

## ORIGINAL ARTICLE OPEN ACCESS

# Devolution and Power: Employment Rights, Bargaining and Risk

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## ABSTRACT

This article considers the implications of further constitutional devolution for the regulation of work and employment, taking Wales as its case study. It reviews the current profile of the Welsh labour market, the climate for industrial relations and existing structures of pay determination and collective bargaining in this context. The article concludes that devolution presents risks as well as potential benefits, especially where the collective interests of workers are not easily delimited by regional boundaries. Therefore, the risks of fragmentation and decentralisation should be taken into consideration when evaluating the implications of constitutional devolution for the collective power of workers and their trade unions.

## 1 | Introduction

Over the past several decades, the UK's political and economic embrace of neoliberalism, involving the championing of the free market, the abandonment of a national commitment to full employment, and the neglect of effective regional intervention, has served to exacerbate regional inequalities (MacKay and Davies 2011). More recently, the failure to address long-term deprivation in parts of the UK has gained a new political prominence as mainstream political parties stand accused of having neglected embedded regional socioeconomic deprivation for far too long. Under electoral pressures, politics focuses with increasing urgency on the question of 'what is to be done' to mitigate regional inequality. In this debate, increased devolution of political power takes centre stage as the new hope for improving the quality of paid work in deprived regions. In this article, we consider the case of Wales, where low-paid, insecure, low-skilled employment is prevalent, and low productivity, persistently high rates of under-employment and high levels of economic inactivity are the legacy of decades of industrial decline (P. Brown 2019; Gooberman 2017; Henley 2024; Beatty and Fothergill 2023).

Proposed constitutional 'solutions' for 'levelling up' inequalities show a clear trend, right across the UK, in favour of greater

devolution of decision-making to local actors. McCann (2022: 4), for example, asserts that regional inequality 'cannot be addressed by the UK's current institutional and governance set-up'. What is needed, it is argued, is more localised, well-informed and well-resourced decision-making, set within a coherent institutional framework for devolution across the UK (see also, G. Brown 2022). The process is already underway, as may be seen not only in increased devolution of powers to the UK's constituent nations, but also in the more general move towards the establishment of city regions, mayoralities and the like (Beel et al. 2021).

As a key actor, the Welsh government commissioned an independent review of its devolution settlement (McAllister and Williams 2024). The Independent Commission on the Constitutional Future of Wales (ICCFW) reported in January 2024. It outlines the relative merits of three alternative constitutional futures for Wales: first, enhanced devolution, second, Wales as part of a federal UK, and third, an independent Wales (McAllister and Williams 2024). However, it makes no formal recommendations in this regard. Rather, it positions alternative futures in the context of risk, benefit and uncertainty and highlights the need for economic stability, security and capacity to tackle grand challenges that sit beyond borders and may define all our futures, such as climate change (McAllister and Williams 2024: 112).

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The ICCFW Report emphasises the need to enhance democratic involvement, stimulate economic regeneration and, crucially, to *improve conditions for work and employment in Wales* (McAllister and Williams 2024: 112; see also P. Brown 2019; Dickens 2019; Gooberman 2020; Henley 2024). Thus, in the ICCFW's analysis, 'fair work' is positioned as central to socio-economic betterment in Wales. How best to advance and protect labour's interests in modern capitalism, such that as many people as possible have access to decent, productive and life-sustaining work, is as grand a challenge as any other.

In 2022, the Wales TUC commissioned its own independent Report on the Future of Devolution and Work (2024a). It too was published in January 2024 and focused exclusively on whether and how greater devolution of powers to regulate employment rights might affect standards of work in Wales. In its findings, the Wales TUC Report cautioned against making simplistic causal associations between increased devolution of powers to regulate employment rights and improvements in employment standards. We build on that work here.

In the remaining sections of the article, we begin by considering the structure of the Welsh labour market as an arena for bargaining. The second main section discusses the Welsh Government's influence over the climate for industrial relations, while our third section considers the strength of employer engagement with the implementation of social partnership. The fourth section examines existing structures of bargaining and pay settlement in the Welsh context. In our conclusion, we acknowledge the advancements that have been made in some areas where bargaining has been devolved to Wales, while emphasising the need for coordination between different levels of bargaining if labour's collective interests are to be protected and fragmentation is to be avoided.

## 1.1 | 'The National State We're in'—the Structure of the Labour Market in Wales

In common with other countries, Wales likes to think it is different, distinctive, special. It boasts areas of spectacular natural beauty and has a rich cultural and industrial heritage, dominated by coal, iron and steel, where collective hardship and struggle have defined workers' fight for decent pay, safety and better conditions of work. It is an industrial history that remains proudly remembered and may have 'spilled over' into present day conceptions of collectivism (Beynon et al. 2012). However, the ongoing socioeconomic impact of deindustrialisation is a scourge on former industrial communities (e.g., Beatty and Fothergill 1996; Beynon et al. 2012; MacKay and Davies. 2011). In this respect, contemporary Wales shares many characteristics with other deindustrialised regions in today's United Kingdom (UK), where the pressures of unemployment, underemployment, poverty and fluctuating markets define not just the past but the present (Beatty and Fothergill 2020, 2023).

The demise of regional policy occurred in many developed economies under decades of neoliberal policy. The assumption that free competition would allow disadvantaged regions to thrive proved as illusory for deindustrialised parts of Wales as it did for other former coalfield areas in the UK (MacKay and

Davies 2011, see also McCann 2019: 263; Beatty and Fothergill 2020, 2023; Houston et al. 2024). For Wales, the decline of coal, steel and heavy manufacturing in the 1980s was just one wave of closures, followed closely by the departure of the foreign direct investment secured in the late twentieth century. Such investment was enticed in some cases by publicly funded grants and more generally by the marketing of the Welsh workforce for its 'loyalty', 'adaptability' and 'low unit cost' (Gooberman 2017; Fothergill and Guy 1990). In the latter decades of the last century, a cheap Welsh workforce did indeed prove attractive, but for a comparatively short time. By the 1990s and 2000s, such industries were on the move again<sup>1</sup> and a new group of workers experienced deindustrialisation.

As old and new investors moved on, the loss of the economic base left a gap in working communities that people struggled to bridge (Piore, 1987). Ongoing deindustrialisation, the impact of the financial crash of 2008 and subsequent austerity policies simply compounded the problems faced by Wales. Perhaps surprisingly, in common with regions in the North of England, Yorkshire and the Humber and the Midlands, Wales still retains a relatively larger manufacturing sector than the UK as a whole. That said, services account for 70% of output in the Welsh economy (as is the case in Scotland, Northern Ireland and the North East of England) and public sector work dominates to a greater degree than across the UK overall (Hutton and Zaidi 2024).

The poor quality of employment 'left behind' in deindustrialised communities matters greatly for the whole of Wales, not least because a relatively large proportion of its population still resides in its former industrial heartlands.<sup>2</sup> Overall, Wales's present 'occupational structure ... is skewed towards manual occupations' (Beatty et al. 2019: 29). The largest sector in Wales is currently the wholesale, retail, transport, hotels, food and communication sector (Welsh Government Analysis of Active Businesses 2023), while in 2024 the highest share of workforce jobs was in health and social care (17.2%), with jobs in wholesale and retail second (12.1%) (Statistics Wales 2024). Across the UK, the largest proportion of jobs is also found in these sectors, but in comparison with Wales, the health and social care sector accounts for just 13.5% of all jobs. The UK figures for retail and wholesale are closer to those for Wales, at 12.8% of all jobs (Hutton and Zaidi 2024). Retail, hospitality, warehousing and dispatch are sectors where conditions of work are associated with variable hours and low earnings, and where in-work poverty is common (e.g., Houston et al. 2024: 4). In this context, Wales consistently falls behind the average for the UK on a range of social and economic indicators. In April 2024, for example, median gross weekly earnings for full-time adults working in Wales stood at £674.50, which was just 92.6% of the comparable figure for the UK, at £728.30 per week (Annual Survey of Earnings, 2024).

The figures for unemployment in Wales have risen in 2025 but remain relatively low. What was, in the past, an important statistic is now more generally acknowledged to be an unreliable indicator of labour market conditions, as there is so much 'hidden unemployment' in the UK economy (see, Beatty and Fothergill 2023: 42; Houston et al. 2024). For 'hidden unemployment', we can read 'economic inactivity'. This is the term applied to people who are neither in employment nor

‘unemployed’ by the ILO definition, meaning that, for a variety of reasons, they are not seeking work. Wales has relatively higher rates of economic inactivity than the UK as a whole—it stood at 25.1% for Wales in the months August to October 2024, while the comparable rate for the UK was 21.7% (Wales Government 2024). Counter-intuitive news headlines such as ‘[u]nemployment and number in work both fall in Wales’ (Duffy 2024), highlight that for significant numbers of workers in Wales, the end of a job may mean a move into inaction or incapacity, rather than job search.<sup>3</sup>

While individual circumstances will vary, transition into economic inactivity should not be assumed to be an individual’s ‘life choice’. It may be associated with a range of other constraints, such as limited local opportunity for nonmanual work, weaknesses in local infrastructure that would otherwise facilitate access to work, such as public transport networks or childcare, or health issues associated with insecure or low-waged prior employment (see Winckler 2024). Economic inactivity is also associated with the ‘discouraged worker effect’ where, in low-opportunity labour markets where competition for jobs is fierce, some workers lose faith in job search altogether. As a consequence, they lose contact with the labour market over time (see MacKay and Davies 2008). It is clear that causal factors vary between individuals, but economic inactivity is an indicator of socioeconomic disadvantage, being ‘concentrated in many of the least prosperous parts [of the UK] ... [in] ... areas that need an increase in job opportunities’ (Beatty and Fothergill 2023: 58). Thus, its societal impact reaches deep into the corners of working communities (see Rowthorn and Webster 2008; Winckler 2024).

Entangled with economic inactivity is the phenomenon of *underemployment* in the Welsh labour market. Underemployment is defined as the under-utilisation of workers’ skills or time, where workers are typically assigned fewer hours of work or lower-skilled work than they would ideally wish to undertake, with attendant deleterious implications for their capacity to generate a sustainable income or achieve wider ambitions for development and advancement. Underemployment is prevalent in sectors such as hospitality, retail and care, where it is

*hardwired into [...] workforce planning practices because of overarching business models predicated on maximising flexibility (for the employer) and minimising staff costs’.*

(Houston et al. 2024: 20; Beatty and Fothergill 2023; see also, Wales TUC 2024)

Presently, underemployment is estimated to be affecting around 7.6% of the Welsh workforce or roughly 110,000 people (Wales TUC 2024: 14). Quite apart from the waste of human talent such statistics imply, research suggests that ‘poor quality jobs which combine several psycho-social stressors [can] be as bad for health as being unemployed, and transitions from unemployment to poor quality jobs may be even more detrimental to health than remaining unemployed’ (Chandola and Zhang 2018: 47).

The Welsh Government has declared its intention to change this situation. It aims to attract new industry and generate a higher-skilled workforce capable of meeting the challenges of the AI

revolution and digital manufacturing. There are also new UK-wide initiatives on the horizon, linked with the Labour victory in Westminster elections in 2024, such as the Modern Industrial Strategy (published June 2025). The Strategy promises to create thousands of new jobs in Wales, and is to be welcomed, but in terms of economic development, there is clearly a long way to go, particularly since such promises have been made many times before. Yet, low-skilled manual work remains a dominant feature of the economy, underemployment appears to be hardwired in, and the ‘productivity problem’—that is, *low productivity*—persists (Henley 2024; P. Brown 2019). In the next section, we consider how a climate of social partnership operates in this context.

## 1.2 | The Climate for Work and Industrial Relations in Wales

With the exception of the Agricultural sector,<sup>4</sup> legislative powers over employment rights in Wales are almost entirely reserved for the UK Government.<sup>5</sup> However, even without legislative powers, the Welsh Government has the capacity to influence standards of employment in three key areas: first, as an engineer of the climate for industrial relations in Wales, second, as a quasi-employer and direct employer of thousands of workers, and third, as a monitor and enforcer of standards of individual and collective rights in employment. In this section, we consider the climate for industrial relations in Wales.

Hitherto, the ‘left-leaning’ history of industrial relations and politics in Wales (Beynon et al. 2012) has set the Welsh government apart from ‘trickle-down economics’ and the most recent austerity policies driven by Coalition and Conservative governments at Westminster since 2010 (see Lupton et al. 2019: 19; Heery et al. 2020: 393). While the Welsh Government has been dominated by the Welsh Labour Party, there is a cross-party consensus on the benefits of social dialogue (e.g., Beynon et al. 2012). Thus, the Welsh Government has adopted a determinedly pluralist, broadly social democratic stance towards industrial relations, with broad-based support (e.g., Bacon and Samuel 2009; Heery et al. 2020).

The most recent manifestation of such consensus is the Social Partnership and Public Procurement (Wales) Act 2024 (SPPP (Wales) Act 2024), which formally placed

*social partnership on a statutory footing in Wales [intending to] enhance the well-being of the people of Wales by improving public services through social partnership working, promoting fair work and socially responsible public procurement.*

(emphasis added)

The Wales TUC welcomed the SPPP Act (2024), seeing the formal inclusion of trade unions as a partner in policy making as a ‘landmark step to strengthen the role of workers’ voice in government’ (Labour Research Department LRD 2024). There was scepticism in other arms of the labour movement, who see it as incorporation rather than inclusion, but the Wales TUC

and other unions remain supportive. The social procurement component of the Act may be understood as activities directed at creating social value through the strategic procurement of products and services (Bridgeman and Loosemore 2024: 387). While, in line with the terms of the current devolution settlement, the Act is focused on public sector provision, the scale of outsourcing of public services means that there is potential for its provisions to influence standards in the private sector. For example, it holds implications for industrial relations as 'fair work' is identified as one of the four underpinning principles of social procurement. Thus, the SPPP Act's provisions are aligned with the recommendations of the Fair Work (FW) Commission (Dickens 2019), as well as the national indicators of wellbeing established by the 'Well-being of Future Generations (Wales) Act' (Future Generations Act 2015).

In this context, the Welsh Government has formally accepted 'recognition of a trade union for collective bargaining [as] both a route to, and a key indicator of, fair work' (Fair Work Report, Dickens 2019: 19) and has listed the incidence of collective bargaining as one of several national indicators of well-being.<sup>6</sup> Fair work and collective representation are thus positioned as essential to a healthy society and social improvement.

*[t]he broad concept of the fair work nation encompasses social and welfare policy, economic and industrial strategy, transport, housing and education.*

(Dickens 2019: 14)

Against this backdrop, at a time of more general decline in union density, and despite some variation year to year, Wales has maintained a relatively stable level of trade union membership. Across public sector employment in Wales, union membership is around 50%. It also has the highest coverage of collective agreements (56%) compared with other regions of the UK (Bryson et al. 2023; Davies 2022; Davies et al. 2022). However, there is a sharp public-private sector divide.

Large private sector employers constitute only around 37.7% of private sector employment in Wales, while small to medium-sized enterprises (SMEs) account for 62.3%. This is slightly more than the UK average, where SMEs account for 60% of employment across the UK (ONS 2024). In total, 99.3% of businesses in Wales are small to medium-sized enterprises (SMEs) employing between 0 and 249 employees, of which micro-enterprises, with 0-9 employees, comprise 94.6% (Statistics Wales 2023). Employment relations in SMEs will vary considerably depending on the perspective of the owner; however, they are typically prone to greater informality and more likely to be non-union environments (Curran, 1996; Mallet and Wapshott 2017; Ram et al. 2001). In the private sector in Wales, just one in six workers is a member of a trade union (Wales TUC 2024: 20). Indeed, research by the WTUC found that a large proportion of private sector workers have no firm or clear understanding of what unions are or what they do, and in this respect it is not clear that 'any novel Welsh approach [to industrial relations] has had any impact at all in large parts of the private sector' (Wales TUC 2024: 12).

This has implications not only for workers in private enterprise but also for areas where public, private and third sectors overlap, as in the case of the contracting out of public services to

independent providers. There are over 300,000 private and third sector suppliers of services to the public sector in Wales. In 2019-2020, the Welsh Government provided no less than £340 million in direct funding to the third sector, which, at that time, employed approximately 124,800 people (Wales Government 2020). It follows that, while the public sector is the bastion of trade unionism in Wales, there is likely to be non-union labour contributing to the provision of public services.

In this context, despite the high profile of social dialogue in public life, there is evidence of relatively weak employer engagement—the scope and depth of 'partnership' appears to be relatively shallow in application. The WTUC Commission on the Future of Work and Devolution concluded that

*conceptions of partnership in Wales may (as yet) not fully embrace the processes of shared decision-making. While some employers may be prepared to involve workers and trade unions in implementing decisions they have already taken, there is less evidence of robust, mutually beneficial negotiation and joint decision-making. There is also evidence to suggest that a climate of social partnership is not preventing violations of agreed principles of good employment.*

(Wales TUC 2024: 37, original emphasis)

In the next section, we consider some case examples to illuminate the nature of partnership in practice.

### 1.3 | Social Dialogue, Voluntary Commitments and Partial Implementation

Wales can showcase some excellent examples of initiatives associated with its ambitions for fair work and social good. In a case study of a social procurement initiative in the construction industry in Wales, for example, Bridgeman and Loosemore (2024) analyse a scheme that provides access to paid work and training for young workers as a means of mitigating youth homelessness. The scheme is overseen by a charitable institution that receives more than half of its funding from government contracts and grants, highlighting the overlap between private, public and third sectors in the provision of public or quasi-public services. The training and work placement scheme has had some success, but Bridgeman and Loosemore (2024: 407) note the considerable support this demanded for each young person, acknowledging that the scheme 'would not be easy to replicate unless it was underpinned by appropriate resources'.

Herein lies the rub, for a shared ethos driven by public good is not necessarily easy to come by in an economic context that, for decades, has been driven by marketisation and financialisation. Even the most basic of commitments can be challenging to enforce. Formal commitment to the SPPP Code of Practice on ethical employment in supply chains is a case in point. The Welsh Government asks that private and third sector suppliers of services to the public sector make a voluntary commitment to the Code. This is hardly an onerous undertaking, but thus far, only approximately 537 out of 98,427 private suppliers, and 24 out of 4743 third sector bodies, have signed a formal



commitment to the principles (Ethical Employment in Supply Chains Code of Practice (n.d.), live report, January 2025). There appears to be little consequence for noncompliance.

Inevitably, there are cases where employer noncompliance can have more serious implications, especially when hidden within the workplace. During the Covid-19 pandemic, for example, a central element of the Welsh government's approach to work and employment was to work in partnership to protect businesses and workers alike. Businesses were given significant financial support to help keep them afloat. To play *their* part in safeguarding workers and the general public, employers were required first, to conduct a risk assessment of the workplace, second, to undertake that risk assessment either in collaboration with the recognised trade union or the workforce more broadly (in non-unionised workplaces), and third, to share the results of risk assessments with workers and unions. Public monitoring of these workplace commitments was under-resourced. This was not only because of the acute Covid crisis but also due to austerity politics and budget cuts to the Health and Safety Executive (HSE) and local authority spending in the years before the pandemic. However, an independent survey undertaken by YouGov for the Wales TUC reported that only 50% of employers implemented agreed practices on risk management for workers. The survey also found that some thirteen months into the pandemic, 'only 1 in 4 employers in Wales were following Welsh Government Covid regulations' (Wales TUC 2021). One might assume that, with the financial support the Welsh government gave to businesses to keep them afloat despite Covid lockdowns, this more than ever would have been the time for employers to comply with government guidance and regulation. Evidently, this did not happen.

In a separate, more recent example, the Social Care Workforce Partnership in Wales<sup>7</sup>—a body set up by the Welsh government—recommended that independent providers of social care should make a voluntary commitment to pay the Real Living Wage (RLW) to their workers. The Welsh Government set aside monies to mitigate any associated financial burden on employers, who were expected to pass the money on to their staff. However, in a briefing note submitted to Senedd members for a debate on 15 July 2025, UNISON Cymru<sup>8</sup> reported evidence from their members that:

*voluntary arrangements progressed and funded by the Welsh Government, such as the payment of the Real Living Wage (RLW) for care workers, have proven to be unenforceable.*

(emphasis added)

In their note, UNISON Cymru reports that some independent social care providers have allegedly used the monies provided by the Welsh Government to offset rises in National Insurance. Trust and goodwill did not translate into workers receiving the earnings the Welsh Government intended.

Admittedly, these examples are situated in the private sector, and the present devolution settlement prevents any more direct regulatory intervention under the banner of 'employment' policy, but it is reasonable to ask how these examples of

employer inaction and malpractice persist in plain sight. Arguably, the Welsh Government already has scope to demand more, especially from *suppliers* to the public sector. e.g., through the public procurement process and the provisions of the SPPP (Wales) Act 2024, Wales could insist on pay parity with collectively bargained equivalents for workers employed by private providers of devolved public services. There is evidence of public support for such conditionality,<sup>9</sup> yet the Welsh government does not appear to be using such powers to the full (see Wales TUC 2024). Similarly, while the incidence of collective bargaining is identified as an indicator of national well-being, the Wales TUC reports that:

*'[n]o investment has been made in ensuring that the adoption of this indicator is meaningful within the devolved public sector [...] and there has been no investment in raising the level of awareness and understanding of employment rights, labour market conditions and industrial relations across the devolved public sector.'*

(Wales TUC 2024: 38)

Exactly why the Welsh Government does not fully exploit its powers is not clear, but some observations can be made. The persisting weakness of the Welsh labour market means that some employers mitigate their own risk by continuing to 'thrust the burden of unstable business on a casual labour force' (Solow, 1982, p. 158). In response, the Welsh government may be wary of upsetting the wider business lobby at a time of economic downturn. A second issue that resources for public monitoring of employer behaviour are no longer available due to budget cuts. Third, those who contravene statutory regulations—as in the case of Covid regulations or payment of the RLW to social care workers—may be outsourced providers of crucial public services. Were they to be sanctioned in some way, service disruption might ensue.

Whatever the exact factors in play, evidence suggests that voluntary employer commitments are unreliable. This begs the question, 'who is in the room' in tripartite discussions over partnership, employment rights and matters of industrial relations? Trade unions coordinate and advocate for workers' interests, but who, if anyone, is coordinating the employers? At the policy level, the Confederation of British Industry (CBI) and Federation of Small Businesses (FSB) continue to play their part, but in past times it would also have fallen to a range of Employers' Organisations (EOs) to act as coordinating forces and sectoral leaders. Today, the influence and role of EOs are increasingly subject to variation (Gooberman et al. 2024). While some may go beyond what the law demands of them, their contribution to setting the pace for uniform industry standards is no longer guaranteed, especially in competitive markets. Furthermore, as noted by Simms (2024) in respect of Scotland, large employers are choosing to absent themselves from EOs and 'go it alone'. Their wider influence within EOs as potential arbiters or advocates for a standardised floor of rights cannot be relied upon. It is therefore relevant to consider exactly *how* undertakings arrived at through social dialogue are to be enacted in workplace settings, especially where employers are fragmented, businesses are small, and the owner-employer may be resistant to engagement with trade unions. The absence of a

strong coordinating influence must surely pose a significant barrier to enforcing agreed standards at workplaces where workers are also unlikely to be able to rely on collective representation.

Partnership is a style and ethos of behaviour that Wales has approached as a voluntary commitment. However, evidence suggests that even those who commit to partnership in public may attenuate their commitments in private. Inevitably, this brings us to the defining feature of industrial relations: the power of the employer and the degree to which workers are able to bargain collectively in representing their own interests in employment.

## 1.4 | Devolution, Decentralisation and Power

As the bastion of trade union membership in Wales, unpicking the bargaining arrangements that prevail across the public sector is where this section begins. Public services are assigned to a range of different public bodies, each with its own peculiarities. In terms of direct government employees, the Welsh Civil Service employs around 6000 Welsh Government civil servants. However, this number is complemented by a further 29,000 UK civil servants, also working in Wales, spread across 39 different agencies. Most civil servants *working* in Wales, especially those at senior levels, are paid in accordance with guidance produced by the UK Government, though 'Wales only' agreements may be finalised and implemented by the Welsh Government.

In Wales's local authorities, there are 126,000 directly employed local government workers, spread across 22 counties and county boroughs. These workers are funded by budgets allocated by the Welsh Government, but local authority terms and conditions are subject to free collective bargaining between national employers and trade unions through the National Joint Council for Local Government (NJC). The NJC is not exclusive to Wales—it determines pay and conditions for 1.4 million workers in local authorities across England, Wales and Northern Ireland. It comprises 70 members, of whom 12 are employers and 58 are trade unions (Local Government Services 2025). In such a complex structure, it is hardly surprising that occasional tensions arise between centralised national agreements and local conditions (Grimshaw et al. 2015) and at different times, there may be temptations to make local accommodations under short-term pressures. If this is not well coordinated, decentralisation poses significant longer-term risks to workers' terms and conditions and overall trade union strength (Traxler 2003). Referring to cases from England, Grimshaw et al. (2017: 24) remind us of the poor outcomes for labour and trade unions where, if 'disorganised' fragmentation does occur,

*an incoherent mix of national level and local level bargaining [gives] rise to tensions between actors operating at different levels ... [thereby reducing] the scope for the coordinated uprating of pay and conditions and [exposing] local union branches to management unilateralism.*

In other arms of public service, such as the NHS and Education, for example, Independent Pay Review Bodies (PRBs) recommend sector-level agreements to the government as the ultimate

'paymaster'. PRB settlements are independent recommendations that the government can choose to accept, refuse or amend. While trade unions give evidence to such bodies, this is not free collective bargaining. Rather, it is better understood as 'trade union-influenced pay determination'.

To take the example of the NHS Pay Review Body (NHSPRB), this is a UK-wide body with jurisdiction beyond Wales, but the Welsh Government has devolved discretion over final awards for the 106,000 direct employees in NHS Wales. In practice, this means that there is a 'Welsh remit' whereby Wales can submit its own recommendations in response to the NHS review board's recommendations and can engage in its own dialogue with trade unions. There is strong coordination between national and local actors, and any settlement agreed by the NHSPRB takes place in the context of the UK-wide *Agenda for Change*<sup>10</sup> standards, which apply to all directly employed NHS staff except doctors and the most senior managers. However, through the Welsh remit, Wales *has* made awards in excess of the Agenda for Change standards in the NHS. A similar process operates for the pay, terms and conditions for doctors and dentists. Further local variations exist in the NHS, influenced by different contracts for doctors in the devolved nations, for example (BMJ 2022; Wales TUC 2024), but the key point to emphasise is that the relationship between local and national actors and respective settlements is transparent.

There are, in addition, Wales-only review bodies. The Agricultural Advisory Panel for Wales (AAPW) is an exceptional Wales-only provision established in 2014. This was the first 'industry-specific wages regulatory institution to be established in the UK since the now abolished wages councils were created' (Goberman and Hauptmeier 2023: 1239). Its founding resulted from a strategic coalition between Unite the Union and other social and political actors in Wales, who campaigned to prevent the abolition of the Agricultural Wages Board in Wales. Since its inception, the AAPW's processes and outcomes for workers have been distinct from the more 'liberal' approach to the regulation of Agriculture in England (Goberman and Hauptmeier 2023: 1240), and Agricultural workers in Wales have benefited from marginally higher wage settlements across a range of grades.

Another Welsh exception is the Independent Welsh Pay Review Body (IWPRB). The IWPRB started its work in March 2019, with a remit to recommend pay and conditions for the 35,000 schoolteachers and their leaders in Wales. Its awards applied from September 2018 onwards.<sup>11</sup> Further Education staff also have pay parity linked to the IWPRB recommendations. Direct comparisons of earnings are complicated by the allowances and structure of pay gradings for teachers and other staff in education, but since the inception of the IWPRB, Wales's schoolteachers have seen a higher percentage increase in pay—on average, an additional 2% across the main pay range—compared with those in England. The Welsh Government has also taken the initiative to award more than the IWPRB's recommended pay rise (e.g., in 2025).

In each of these exceptional Welsh exemplars (IWPRB and AAPW), support from the Welsh Labour Party, Plaid Cymru, and other political actors in the Welsh Government, has been crucial to their establishment and operation. For example, in

Unite's campaign to prevent the abolition of the Agricultural Wages Board, it formed a coalition with political support from Welsh Labour and Plaid Cymru, along with other parties in the Welsh Government (Gooberman and Hauptmeier 2023: 1230–1231). However, were the devolved administration less united on core social, economic and political goals for Wales, it is reasonable to ask whether there may have been different outcomes to such campaigns and to the operation of the review bodies themselves.

To enter into greater detail on the intricacies of how the NJC and pay review bodies operate is beyond the scope of this article. However, in the case of PRB determinations, perhaps we can best understand local discretion as a form of 'organised decentralisation', where there is a core governance mechanism for bargaining and clearly articulated powers across tiers' (Grimshaw et al. 2017: 22). The risk, if such 'articulation mechanisms' are absent or weak, is that 'disorganised decentralisation' ensues, and sectoral bargaining might be replaced by a 'proliferation of disorganised local settlements'. This is a particular risk for outsourced and fragmented local authority services, where multiple providers are involved and the boundaries of bargaining units could be redrawn to isolate groups of workers from one another (Grimshaw et al. 2017: 22; see also Grimshaw et al. 2015). It is important to bear in mind that the 'primary pay off' of decentralised bargaining for employers is a shift in control, generally in their favour (Traxler 2003: 20; Grimshaw et al. 2017: 23–24).

Thus, in another area of public service, namely social care, one of the leading public sector unions, UNISON, is currently arguing strongly *against* Wales-only pay determination. At present, there are more than 85,000 people employed in the social care workforce in Wales. Of these, 31,315 (37 per cent) work directly for local authorities, while 52,876 (63 per cent) work for commissioned providers, many of whom may be small private employers. The overwhelming majority of the workforce (82 per cent) is female, and 18 per cent are male (Social Care Wales 2022). It is generally a low-paid, fragmented workforce, which UNISON Cymru describes as 'at risk of exploitation' (UNISON Cymru 2025). The Welsh Government has indicated its long-term commitment to a National Care Service for Wales—an objective that UNISON supports. However, in an illuminating briefing note to the Senedd on 15 July 2025, UNISON-Cymru explained why they believe that at this time the Welsh Government should support the proposals for a *UK-wide* Social Care Negotiating Body, which are included in the Employment Rights Bill 2024. Their reasoning is that the majority of social care workers in Wales are employed by private or third sector providers 'through commissioning processes that prioritise low cost above all else' and in this context, the spectre of *disorganised* decentralisation looms large. A descent into local deals could have seriously deleterious implications for terms and conditions and incur associated risks for union derecognition as bargaining units become smaller. The example serves to highlight the need for consideration of broader sectoral interests and the central importance of good articulation between levels of bargaining.

While sectoral bargaining across the public sector in Wales is multi-faceted and complex in application, no such framework currently exists outside Agriculture in private sector employment. Among small employers, we know that union density is low, coordination of employers is weak, and rights to collective bargaining are

contested (see Ram and Edwards 2003: 727; see also Ram et al. 2001). In this sense, consistency of terms and conditions of private sector employment is most likely to be found within the boundaries of giant organisations. In Wales, some of the biggest firms engaging in collective bargaining and setting standardised wage rates are the large UK-wide retail outlets. The agreement on payment of the Real Living Wage made between *Usdaw* and the retail giant Tesco (*Usdaw* Press Release 05 March 2024), for example, is UK-wide and has the potential to be influential across the sector. Collective agreements operating at similar large retailers—such as Sainsbury's, Asda and Lidl—are also UK-wide. All have only London allowances as variations from the UK norm. Such examples in private enterprise are especially important for Wales, where, despite Welsh Government exhortations, around a quarter of workers were paid an hourly rate below the voluntary Real Living Wage in 2021 (Wales TUC 2024). With average wages lower than the rest of the UK, disorganised regional exceptionalism would be unlikely to benefit the pay packets of such workers in Wales.

In the following section, we reflect on the issues around the need for coordination of labour's collective interests and summarise our perspective on the implications of further devolution of powers over employment rights.

## 2 | Concluding Discussion—Context, Climate, Coordination and Risk

An underpinning premise of devolution is that the pre-existing 'state apparatus can reemerge at a different scale and with a different territorial form at different points in time' (Jones et al. 2005: 339). In Wales and other deindustrialised regions, the legacy of industrial decline and different levels of reliance on unstable and low-wage employment are important to our understanding of growing regional disparities and calls for greater devolution of powers. Consensus is growing that changes in devolved governance across the UK may be essential if economic growth is to be delivered to the cities and regions of the UK most in need (McCann 2022). The core focus of this article is the implications of further constitutional devolution for labour's interests and collective power.

A brief review of Wales's labour market profile reveals a region that is over-reliant on low-skilled and low-paid jobs, and where rates of economic inactivity and underemployment are high. In comparison with other parts of the UK, trade union membership levels have held up in Wales, but density is mainly concentrated in the public sector. Here, allowing for tensions, current bargaining frameworks are characterised by strong coordination mechanisms that support articulation between national and local actors. In contrast, in the private sector in Wales, the vast majority of employers are small businesses where workers are far less likely to be union members and are more likely to be low paid, even if the work they are doing is supplying the public sector. Such workers are unlikely to feel the benefits of the wider climate for social dialogue that has been established by the Welsh Government.

It follows that while Wales's policy framework for future generations, fair work and ethical social procurement reads as forward-looking and ambitious, its implementation is partial. Good 'new jobs' that might allow workers access to better conditions,



progression, and higher wages are as yet in short supply, and many initiatives designed to improve workers' lives—agreed 'in partnership'—rely on the voluntary engagement of employers, which is not always forthcoming. In this respect, the Welsh government appears to lack the resources to fully realise its ambitions for social dialogue or enforce its existing powers over standards of work. This may be partly due to underfunded mechanisms for enforcement, but it is also likely to be an indication of the relatively shallow depth of partnership in application.

The more favourable climate for social dialogue in Wales should not be underplayed. More favourable pay settlements achieved for Welsh workers, for example in the NHS, have been influenced by a more favourable industrial relations environment and have helped avoid the higher rates of industrial action seen in other parts of the UK.<sup>12</sup> However, ultimately, meaningful partnerships in industrial relations depend on there being strong bargaining partners. Without distinct industrial capabilities, specialised skills and specialisms, strong collective representation and the coordinated engagement of employers, the scope for translating social dialogue into practice is restricted. This is despite the special relationship often cited between unions, labour and the devolved government in Wales, where, hitherto, the 'small state' and industrial legacy have historically fostered general support for a social democratic policy agenda (Beynon et al. 2012: 213; also, Gooberman and Hauptmeier 2023).

The gap between ambition, policy and concrete change is keenly felt in communities where settled, localised, chronic economic stagnation associated with low-paid work and limited opportunity for real change in socioeconomic conditions is undermining popular faith in democratic institutions. Hence, in Wales, as elsewhere in the UK, the 'geography of discontent' (McCann 2019: 256) is delivering 'political shocks'. In Wales, political turnout is down, and support for the right-wing agenda of the Reform party has grown (Beatty and Fothergill 2020: 1238; Lerner and Jones 2024). Wales is a country where 'the relationship between the state and trade unionism was raised in a new form with devolution' (Beynon et al. 2012: 213), but there is a very real possibility that its 'left-leaning' tradition could easily shift 'right' at the next election, with attendant implications for industrial relations.

In this context, the realisation of a twenty-first-century industrial strategy as a pathway to 'better work' is an urgent task facing mainstream politics. With a new government at Westminster (June 2024 onwards) and plans for new devolution settlements right across the UK, perhaps such an agenda could be in sight. The Welsh Government has repeated its commitment to generating the volume and quality of jobs and skills the future demands, while also seeking to establish an inclusive and fair environment for work and employment. This, surely, is where the main task of devolved political and economic policy lies, and it is to be hoped that a new era of governance will allow such goals to be accomplished (see e.g., G. Brown 2022; Henley 2024; McAllister and Williams 2024; McCann 2022).

Meanwhile, there is some risk in conflating well-conceived political aspirations for devolution of constitutional power with devolved regulation of work and employment. It is far from clear how regional control over employment rights would play out, either in Wales or indeed in other devolved nations or devolved city regions. Whether those rights are more or less

favourable, on an island where, as McCann (2019: 263) points out, 'the magnitude and the *proximity* of the interregional inequalities ... [is] marked' (original emphasis), regulatory variation could become a potential source of leverage for employers and disunity for labour. We have seen versions of this before in the 1980s, 1990s and early 2000s, when, in competition with other UK regions, low unit costs and major public grants meant Wales secured the location of new investment and assembly plants, only to be followed by capital flight, sometimes in what appeared to be unseemly haste. There is always someone in the world who can do a job cheaper if the time and terms are right.

In the absence of strong political support and coordination of bargaining structures, it is difficult to see how devolution of powers of statutory regulation *alone* could improve standards of work in Wales. In our enthusiasm for new forms of devolved, more acutely focused policy interventions and effective democratic inclusion in Wales, it is essential to bear in mind the risks of fragmentation. Disorganised, decentralised local bargaining would inevitably open up competition within firms and between regions of the UK, thereby further disuniting the cause of labour. Smaller is not always better in the case of bargaining units, and we know that decentralisation has not proved beneficial for labour's interests in the past (Grimshaw et al. 2017; Grimshaw et al. 2015). Uncoordinated localised bargaining is a risk for employment standards across all sectors, including (and especially) the increasingly fragmented public sector. Education and Agriculture have shown how Wales-only bodies can work and provide important examples of success. The extension of such examples will surely depend on the political context and the strength of the industrial base that is still to be constructed. In the present moment, consensus around social democratic engagement and state support for trade unions in Wales can no longer be relied upon as the primary or enduring base for collective strength.

In conclusion, as we imagine the future of devolution, we contend that the machinery for industrial relations, employment rights and bargaining must be carefully weighed, *organised* and coordinated. Successive Welsh Governments have sought to provide an environment where social dialogue and collective organisation are valued as part of local democracy. This has yielded benefits for some groups of workers. Yet, more generally, social dialogue remains shallow in scope and depth in a labour market that is low-skilled and low-paid, and where enforcement is significantly reliant on voluntary employer engagement. Thus, arguing that improvements in labour's fortunes lie primarily with devolved power to regulate employment rights in and for Wales, when evidence suggests such rights may be weak in application, is more performative than meaningful. Neglecting such considerations when debating the future of devolution can only introduce greater uncertainty into the climate for industrial relations. The risk is yet more failed promises and another false dawn for workers in Wales. At this point in history, such a failure should not be countenanced.

### Conflicts of Interest

Jean Jenkins was Commissioner for the independent Report on Devolution and the Future of Work in Wales (Wales TUC (2024)). The present article is a separate and distinct contribution to the debate, based on



research undertaken as part of the "Workplaces and Participatory Democracy" theme of WISERD's People, Places and the Public Sphere Research Programme funded by the ESRC (UKRI264).

## Endnotes

- <sup>1</sup> For example, between 1996 and 2006 a large, world-leading Electronics company received some £87 m of public money to support the establishment of factories in Wales that either never went into full production or closed within a few years of opening. In this particular case around £34 m was repaid to the then Welsh Development Agency.
- <sup>2</sup> Today, 25 percent of the population of Wales still resides within the boundaries of what were once coalfield areas. This compares with 8 per cent of the population in England and 10 per cent of the population in Scotland who are living on former coalfields (Beatty et al. 2019: 15).
- <sup>3</sup> Post-Covid, this trend has become more apparent.
- <sup>4</sup> The Agricultural sector in Wales is covered by the Agricultural Sector (Wales) Act 2014 and falls under the Welsh government's jurisdiction (see Gooberman and Hauptmeier, 2023).
- <sup>5</sup> As they are in other nations of the UK
- <sup>6</sup> The gender pay gap is also a national indicator of well-being. In Wales the gap has steadily decreased since 1997 (ASHE 2024), but there are bigger disparities in male and female earnings if the impact of part-time employment is taken into account, and the actual gender pay gap varies considerably by sector and occupation, meaning generalisation should be done with care and qualification.
- <sup>7</sup> This is a Wales-only advisory body established by the Welsh Government, intended to develop models of best practice of employment in the independent social care sector. It champions a partnership approach.
- <sup>8</sup> The Welsh division of UNISON
- <sup>9</sup> Scotland, for example, has much more stringent requirements for parity in outsourced contracts.
- <sup>10</sup> Agenda for Change (AfC) was introduced across the NHS in October 2004. Among the standardised terms and conditions are the standard working week, holiday entitlements, pay grading and enhancements. <https://www.nhs.wales/hpb/pay-conditions/>
- <sup>11</sup> Effective from 30 September 2018 under the Welsh Ministers (Transfer of Functions) Order 2018. Pay and conditions for Further Education staff are now also covered by a Wales only PRB
- <sup>12</sup> Figures for working days lost and the number of stoppages associated with industrial disputes is generally lower in Wales than all other regions of the UK, though Northern Ireland is a close second. Labour disputes in the UK, by region and industry - Office for National Statistics

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