also brought the pursuit of the 'A Prosperous Wales' well-being goal by Government and public bodies within the scope of the SPC so as to enable the SPC to provide information and advice to the Welsh Ministers on the contribution public bodies are making to the achievement of this goal – including the promotion of fair work.

Proposed approach to the provision of information and advice by the SPC to Welsh Ministers in relation to public bodies' social partnership duties

14. It is proposed that the annual reports on the social partnership duty published by public bodies each year will be collated and analysed by the SPC secretariat. SPC members will be provided with a summary report each year which will include the following information:

- Where a public body has set well-being objectives during the reporting period, it has provided evidence of it having sought consensus or compromise with its workforce in relation to these, and the outcome of that process;
- Where a public body has taken decisions of a strategic nature in relation to the reasonable steps it intends to take to meet those well-being objectives

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during the reporting period, it has provided evidence of it having sought consensus or compromise with its workforce in relation to these, and the outcome of that process; and

- Whether each public body's annual report has been agreed with its workforce, and if not, the reasons why agreement was not reached.

15. In addition to this information, the summary provided to SPC members may also highlight examples of notable practice which the SPC might wish to draw to the attention of other public bodies and/or share more widely via case studies to be published on its website.

16. Consideration of the summary report will be scheduled as a standing item of SPC business.

17. The purpose of this ongoing annual exercise is to ensure the SPC is provided with information which enables it to:

- understand the extent to which public bodies are meeting the social partnership duty;
- identify and promulgate examples of good practice; and
- identify and address any potential areas of concern.

18. Following consideration of the summary report by SPC members each year the SPC's observations will be recorded in the minutes of the relevant meetings and published on the SPC website. Where examples of good practice are identified these will be highlighted on a dedicated section of the website where case studies will be available for other organisations to learn from. Where any areas of concern may be identified, these will be fed back to the relevant public body/ies along with signposting to relevant guidance and information.

Next steps

19. Members of the SPC are invited to agree the proposals set out above.

20. Given that the duty on public bodies commences in April 2024, the first social partnership annual reports will be published no earlier than spring/summer 2025. A standing item will therefore be added to the SPC forward work programme for consideration of the first tranche of annual reports in summer 2025 and regularly thereafter.

Annex A

The Relationship Between the Well-being Duty and the Social Partnership Duty on Public Bodies

The social partnership duty on public bodies in Wales is set out in sections 15, 16 and 18 of the Social Partnership and Public Procurement (Wales) Act 2023 (“the SPPP Act”). It complements existing well-being duties to which public bodies are already subject under the Well-being of Future Generations (Wales) Act 2015 (“the WFG Act”).

There are three components to the social partnership duty on public bodies in Wales which relate to the three components of the well-being duty as follows:

The Well-being Duty component 1: setting of well-being objective

The WFG Act places a duty on each public body to carry out sustainable development. Sustainable development is defined as 'a process of improving the economic, social, environmental and cultural well-being of Wales by taking

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action, in accordance with the sustainable development principle, aimed at achieving the well-being goals'. The action a public body takes in carrying out sustainable development must include the setting and publishing of objectives ("well-being objectives") that are designed to maximise the body's contribution to the achievement of each of the seven well-being goals, and take all reasonable steps in exercising its functions to meet those objectives.

The **statutory guidance** for the WFG Act explains how public bodies already have mechanisms to set out their objectives, such as the corporate plan or strategic plan, and that the sustainable development duty is about designing these objectives in a way that maximises their contribution to the well-being goals. The setting of well-being objectives should be an integral part of each public body's corporate planning process, the agreed objectives must be published, and the body must also publish a statement (a "well-being statement") about their well-being objectives at the same time. The statutory guidance encourages bodies to contain both pieces of information in the same document - such as a Corporate Plan or similar. The well-being statement must also include details of the steps the public body intends to take to meet its objectives. The guidance recognises that different public bodies have different corporate planning arrangements: for example, local authorities have five-year strategic planning cycles, whilst local health boards planning cycles are for three years.

The Social Partnership Duty component 1: involving the workforce in setting well-being objectives

The aim of the social partnership duty in the Social Partnership and Public Procurement (Wales) Act 2023 ('the SPPP Act') is to promote a more consistent and collaborative approach to the setting of well-being objectives, and strategic decisions made in relation to these, by public bodies in Wales.

To this end, Section 16 of the SPPP Act places a duty on each named public

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body to seek consensus or compromise with its recognised trade union(s), or where there is no recognised trade union, with other representatives of its staff, when setting its well-being objectives under section 3(2)(a) of the WFG Act and when it is taking decisions of a strategic nature about the reasonable steps it needs to take to meet those objectives in accordance with section 3(2)(b) of the WFG Act.

Section 16 of the SPPP Act requires public bodies to seek consensus or compromise with their trade union/worker representatives “in so far as is reasonable”. This means that the public body must involve its trade union/worker representatives at a formative stage of the objective-setting process; must provide sufficient information to enable trade union/worker representatives to properly consider what is being proposed, and must allow sufficient time for them to adequately consider what is being proposed and to respond.

The duty to share and consult on sufficient information at a formative stage of the process, and to allow sufficient time for proposals to be considered by trade unions or other staff representatives, is the minimum expected of a process of genuine engagement. These requirements will promote a more consistent and collaborative approach to strategic decision-making by public bodies, in turn ensuring that objectives set and key decisions made by public bodies properly takes account of the views, knowledge and experiences of that body’s workforce.

The duty does not apply to the day-to-day decisions of a public body.

It should also be noted that the duty requires the public body to seek, rather than to achieve, consensus or compromise with trade union/worker representatives in setting well-being objectives.

The Well-being Duty component 2: taking all reasonable steps to meet well-being objectives

The WFG Act requires public bodies, having set their well-being objectives, to then take all reasonable steps when exercising their statutory functions to meet those objectives. The statutory guidance (SPSF 2) states:

“ There will always be a limit to the amount of finance, people, time and assets that are available to take the necessary action. But the consideration of these factors needs to be reviewed through the five ways of working provided by the sustainable development principle balanced with the contribution made by the well-being objectives. ”

The Social Partnership Duty component 2: involving the workforce in making decisions of a strategic nature about the reasonable steps the body takes to meet its well-being objectives

Public bodies will, from time to time, need to make additional strategic decisions about the steps to be taken towards meeting their well-being objectives. To ensure that the views, knowledge and experiences of its workforce are taken into account when such decisions are being made the SPPP Act requires public bodies to seek consensus or compromise with their recognised trade unions or, where there is no recognised trade union, other representatives of their staff.

The public body should involve its trade union/worker representatives at a formative stage of the decision-making process; provide sufficient information to enable trade union/worker representatives to properly consider what is being proposed, and allow sufficient time for them to adequately consider what is being proposed and to respond.

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The Well-being Duty component 3: reviewing and reporting on progress

The WFG Act requires public bodies to publish annual reports of the progress it has made in meeting its well-being objectives, and in preparing this report they must review its well-being objectives. The WFG Act does not require public bodies to report on their compliance with the WFG Act. The annual reporting duty is to provide transparency to the public, those with responsibility for providing accountability for the Act and those working in public services to access information to support continual improvement. This is different to the social partnership reports which are a report on what a public body has done to comply with the social partnership duty.

The statutory guidance advises public bodies that reviewing and reporting on progress against well-being objectives should be undertaken as part of their wider corporate reporting processes rather than as a separate exercise and should be published in public bodies' annual reports (or equivalent). This is the practice we have seen with bodies under the Act with the majority of bodies using their existing corporate planning and reporting processes to discharge their objective setting and reporting duty. This helps to reinforce the intent of the WFG Act to make sustainable development the central organising principle of public bodies.

The Social Partnership Duty component 3: reporting on workforce involvement in progress towards well-being objective

The SPPP Act builds on the above requirement by placing a duty on each public body also to report annually (in this case to the Social Partnership Council) on how it sought consensus or compromise with trade union/worker representatives when making decisions of a strategic nature about the reasonable steps to be taken to meet its well-being objectives. This social partnership report must be

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agreed with the public body's trade union/worker representatives, or, if it has not been possible to agree it, contain an explanation as to why it has not been agreed.

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