

1. Context & rationale for Wales TUC Social Partnership proposals

1.1 Wales faces severe long term economic and public service challenges which are significantly worsened by the UK government austerity agenda. Casualised, low paid and insecure forms of employment dominate in some sectors and areas. Many communities suffer huge disadvantage having been failed by the free market and targeted by negative UK government policies around deindustrialisation, privatisation and cuts in welfare provision.

The Wales TUC believes that social partnership provides the mechanism to assist Welsh government prioritise delivery of long term social and economic equality for Wales.

1.2 The potential consequences for Wales of any form of Brexit - but particularly a no deal crash out – have been set out in Welsh government preparatory work. As First Minister, Rhodri Morgan identified the need for effective social partnership arrangements to deal with the financial crisis in 2008. This helped for example to maintain employment in Wales’ car components sector through the successful Proact scheme which was developed and delivered in social partnership.

The Wales TUC believes that a similar approach is required now to secure Wales’ resilience in the face of the current potentially even more challenging situation.

1.3 Brexit also means the end of the UK being party to the supra-national arrangements based on social dialogue which are at the heart of the EU constitution. Given the UK government track record on reducing workers rights and dismissing UN International Labour Organisation standards, it is unlikely that social dialogue arrangements will be replaced at UK level.

The Wales TUC believes that Welsh government should see the continuity of social dialogue and social partnership for Wales as an essential democratic and constitutional function.

1.4 At our 2010 special conference, Wales TUC agreed to work in partnership with Welsh Government to mitigate the impact in Wales of UK austerity policies. The tripartite social partnership approach adopted in Wales has led to many successes and benefits

for unions and for working people. Other parts of the UK would have done well to have followed that example. However there is need to ensure the universal and uniform delivery of social partnership agreements and the effectiveness and coverage of the partnership arrangements can be strengthened.

The Wales TUC believes that - by underpinning, enhancing and consolidating our social partnership - the new administration can provide a massive legacy for Wales and set the agenda for the whole of the UK.

2. Summary of Wales TUC proposals

The Wales TUC proposes that the Welsh government takes the following immediate actions in order to deliver an effective and robust tripartite social partnership for Wales.

2.1 Make a formal declaration of social partnership principles and develop a binding protocol for Welsh government in working with the Wales TUC & unions.

2.2 Establish a tripartite Social Partnership Council - chaired by the First Minister - to provide an all Wales, all sector perspective for social partnership arrangements, to co-ordinate the sector partnership arrangements and to ensure consistency of approach and universal application.

2.3 Establish a Social Partnership Directorate to provide sufficient resource and expertise to ensure delivery of the social partnership arrangements.

2.4 Undertake a review of existing partnership arrangements to ensure that they are fit for purpose in the new context and are accommodated within the overarching structure.

2.5 Undertake a joint review with the Wales TUC to identify appropriate union membership of public boards and ministerial groups to ensure; consistency of approach to identifying when membership is required, a suitable appointment process or processes and methods of achieving accountability and diversity.

2.6 Deliver a Social Partnership Act to provide statutory underpinning to the structure, establish a public sector duty to deliver fair work through social partnership; place statutory fair work and social partnership requirements on procurement and business support; establish enforcement and monitoring mechanisms.

3. Declaration of social partnership principles and formal Welsh government protocol on working with the Wales TUC & unions

- 3.1 The Wales TUC and our affiliate unions have welcomed the new positive and proactive approach articulated by the First Minister in the leadership election, his manifesto and since forming his new administration. We believe that, in the context set out above, this should now be delivered with some urgency.
- 3.2 To set the political direction more clearly we propose that the First Minister make a declaration of social partnership principles for his government – including clear statement on making the extension of collective bargaining & access to unions a Welsh government public policy objective in the context of global ILO obligations and central to the delivery of fair work in Wales. It is vital that this is accepted as core government business if a delivery focus is to be achieved.
- 3.3 To ensure this is delivered as core government business we therefore also propose the development of a formal government protocol which describes precisely the expectations for Welsh government engagement at all levels with the Wales TUC and unions.
- 3.4 We would be pleased to engage with Ministers/advisers/officials on the appropriate wording for both the declaration of principles and the formal protocol but believe this can run parallel with progress on the other proposals rather than have other elements delayed by this engagement.

4. Social Partnership Council

- 4.1 Central to the declaration of social partnership principles - and in response to the Brexit and other challenges - should be the establishment of an overarching structure to ensure a whole government approach to social partnership. We propose that this should be established immediately with statutory underpinning to follow.
- 4.2 The definition of Welsh social partnership is that it is;
- a) tripartite – consisting of government, unions and employers,
 - b) representative - involving organisations providing the collective voice of workers and employers (not single issue groups or self-appointed individuals),
 - c) accountable - able to speak on behalf of their sectors/members by being fully accountable to them.

- 4.3 The purpose of the overarching tripartite Social Partnership Council would be:-
- a) To develop a more detailed all government framework policy for the delivery of fair work through social partnership. This would include being the forum for consideration of the Fair Work Commission report and for assisting in the development / review of relevant legislation (see section 8 below).
 - b) Incorporate and draw membership from the Workforce Partnership Council and the Council for Economic Development – ensuring consistency of approach and no gaps in implementation and setting the strategic objectives of the partnership model.
 - c) Co-ordination with labour market enforcement agencies – both non-devolved (HMRC, HSE, LPC etc) and devolved (aspects of local govt., EHRC, the Future Generations Commissioner and other Commissioners) – in order to see better enforcement of statutory standards in Wales.
 - d) Co-ordination of intelligence gathering and research to inform employment related policy including the relationship with academia, think tanks and campaign groups.

4.4 Appendix A (page 8) provides a Wales TUC proposed structure and membership for the social partnership which could deliver this purpose and could be established immediately - later being underpinned by legislation. Initially the Social Partnership Council could consist of the existing union and employer 'sides' of the Social Partners Strategy Council and the Workforce Partnership Council Executive Group. This would provide the central elements required to inform the government framework policy and legislation. It could also inform the development of the proposed enforcement board and policy advice group which could be established as part of the structure later. We would see the lead / chairs of these two elements as part of the government 'side' – potentially with an independent chair appointed to each of the Enforcement Board and the Policy Advisory Group.

5. Social Partnership Directorate

5.1 The Wales TUC believes that this approach requires clear political direction as well as sufficient staff resource. We believe the approach adopted in establishing a tripartite secretariat for the Workforce Partnership Council is a good one and our approach builds on that. We propose the immediate establishment of a fair work directorate (or office of the social partnership) to ensure the social partnership has appropriate capacity to function as envisaged.

5.2 Staffing of the new office could be a mixture of the following:-

- a) Political appointment of the lead executive function through a tripartite appointment process. They would have the permission of the First Minister to act on his behalf on specific relevant matters and be seen as acting with the authority of the FM by senior civil servants.
- b) Specialist secondees from outside the civil service. They would need the skill set and experience to deliver a very specific set of delivery targets in a fixed two year term. To reflect and hold weight in the civil service hierarchy, they would need to be 'rate for the job' appointments equivalent to senior civil servants. They could possibly be specifically recruited from each of the partners as is the case at a lower level with the WPC secretariat.
- c) Substantive civil servants allocated to work full time on delivering the social partnership & fair work agenda and free of other departmental priorities/demands.
- d) The secretariat supporting the WPC and the Welsh Social Partners Unit (with some consideration as to how this can best support the economic partnership structure).

The interests of transparency and finding the best candidate can be served by open external advert and appointment process for the positions outlined in a) and b) with an explicit tripartite approach similar to that followed in the WPC secretariat.

6. Review of partnership arrangements

6.1 The Government of Wales Act requires partnership arrangements which have been delivered through;

- a) the Local Government Partnership Council for Wales,
- b) the voluntary sector partnership,
- c) the Business Partnership Scheme and Council for Economic Development.

Each of these operates to a different remit and approach. For example the Local government partnership allows a Wales TUC observer to attend, the voluntary sector partnership has no union involvement and the Council for Economic Development has union side engagement organised through the Wales TUC.

6.2 In addition to these GoWA related bodies there are major partnership groups established by government for specific purposes eg European Union Advisory group, regional funding review & PMC.

6.3 The Wales TUC proposes that the government undertakes a review of existing partnership arrangements to ensure that they are fit for purpose in the new context and are accommodated within the overarching social partnership structure. In particular

there is a need to look again at the membership of the Council for Economic Development to ensure it meets the tripartite, representative and accountable criteria and to develop the Social Partners Strategy Group more formally into the CED Executive Group.

6.4 We believe that it would be appropriate to use the proposed Social Partnership Council as the forum to inform this government review.

7. Review of Wales TUC/union membership of public boards and ministerial groups

7.1 In addition to the partnership groups discussed in section 6, there are a range of public boards and ministerial groups which have impact on employment in Wales. We list some of these in Appendix B (page 10) although this may not be an exhaustive list and may need to also include a range of task & finish groups, city deal groups etc. It is a complex picture and one which requires a review to ensure that the social partnership principles of the government are being properly implemented.

7.2 We believe that there is a need to fully 'map' these bodies and their remits with a view to establishing where there should be a workforce voice on the board through the appropriate unions and/or where there should be a collective strategic union voice on the board through the Wales TUC.

7.3 We propose a joint government/Wales TUC review of these structures to agree;

- a) when / what type of union representation is required,
- b) a suitable appointment process (or processes) to ensure accountability and diversity.

8. Social Partnership Act

8.1 The Wales TUC has warmly welcomed the First Minister's commitment to introduce a Social Partnership Act in order to deliver social and economic equality in Wales. Our experience of non-statutory social partnership has been mixed, involving many examples of very positive progress but also a lack of universal and uniform delivery. We firmly believe that statutory underpinning is required to enhance and extend our social partnership model in Wales.

8.2 The Wales TUC has long experience of engaging with Welsh government on legislation impacting those employment issues which are substantially part of devolved matters. We gave major assistance in developing the Trade Union (Wales) Act – including providing barristers opinion on the areas which fell within competence and developing the rationale for, and detail of, the specific measures contained in the Act. We acknowledge that in moving to a reserved powers model without sufficient employment exemptions, the competence question has been more difficult in certain areas and we strongly believe that a better devolution settlement is required in this regard. However we maintain that there remains significant ability to legislate in this area and seek the delivery of this legislation in the shortest possible timeframe.

8.3 The Wales TUC has established our own legal advisory panel to provide some professional input in this regard and also have a wealth of expertise within the union movement. With the positive political will to legislate and a proactive executive team tasked with delivery, a very significant and hugely beneficial piece of legislation can be enacted. This administration can provide a massive legacy for Wales and set the agenda for the whole of the UK.

8.4 We strongly recommend that the structures identified under sections 4 and 5 above are utilised to provide the specialist knowledge and representative views required in developing a Bill.

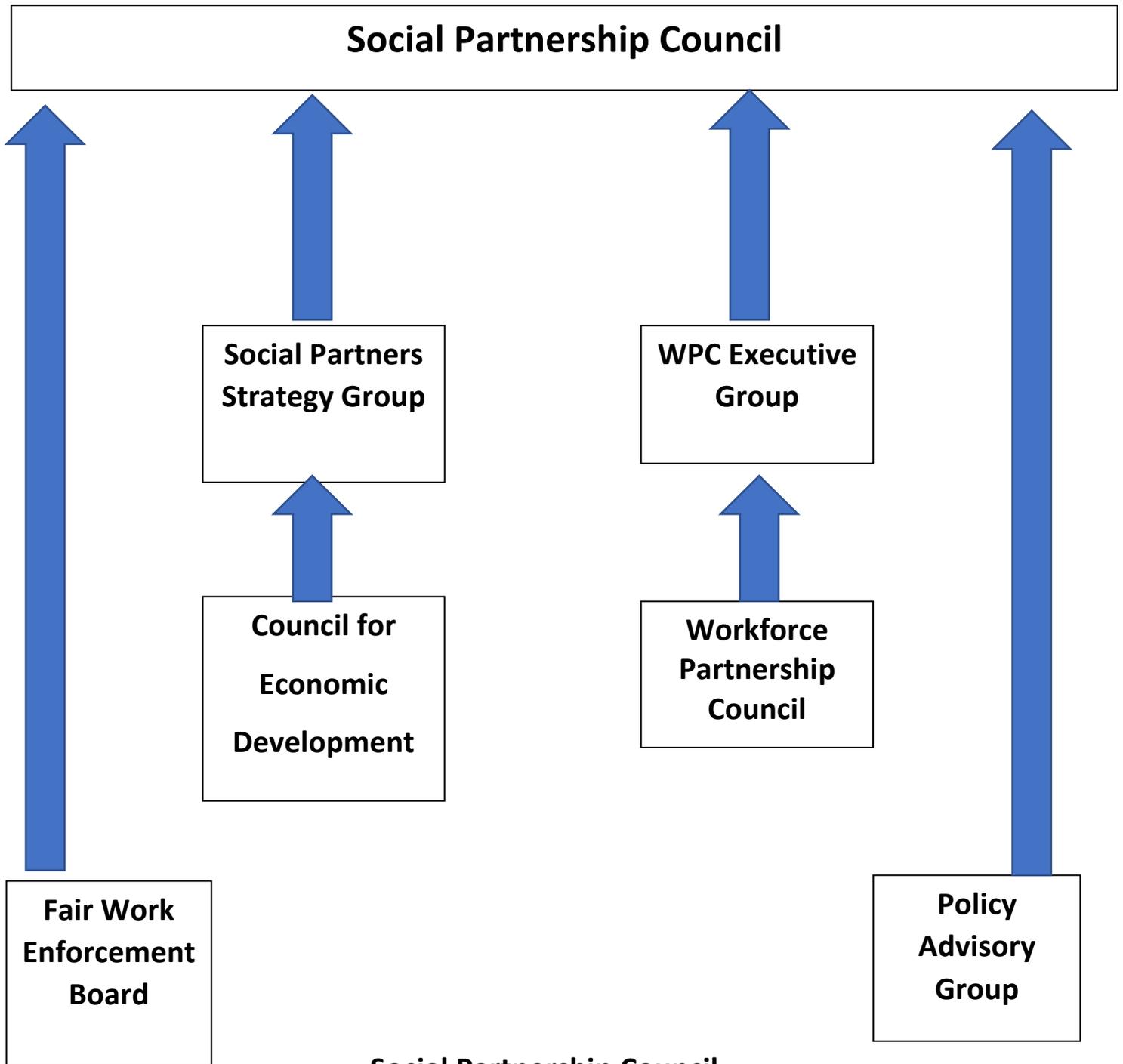
8.5 In summary we believe that the legislation should cover three areas:-

- a) Establishing a statutory social partnership structure and public sector duty to deliver fair work through social partnership.
- b) Making statutory the fair work outcomes required of procurement and business support.
- c) Establishing methods of enforcement (eg a Tribunal, Commissioner or a Welsh equivalent of UK Director for Labour Market Enforcement) and monitoring (eg utilising the functions of Welsh Audit Office, Well-being of Future Generations Commissioner, the EHRC etc).

8.6 We have a substantial evidence base and rationale to support legislating in this way and will be happy to engage with government and other partners in developing the proposed legislation.

Martin Mansfield 1st March 2019

Appendix A



Social Partnership Council

18 members

Unions

3 members of SPSG
3 members of WPC exec

Government

First Minister (chair)
Economy Minister
Public Services Minister
Permanent Secretary
Chair of Enforcement Board
Chair of Policy Advisory Group

Employers

3 members of SPSG
3 members of WPC exec

Social Partners Strategy Group

9 members

Unions

3 members elected
by the CED union side

Government

Economy Minister (chair)
Deputy Economy Minister
Senior Civil Servant (DG)

Employers

3 members elected
by Commerce Cymru
from CED reps

Workforce Partnership Council Executive Group

9 members

Unions

3 members elected
by the WPC union side

Government

Public Services Minister (chair)
Deputy Minister
Senior Civil Servant (DG)

Employers

3 members elected
by WPC employers

Fair Work Enforcement Board

Independent Chair

Non-devolved agencies

Director Lab Mrkt Enforcement
HMRC/ Gangmasters licencing/ Agency workers
HSE
ACAS
Employment Tribunals Office/law society
EHRC
Police

Devolved agencies

Local Govt regulatory
WBFM Commissioners
Other Commissioners
Anti-slavery Coordinator
NACABx
NRW
(Unions?)

Policy Advisory Group

Independent Chair

Academic / think tank

Welsh Centre for Public Policy
WERS / WISARD / Universities
KES/ Office of National Statistics
EHRC policy team
IWA & Bevan Foundation
Policy teams of the Commissioners

Single issue / campaign groups

Chwarae Teg and similar
Stonewall and similar
Relevant charities (MENCAP etc)
Joseph Rowntree Foundation etc
Living Wage Foundation etc

Appendix B – examples of public boards and ministerial groups to form part of the joint review of union/Wales TUC membership

- Ministerial boards and sub committees – for example the Economy & Transport MAG (with its foundation economy and fair work policy committees)
- Regional Economic fora /skills partnerships
- Public Service Boards
- Boards of the statutory Commissioners and Ombudsman
- Social Care Wales
- Health Education and Improvement Wales and Public Health Wales
- Geographic Health boards
- Velindre and Ambulance Health Boards
- Community Health Councils
- Teachers pay & conditions review
- WIDAB
- Qualifications Wales
- Careers Choices Dewis
- Higher Education Funding Council
- Development Bank of Wales
- Welsh Revenue Authority
- International Business Wales
- Natural Resources Wales
- Cardiff Airport/WGC holdco
- Transport for Wales
- Welsh Audit office
- National Library
- National Museum
- Sport Wales
- Arts Council
- National Parks