

# Financial Implications of the Social Partnership and Procurement (Wales) Bill

November 2022



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# Financial Implications of the Social Partnership and Procurement (Wales) Bill

November 2022



# About the Committee

The Committee was established on 23 June 2021. Its remit can be found at:  
**[www.senedd.wales/SeneddFinance](http://www.senedd.wales/SeneddFinance)**

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Current Committee membership:



**Committee Chair:**  
**Peredur Owen Griffiths MS**  
Plaid Cymru



**Peter Fox MS**  
Welsh Conservatives



**Mike Hedges MS**  
Welsh Labour



**Rhianon Passmore MS**  
Welsh Labour

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# 1. Introduction

- 1.** The Social Partnership and Public Procurement (Wales) Bill<sup>1</sup> (the Bill) and Explanatory Memorandum<sup>2</sup> (EM), including the Regulatory Impact Assessment (RIA), was introduced by Hannah Blythyn MS, the Deputy Minister for Social Partnership (the Deputy Minister) on 7 June 2022.
- 2.** On the same day, the Deputy Minister made an introductory statement on the Bill in Plenary<sup>3</sup>.
- 3.** The Bill includes provision for:
  - the establishment of a Social Partnership Council;
  - a statutory duty on certain 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, when setting their well-being objectives and delivering on those objectives under section 3(2) of the Well-being and Future Generations Act 2015 (WFG Act 2015);
  - a statutory duty on Welsh Ministers to consult social partners, employers and worker representatives through the Social Partnership Council when delivering on their well-being objectives under section 3(2)(b) of the WFG Act 2015;
  - amendment of section 4 of the WFG Act 2015 by substituting 'fair work' for 'decent work' within the existing "A prosperous Wales" goal;
  - a statutory duty on certain public bodies to consider socially responsible public procurement when carrying out procurement, to set objectives in relation to well-being goals, and to publish a procurement strategy;
  - certain public bodies to carry out contract management duties to ensure that socially responsible outcomes are pursued through supply chains;
  - reporting duties to be imposed on the public bodies and Welsh Ministers in relation to the Social Partnership Duty and Procurement duty.

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<sup>1</sup> Welsh Government, [Social Partnership and Public Procurement \(Wales\) Bill](#)

<sup>2</sup> Welsh Government, [Explanatory Memorandum](#)

<sup>3</sup> Plenary, Record of Proceedings, [7 June 2022](#)

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**4.** The Finance Committee (the Committee) took evidence on the financial implications of the Bill on 30 June 2022<sup>4</sup>, from:

- Hannah Blythyn MS, Deputy Minister for Social Partnership
- Jo Salway, Director, Social Partnership and Fair Work
- Neil Surman, Deputy Director, Social Partnership
- Sue Hurrell, Head of Fair Work Procurement

**5.** Policy scrutiny of the Bill was undertaken by the Equality and Social Justice Committee (ESJ)<sup>5</sup>.

**6.** The Legislation, Justice and Constitution Committee considered the Bill in accordance with matters which fall within its remit.<sup>6</sup>

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<sup>4</sup> Finance Committee, RoP, 30 June 2022

<sup>5</sup> Equality and Social Justice Committee

<sup>6</sup> Legislation, Justice and Constitution Committee

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## 2. Purpose and need for the Bill

### Summary of costs

7. The costs included in the Regulatory Impact Assessment (RIA) are assessed over a five-year appraisal period from 2023-24 to 2027-28. The RIA shows the Welsh Government will incur total costs of £3.2 million over the five years, with the public sector incurring £20.8 million. The total costs of the Bill over the period are approximately £30.4 million.<sup>7</sup>

**Table 1: Costs associated with the Social Partnership and Public Procurement Bill from 2023-24 to 2027-28**

Cost description	Cost (£000s)
<b>Welsh Government</b>	
Transitional costs	242
Recurrent costs	2,910
<b>Total costs</b>	<b>3,152</b>
<b>Public sector</b>	
Transitional costs	131
Recurrent costs	20,651
<b>Total costs</b>	<b>20,782</b>
<b>Private sector</b>	
Recurrent costs	6,466
<b>Total Bill costs</b>	<b>30,399</b>

Source: Welsh Government, *Regulatory Impact Assessment, Social Partnership and Public Procurement (Wales) Bill*, June 2022

8. The Deputy Minister said that the Bill sets out a framework for good practice in social partnership working, fair work and socially responsible procurement outcomes. She expected that many of the bodies covered by the Bill would already be undertaking “many of the actions associated with the Bill” and the majority “will be able to meet the cost”. Therefore, the Deputy Minister did not expect any additional financial support would be required.<sup>8</sup> The Deputy Minister

<sup>7</sup> Welsh Government, Explanatory Memorandum, page 48

<sup>8</sup> Finance Committee, RoP, paragraph 145, 30 June 2022

emphasised that “we’ve not legislated on procurement in Wales previously” and therefore “we do need to do this to actually get consistency and to improve outcomes”. She highlighted the challenges the Welsh Government has faced due to the lack of available data and said that this legislation “will allow us to...get the information that we do need in order to build those better outcomes.”<sup>9</sup>

**9.** The Deputy Minister’s official said that the outcomes of the legislation would be linked to the well-being goals with a “big focus on environmental protection” as well as local economic benefits.<sup>10</sup>

## Inflation

**10.** The Green Book issued by HM Treasury provides guidance on how to appraise and evaluate policies and programmes. In relation to adjusting for inflation, it notes:

*“Costs and benefits in appraisal of social value should be estimated in ‘real’ base year prices (i.e. the first year of the proposal). This means the effects of general inflation should be removed.”<sup>11</sup>*

**11.** In May 2022, UK inflation soared to 9 per cent<sup>12</sup>, which was the highest level for 40 years. The Bank of England’s Monetary Policy Report (August 2022) forecasts:

*“CPI inflation is expected to rise more than forecast in the May Report, from 9.4% in June to just over 13% in 2022 Q4, and to remain at very elevated levels throughout much of 2023, before falling to the 2% target two years ahead.”<sup>13</sup>*

**12.** The Deputy Minister acknowledged that the costs presented in the Bill would be subject to inflation, which is expected to rise in future years. She went on to say:

*“...there are a lot of unknowns in terms of whether budgets will rise in line with that, and around staff costs and so on, but it is something that we are alive to, and at this point, we don’t think it would impact on being able to deliver the legislation, essentially.”<sup>14</sup>*

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<sup>9</sup> Finance Committee, RoP, paragraph 161, 30 June 2022

<sup>10</sup> Finance Committee, RoP, paragraph 166, 30 June 2022

<sup>11</sup> HM Treasury, Green Book

<sup>12</sup> The Guardian, UK inflation hits 40-year high of 9% as cost of food and energy soars

<sup>13</sup> Bank of England, Monetary Policy Report, August 2022

<sup>14</sup> Finance Committee, RoP, paragraph 280, 30 June 2022

## Committee view

**13.** The Committee acknowledges the aim of the Bill is to achieve good social partnership working and deliver socially responsible procurement outcomes, with a key focus on environmental and fair work through supply chains. The Committee notes the Deputy Minister's view that the majority of public bodies will be able to absorb the costs within existing budgets and that no additional financial support is anticipated.

**14.** However, we are concerned that rising inflation, will lead to additional costs being borne by the public and private sectors across the five-year appraisal period. Whilst noting that the HM Treasury's Green Book states that costs "should be estimated in 'real' base year prices" meaning the effects of general inflation should be removed, given the current crisis with inflation at a 40-year high and the uncertainty that the Welsh Government's block grant will rise at the same level, the Committee believes the RIA should have taken into account rising inflation when calculating potential costs arising from the Bill.

**15.** A key concern for the Committee throughout this report is the lack of available data to estimate possible cost implications, benefits and savings. The RIA also contains many "unknown costs", such as the impacts of the real living wage provision. Whilst accepting the challenges facing the Welsh Government that without cost baselines it is difficult to carry out cost-benefit analyses, this has consequently made it difficult for the Committee to assess the financial implications of the Bill. In the Committee's report on the 'Financial implications of the Tertiary Education and Research (Wales) Bill', the Committee recommended:

*"the Welsh Government undertakes further work analysing and estimating the cost benefits of the Bill. The Regulatory Impact Assessment should be updated to include further information on these benefits, how they will be analysed and when they are anticipated to be delivered."*<sup>15</sup>

**16.** This is the second Bill to be introduced into the Senedd and this is the second time the Committee has had to call on the Welsh Government to undertake further work to analyse and estimate the cost benefits of a Bill. The Committee expects that RIAs include how costs will be analysed and when they are anticipated to be delivered as a matter of course.

**17.** The Committee has made a number of recommendations in this report that further financial information is provided, should there be significant changes to the RIA, the Committee may consider those changes in more detail.

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<sup>15</sup> Finance Committee report: [Financial Implication of the Tertiary Education and Research \(Wales\) Bill](#)

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**Conclusion 1.** The Committee is broadly content with the financial implications of the Bill as set out in the Regulatory Impact Assessment, subject to the comments and recommendations in this report.

**Conclusion 2.** Should there be significant changes to the Regulatory Impact Assessment as a result of the recommendations made in this report, the Committee may consider those changes in more detail.

**Recommendation 1.** The Committee recommends that the Welsh Government updates the Regulatory Impact Assessment to model costs based on current/forecast inflation data.

**Recommendation 2.** Given the current inflation crisis, the Committee recommends that the Welsh Government includes inflation when calculating potential costs arising in future Bills to truly reflect the costs borne.

### 3. Public and private sector costs

#### **Socially responsible procurement duty**

**18.** £29 million of costs arising from the Bill are related to the establishment of a socially responsible procurement duty. The RIA notes the public and private sectors would incur costs of £20.5 million and £6.5 million respectively.<sup>16</sup>

**19.** The RIA states “any costs incurred by the private sector may arise from increased expectation on delivering socially responsible public procurement outcomes”.<sup>17</sup> Possible scenarios include:

- wider use of sustainably sourced materials;
- staff receiving more training and better terms and conditions of employment;
- staff time in attending additional training and support sessions that could be made available through Business Wales.<sup>18</sup>

**20.** However, the RIA explains these costs are difficult to estimate, because it is not possible to know how many businesses currently provide goods, services or works to the contracting authorities covered by the Bill, what proportion of these would be required to focus on particular issues, to what extent they would wish to make use of available training, awareness sessions or one-to-one support, or how many employees (and at what level) would be required to attend.

**21.** When asked whether attempts had been made to model the possible scenarios provided in the RIA, to determine potential costs, the Deputy Minister said that as the Bill covers a “huge range of different types of public bodies” she did not have “that information, that data, to measure the baselines at present”.<sup>19</sup>

**22.** The Deputy Minister’s official added:

*“...modelling is possible in individual cases and it might be possible to take one category and look at it across the board once we start to have some data, but we just don't have that information available to us at the moment.*

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<sup>16</sup> Welsh Government, Explanatory Memorandum, page 50

<sup>17</sup> Welsh Government, Explanatory Memorandum, page 91

<sup>18</sup> Welsh Government, Explanatory Memorandum, page 91

<sup>19</sup> Finance Committee, RoP, paragraph 169, 30 June 2022

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*And it's not just in Wales. The Scottish Government have had a duty on sustainable procurement for a number of years, and when you look at the Scottish Government's summary report of procurement outcomes, there's very little that actually reports on the outcomes in the figures and the numbers. A lot of it is still very input focused: the number or proportion of bodies that are including particular questions, or covering community benefits. So, I think we've got an opportunity to address that through the collection of really good data, but we aren't there at the moment."*<sup>20</sup>

**23.** The RIA notes the implementation of a socially responsible public procurement duty could lead to significant financial benefits:

*"The benefits for businesses and organisations in supply chains could be significant in all respects, including financial benefits through improved productivity of staff, improved service and higher sales etc. The benefits to Wales in the long term are also impossible to quantify but are likely to be very considerable, given the scale of procurement spend within Wales each year."*<sup>21</sup>

**24.** In response to why a cost-benefit analysis was not included in the RIA, the Deputy Minister said:

*"This goes back to what we've just been touching on around data. Without having those cost baselines, it's nearly impossible to carry out a cost-benefit analysis, especially when you're talking about—. We were just talking in terms of global issues, global responsibility, if the aims are to reduce exploitation and environmental degradation overseas, things that are going to be experienced in the future, reducing health and income inequalities. So, we recognise the series of challenges in terms of how we make these calculations apply right across all of the well-being categories in the Bill. We will hopefully be able to use that enhanced data collection to work out a cost-benefit analysis in particular cases, or with a particular focus on expenditure."*<sup>22</sup>

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<sup>20</sup> Finance Committee, RoP, paragraph 170, 30 June 2022

<sup>21</sup> Welsh Government, Explanatory Memorandum, page 92

<sup>22</sup> Finance Committee, RoP, paragraph 177, 30 June 2022



## Committee view

**25.** The Committee is disappointed that costs and savings have not been quantified in the RIA. We heard from the Deputy Minister that this information has been difficult to estimate due to the lack of available data. Whilst we accept that the data may be limited due to the broad nature of this Bill and the complexity of global supply chains, we have on numerous occasions expressed our view that RIAs should contain the best estimate possible for costs and benefits to enable us to fully scrutinise the overall financial implications of a Bill.

**26.** The Committee believes that attempts could have been made to model the possible scenarios provided in the RIA, such as the wider use of sustainably sourced materials, staff receiving more training and better terms and conditions of employment. Given the Deputy Minister's comments that the Scottish Government has faced similar issues in reporting procurement outcomes, the Committee believes the Welsh Government should work with its Scottish counterparts to see if there are any lessons learnt around cost impact.

**Recommendation 3.** The Committee recommends that the Welsh Government undertakes further work to assess the costs to public and private bodies relating to the socially responsible procurement duty. This information should include a sensitivity analysis to show the potential range of costs and should be included in a revised Regulatory Impact Assessment, after Stage 2.

**Recommendation 4.** The Committee recommends that the Welsh Government works with the Scottish Government to see if there are any lessons learnt around cost impact and report back to the Committee with those findings.

**27.** We are pleased to hear that data collection will be a priority in this legislation and that the Deputy Minister is committed to continual evaluation with stakeholders, to gain a better understanding to quantify benefits. However, the Committee believes that cost-savings and quantifying benefits should be a key element of the options appraisal process and should support decision making. As such RIAs should contain a cost-benefit analysis and the lack of information in this Bill should not become commonplace across legislation introduced by the Welsh Government.

**Recommendation 5.** The Committee recommends that the Welsh Government undertakes further work analysing and estimating the cost benefits of the whole Bill once the relevant data is available and this information should form part of the post-implementation review.

## Bid costs and real living wage

**28.** The RIA highlights “a likely result, particularly in the short term, of increased focus on socially responsible public procurement outcomes would be an increase in bid prices”.<sup>23</sup>

**29.** It further notes this would be the case if additional requirements are placed on businesses without careful consideration to ensure that requests are proportionate and focused around areas of higher risk.<sup>24</sup>

**30.** However, the RIA states that “developing high-quality statutory guidance and providing support to procurement and contract management staff across Wales would be key to achieving benefits in the most cost-effective manner”.<sup>25</sup>

**31.** With an increasing focus on Fair Work, another likely additional cost would be incurred through increased adoption of the Real Living Wage throughout supply chains. The RIA says “it is not possible to predict the likely increase in numbers of people seeing their pay uplifted as a result of this draft Bill, and so the impacts cannot be quantified”.<sup>26</sup>

**32.** The Deputy Minister highlighted that whilst the Welsh Government “cannot mandate the payment of the real living wage”, she would “expect that this legislation will hopefully increase real living wage accreditation as one aspect of better employment practices.”<sup>27</sup> She continued:

*“...when people are paid the real living wage, that does bring economic benefits not just to them, but the communities in which they live and spend their money as well. So, we'll need to consider in which ways we might measure any changes and report them as part of the annual review process.”*<sup>28</sup>

**33.** The Committee asked if the Deputy Minister had given any consideration to whether there would be an increase in income tax generated in Wales, if more people are paid the real living wage. The Deputy Minister explained the difficulties in calculating this because income tax is based on “postcode, a business or an organisation could use the postcode of their head office or elsewhere, so it may not translate to be accurate data about what's in Wales.”<sup>29</sup>

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<sup>23</sup> Welsh Government, Explanatory Memorandum, page 84

<sup>24</sup> Welsh Government, Explanatory Memorandum, page 84

<sup>25</sup> Welsh Government, Explanatory Memorandum, page 84

<sup>26</sup> Welsh Government, Explanatory Memorandum, page 84

<sup>27</sup> Finance Committee, RoP, paragraph 185, 30 June 2022

<sup>28</sup> Finance Committee, RoP, paragraph 185, 30 June 2022

<sup>29</sup> Finance Committee, RoP, paragraph 201, 30 June 2022

## Committee view

**34.** The Committee notes that in the short term, the increased focus on socially responsible public procurement outcomes could lead to increases in bid prices. We are concerned that businesses may respond to the cost increase by reducing employees or passing the cost increases onto customers. To mitigate this, the Committee urges the Welsh Government to ensure that the additional requirements placed on businesses are proportionate and that the statutory guidance provides the necessary support for procurement and contract management staff in Wales.

**Recommendation 6.** The Committee recommends that the Welsh Government ensures that the additional requirements placed on businesses in relation to the procurement duty are proportionate so that any cost increases are not passed onto customers and that the statutory guidance provides the necessary support for procurement and contract management staff in Wales.

**35.** The Committee considers that the impact of the Bill on the Welsh economy will depend on the response of those organisations to the cost increases. It is possible that some businesses may, in the future, decide not to bid for contracts covered by the Bill, particularly if supplying goods and services to the Welsh public sector represents a relatively small part of their business. We are pleased that the post-implementation review will include an assessment of the economic impact of the socially responsible public procurement duty.

**36.** The Committee welcomes the increased focus on Fair Work and we hope that as a result of this Bill, public and private bodies will adopt the Real Living Wage. The Committee expects the uptake of the Real Living Wage, as a result of this Bill, to be monitored and included in the post-implementation review.

**Recommendation 7.** The Committee recommends that the post-implementation review should include the uptake by public and private bodies of the Real Living Wage as a result of this Bill.

## Contract management

**37.** Construction contract management costs are the most significant allocations made in the RIA, with annual costs of £3.9 million for the public sector and £1.3 million for the private sector over the five-year appraisal period.<sup>30</sup>

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<sup>30</sup> Welsh Government, Explanatory Memorandum, page 113

**38.** The RIA notes “any costs incurred by the private sector may arise from increased expectation on delivering socially responsible public procurement outcomes”.<sup>31</sup> Possible scenarios include:

- wider use of sustainably sourced materials.
- staff receiving more training and better terms and conditions of employment.
- staff time in attending additional training and support sessions that could be made available through Business Wales.<sup>32</sup>

**39.** Additional recurring costs will fall on the private sector for construction management, estimated to be £6.5 million over the five-year period.<sup>33</sup>

**40.** The RIA explains:

*“Whilst the long-term objectives are for improvements to be made in contracts across all sectors, one of the focuses in this draft Bill is on large construction contracts, with values above £2m, and the cost estimates have been calculated on this basis.”<sup>34</sup>*

**41.** The Deputy Minister explained that the cost estimates had been based on contracts over £2 million because a large proportion of Welsh public funding is spent on construction projects with “really complex supply chains”. The Deputy Minister’s official added:

*“I think having some duties that focus attention particularly on construction and some statutory guidance that puts expectations in place for what people need to do will require more effort and time spent, but the benefits could be quite considerable in cost savings. ... But the extent of that is unknown, because some public bodies will be doing great contract management, and others not so good, and we really don't have a handle on the amount of time and effort spent on managing contracts across the board.”<sup>35</sup>*

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<sup>31</sup> Welsh Government, Explanatory Memorandum, page 91

<sup>32</sup> Welsh Government, Explanatory Memorandum, page 91

<sup>33</sup> Welsh Government, Explanatory Memorandum, page 49

<sup>34</sup> Welsh Government, Explanatory Memorandum, page 94

<sup>35</sup> Finance Committee, RoP, paragraph 191, 30 June 2022

**42.** The Welsh Government has made the assumption that 75 per cent of the construction management figure would fall to the public sector in increased contract management resource, and 25 per cent to the private sector.<sup>36</sup>

**43.** The Deputy Minister explained the rationale for the split was due to the duties in the Bill largely falling to the public sector. The Deputy Minister's official suggested that the private sector is already undertaking "good contract management, they have to have people in post to do contract management—that's how their entire business will work". However, in relation to the public sector, the official said:

*"...we do need to significantly increase the amount of resources spent doing some of that work. It can't all be done by just throwing it over the wall and expecting the business to come up with all of the answers; there will need to be further effort put in within the public sector. So, it was just really from talking to people who are active and who have a sense of where the gaps are. It might not be right, but it's the best we can do at this point."*<sup>37</sup>

**44.** When asked whether such costs would exclude Welsh small and medium-sized businesses from participating in public procurement, the Deputy Minister said the key point:

*"...is around making sure we build in proportionality to make sure the clauses and the guidance can be applied proportionately through supply chains where outcomes are sustainable...."*

*I think one thing that we will do too is, alongside the statutory guidance we've touched on, make sure that support is available specifically for SMEs who might wish to subcontract for major construction projects. We can do that via those kinds of networks and organisations that are already in place, such as Business Wales, and do things like events to meet the buyer, to make sure they are fully inclusive and have reached out."*<sup>38</sup>

**45.** In terms of benefits, the Deputy Minister said that the construction management duty will aim to ensure that "projects are not only delivered on time, on budget, but they're done safely, and that those socially responsible procurement clauses are being embedded throughout the

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<sup>36</sup> Welsh Government, Explanatory Memorandum, page 95

<sup>37</sup> Finance Committee, RoP, paragraph 207, 30 June 2022

<sup>38</sup> Finance Committee, RoP, paragraph 158, 30 June 2022

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whole supply chain, so that the delivery is monitored as well". She hoped that the duty would prevent unethical practices, such as modern slavery, from happening in supply chains.<sup>39</sup>

**46.** The Deputy Minister confirmed there would be a range of support for contract management including statutory guidance, awareness sessions and webinars. She said that social partners and stakeholders would be involved to "make sure that we have the right support for the right people".<sup>40</sup>

## Committee view

**47.** The Committee notes the construction contract management costs are the most significant allocations in the Bill, with a particular focus on large construction contracts with values above £2 million. We are concerned that the provisions will place additional requirements on organisations managing contracts and therefore additional costs. However, we hope this duty will lead to improvements in contracts across sectors and will aim to prevent unethical practices, such as modern slavery, from happening in supply chains. The Committee believes the necessary support should be available for public and private sector through the statutory guidance and Business Wales.

**48.** Details around the actual impact of this duty on SMEs is scarce. We believe the Welsh Government should make sure that Welsh SMEs are able to participate in public procurement, by ensuring the statutory guidance is applied proportionally. In addition the Welsh Government should provide further analysis of how this duty impacts SMEs so that its impact can be understood.

**Recommendation 8.** The Committee recommends that the Welsh Government provides support specifically for small and medium-sized businesses to enable them to participate in contracts.

**Recommendation 9.** The Committee recommends that the Welsh Government provides further analysis of how the construction contract management duty impacts small and medium-sized businesses.

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<sup>39</sup> Finance Committee, RoP, paragraph 211, 30 June 2022

<sup>40</sup> Finance Committee, RoP, paragraph 213, 30 June 2022

## 4. Well-being of Future Generations (Wales) Act 2015

**49.** The EM notes that the WFG Act 2015 defines “sustainable development” to mean “the process of improving the economic, social, environmental and cultural well-being of Wales”. The sustainable development principle requires those subject to the WFG Act 2015 to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.<sup>41</sup>

**50.** There are five things that public bodies need to think about to show they have applied the sustainable development principle, known as the “five ways of working” (long term; prevention, integration, collaboration and involvement).<sup>42</sup>

**51.** The EM further states:

*“This Bill is designed to complement and build on the five ways of working that make up the sustainable development principle by introducing the principle of social partnership as an essential way in which Government and public bodies should work.”<sup>43</sup>*

**52.** The Deputy Minister confirmed that the Bill does not place any additional obligations on the Future Generations Commissioner or their office. However, she added that the Welsh Government intends to consult on the WFG Act 2015, to seek views on extending the well-being duty on named public bodies in Part 2 of the Act. This review is being undertaken by the Minister for Social Services.<sup>44</sup>

**53.** The EM notes there could potentially be financial implications to the Commissioner if the list of public bodies included in the WFG 2015 Act was modified:

*“However should the list of ‘in-scope’ public bodies in section 6 of the WFG Act 2015 change after the formal review, this is likely to be a financial implication for the Commissioner. Until a formal review has been conducted to determine if there is a change to the number of public bodies subject to the duty we are unable to quantify the cost.”<sup>45</sup>*

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<sup>41</sup> Welsh Government, Explanatory Memorandum, page 9

<sup>42</sup> Welsh Government, Explanatory Memorandum, page 9

<sup>43</sup> Welsh Government, Explanatory Memorandum, page 9

<sup>44</sup> Finance Committee, RoP, paragraph 215, 30 June 2022

<sup>45</sup> Welsh Government, Explanatory Memorandum, page 73

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**54.** The Deputy Minister said she is working closely with the Minister for Social Services “to make sure that any concerns or any implications from that review are addressed”.<sup>46</sup>

**55.** The Deputy Minister subsequently wrote to the Committee to notify it that the consultation had been published.<sup>47</sup>

**56.** The EM highlights the social partnership duty is a separate duty that is intended to complement the well-being duty and the sustainable development duty in the WFG Act 2015. It says it “does not change the role and remit of the Future Generations Commissioner for Wales (the Commissioner), or duties on the Auditor General under the WFG Act 2015”.<sup>48</sup> In terms of the Commissioner, the RIA adds there is no intention:

*“To change the scope of the duty on the Future Generations Commissioner for Wales to monitor and assess the extent to which well-being objectives set by public bodies are being met, and therefore it is not intended that the Bill will have financial implications on the Future Generations Commissioner for Wales.”<sup>49</sup>*

## Statutory guidance

**57.** The EM highlights that bodies carrying out prescribed procurements will be required to publish annual reports. Statutory guidance will need to define the expected content of these reports, and in particular what data should be collected and reported by relevant bodies.<sup>50</sup>

**58.** In terms of the guidance, the EM notes organisations would need to engage with the Commissioner:

*“It [statutory guidance] should also be developed to encourage proportionality and avoid placing too great an administrative burden, and part of this will be engaging with the Future Generations Commissioner’s Office to streamline reporting requirements between this Bill and the WFG Act 2015.”<sup>51</sup>*

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<sup>46</sup> Finance Committee, RoP, paragraph 215, 30 June 2022

<sup>47</sup> ~~Letter from the Deputy Minister for Social Partnership, 5 August 2022~~

<sup>48</sup> Welsh Government, Explanatory Memorandum, page 21

<sup>49</sup> Welsh Government, Explanatory Memorandum, page 73

<sup>50</sup> Welsh Government, Explanatory Memorandum, page 86

<sup>51</sup> Welsh Government, Explanatory Memorandum, page 86



**59.** The Deputy Minister said the annual reporting process would be a really helpful “vehicle for sharing good practice and opportunities for public bodies to work together”.<sup>52</sup>

**60.** The Deputy Minister’s official indicated that the reporting duty would be proportionate so “if there's a small body that, in the course of a year, didn't do any larger procurement, they wouldn't be obliged in that year to produce an annual report...we've made commitments to ensure that”.<sup>53</sup> She continued:

*“All the bodies that have to comply with the well-being Act have to report, and we've made it clear that we want that reporting to be completely streamlined as regards procurement. There wouldn't be any additional work for bodies that are already doing that. So, those two things hopefully should keep the cost to a minimum for smaller bodies that aren't doing so much major procurement.”*<sup>54</sup>

**61.** The Committee asked whether the reporting duty would have an additional financial burden for Audit Wales. The Deputy Minister’s official said that Audit Wales had not raised this as a concern but had requested that the reporting arrangements proposed in the Bill should align with other reporting and accountability frameworks. The Deputy Minister’s official confirmed that was “very much our intention” and that they would “continue conversations” with Audit Wales.<sup>55</sup>

## **Post-implementation review**

**62.** The post-implementation review states it will include “an assessment of the economic impact of the socially responsible public procurement duty”.<sup>56</sup>

**63.** The Deputy Minister said that there would be an “ongoing evaluation process as the legislation is implemented, which will allow us to learn and to improve.”<sup>57</sup>

**64.** The Deputy Minister’s official added that they would consider the:

*“... data we've been able to generate through these changes, what that has been able to tell us about the efficiency and the effectiveness of the system*

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<sup>52</sup> Finance Committee, RoP, paragraph 145, 30 June 2022

<sup>53</sup> Finance Committee, RoP, paragraph 152, 30 June 2022

<sup>54</sup> Finance Committee, RoP, paragraph 152, 30 June 2022

<sup>55</sup> Finance Committee, RoP, paragraph 148 & 149, 30 June 2022

<sup>56</sup> Welsh Government, Explanatory Memorandum, page 85

<sup>57</sup> Finance Committee, RoP, paragraph 156, 30 June 2022

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*that we've put in place, how well procurement is or isn't working and how much may it improve as a result of these changes."*<sup>58</sup>

**65.** The Deputy Minister's official said that they are considering preparing a mid-term report as well as the final five-year evaluation report but "that's not absolutely final".<sup>59</sup>

## Committee view

**66.** Whilst we note the Deputy Minister's view that the Bill does not place any additional obligations on the Future Generations Commissioner or their office, we are concerned that there could be financial implications arising from the review that might broaden the bodies covered under the WFG 2015 Act and subsequently will be required to comply with this Bill. We are pleased to hear that the Deputy Minister is working with the Minister for Social Services to ensure this Bill dovetails with the review of the WFG 2015 Act and that any financial implications will be addressed.

**67.** Furthermore, bodies that carry out prescribed procurements will be required to publish annual reports and will need to engage with the Future Generations Commissioner's Office to streamline reporting requirements between this Bill and the WFG Act 2015. The Committee is concerned that this could result in additional costs for the Commissioner and therefore adequate funding should be provided if there are additional costs as a result of this Bill.

**Recommendation 10.** The Committee recommends that the Deputy Minister reports back to the Committee on the outcome of the review of the Well-being and Future Generations Act 2015 and provides details of any additional funding that will be required for the Commissioner.

**68.** The Committee reiterates its view that the inclusion of a robust post-implementation review is good practice and helps to ensure the objectives of legislation are being delivered in line with expectations and that value for money has been achieved. As previously stated in our report on the 'Financial implications of the Tertiary Education and Research (Wales) Bill'<sup>60</sup>, the Committee expects the Welsh Government to include a post-implementation review of all Bills before the Senedd as standard practice. The Committee is pleased that a post-implementation review is included in the RIA. Given the limited data relating to outcomes available prior to introduction of the Bill to quantify the benefits, the Committee believes a mid-term report as well as the final five-year evaluation report should be prepared to monitor progress of this legislation.

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<sup>58</sup> Finance Committee, RoP, paragraph 226, 30 June 2022

<sup>59</sup> Finance Committee, RoP, paragraph 226, 30 June 2022

<sup>60</sup> Finance Committee report: Financial Implication of the Tertiary Education and Research (Wales) Bill

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**Recommendation 11.** Given the limited data available on the financial outcomes of the Bill at this stage, the Committee recommends that the Welsh Government publishes a mid-term assessment outlining financial costs incurred because of the Bill's implementation.