

Rebecca Evans MS  
Minister for Finance and Local Government  
Welsh Government

10 February 2022

Dear Minister

### **Provisional Common Framework: Public Procurement**

Thank you for your letter of 27 January. The Committee considered the Provisional Common Framework on Public Procurement in Committee on 9 February and seek the following information to inform any future recommendations on the final content of the framework. Cefin Campbell MS excused himself from this discussion due to his role as a Designated Member.

### **General**

1. Why is a framework needed for this policy area?
2. The Welsh Government aims to promote environmental sustainability in procurement. Why does the principle on the management of common resources not apply to this framework?

### **Scope for divergence**

3. How will the governments determine whether a proposal for policy or legislation is in scope of the framework's decision-making processes?
4. What scope for divergence will the framework allow? Is this wider or narrower than the scope for divergence under EU law?
5. If the scope for divergence is different from the scope for divergence under EU law, why is that?

Croesewir gohebiaeth yn Gymraeg neu Saesneg.  
We welcome correspondence in Welsh or English.

6. Will the Welsh Government's proposed Social Partnership and Procurement Bill be subject to any consultation or decision-making through the framework?
7. The Welsh Government plans to take forward reforms to procurement law through the planned UK Procurement Bill. What assessment has the Welsh Government made of the impact of diverging from retained EU law on procurement on stakeholders in Wales?
8. What assessment have you made of the implications of the UK Subsidy Control Bill for public procurement in Wales?
9. The framework would require the Welsh Government to notify the other governments three months before the introduction of primary legislation or making of secondary legislation. What are the implications of this for the competence of the Welsh Government and the Senedd and what impact could divergence have on procurement policy in cross-border areas?

### **International obligations**

10. What international obligations are relevant to this framework and if the framework needs to be amended in future to reflect a new international obligation, what revision process will be engaged?
11. Could the Welsh Government confirm when an updated four-government International Relations Concordat is expected and are there any risks to the framework if this is not agreed?
12. How will intergovernmental forums established by the framework interact with interministerial groups on trade and on the UK-EU Trade and Cooperation Agreement?
13. What recourse, if any, does the framework provide to the Welsh Government if it does not support UK Government amendment to its WTO GPA schedules?

### **UK-EU arrangements**

14. Could the Welsh Government explain how UK-EU meetings in areas covered by the framework will be communicated to the framework Working Group and Liaison Group?
15. The UK-EU Trade and Cooperation Agreement establishes a number of new governance committees. Why were Welsh Government officials not present at the first and only meeting of the Trade Specialised Committee on Public Procurement?
16. Could the Welsh Government explain whether and how the outcomes of that meeting with the EU were communicated to the framework, Working Group and Liaison Group?
17. Could the Welsh Government confirm whether the framework's mechanisms will be used to monitor EU procurement law, and whether the Welsh Government is carrying this out itself or in partnership with other governments?

## Governance and dispute resolution

18. Do you consider the dispute resolution mechanism to be robust enough for its intended purpose and how will the framework ensure that disputes are resolved in a timely way and decisions are not delayed?

## Transparency and accountability

19. Did the Welsh Government engage with any stakeholders in Wales in developing the framework? How does the framework reflect the response of stakeholders?

20. How will the Senedd and stakeholders be updated on the continuing operation of the framework and contribute to the review and amendment process?

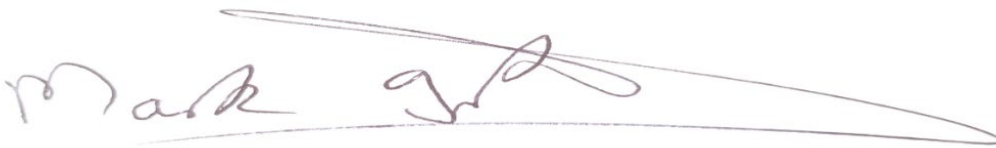
21. If changes are made in future, how will the Senedd be notified? What scrutiny procedure will apply to the changes?

I look forward to your early response to enable the Committee to further consider the issues and respond in advance of the March deadline.

I am copying this letter to Paul Davies MS, Chair of the Economy, Trade and Rural Affairs Committee and Huw Irranca-Davies MS, Chair of the Legislation, Justice and Constitutional Committee.

Thank you

Regards

A handwritten signature in dark ink, appearing to read 'Mark Isherwood', written over a horizontal line.

Mark Isherwood MS  
Committee Chair