

Rebecca Evans MS
Minister for Finance and Local Government

28 July 2022

Dear Rebecca

Legislative Consent: UK Government's Procurement Bill

At our respective meetings on the 6 July and 11 July, we considered the Welsh Government's Legislative Consent Memorandum (Memorandum) on the Procurement Bill (the Bill). The Committees agreed that we should write to you seeking clarification on a number of matters. We would be grateful for a response from you by 5 September 2022 on the following questions:

1. What consideration did the Welsh Government give to using the time it has identified for the Social Partnership and Public Procurement (Wales) Bill to bring forward a wider procurement Bill that covered the scope of both the UK Procurement Bill and the Social Partnership and Public Procurement (Wales) Bill?
2. We have been advised by the Counsel General that neither resourcing nor capacity are issues in bringing forward Welsh Bills. Given the significant number of provisions in devolved areas within the Bill and the expertise available to the Welsh Government on procurement issues, why wasn't resource put into developing a wider, more coherent Welsh Government Procurement Bill?
3. Given that this is such an important area of public policy, why is it considered appropriate to take a legislative approach which prevents elected Members of the Senedd from undertaking detailed legislative scrutiny on the subject matter of the Bill, including through engagement with Welsh stakeholders?
4. How accessible will the new procurement regime be when it is split over two Bills?

5. What degree of involvement have you and your officials had in shaping and drafting clauses of the UK Procurement Bill? Did you as Minister require sign off of individual clauses?
6. What consultation was undertaken with Welsh stakeholders to inform the drafting process?
7. What role has the provisional common framework for public procurement had in the development of the Bill?
8. The UK Government is of the view that clauses 114 and 116 require the Senedd's consent. Could you outline how you have concluded that clauses 114 and 116 do not require the Senedd's consent?
9. Clauses 50, 62, 63, 65, 79 and 80 contain Henry VIII powers for the Welsh Ministers, subject to the negative procedure. What role did you play in choosing these procedures and do you believe that the negative procedure is appropriate for these powers?
10. Please can you provide a narrative on the concurrent powers in the Bill and how the approach adopted by the Welsh Government complies with its **guidance** on this issue?
11. What analysis have you undertaken of how each clause of the Bill differs from or replicates the current legislative position and can the Committees see this analysis?
12. Have you undertaken a Wales-specific impact assessment of the Bill as introduced?
13. The Memorandum notes "There are likely to be a number of costs associated with the reform of public procurement in Wales although the exact details are still to be confirmed". Please can you commit to share details of these costs with the Committees once they have been confirmed?
14. Could you provide an update on the discussions with the UK Government with regard to amendments being tabled to the Bill to address the concerns you set out in paragraph 119 of the Memorandum?
15. Have you engaged the new intergovernmental relations arrangements to resolve matters of concern?
16. Will you introduce your own legislation to cover matters of concern that you cannot resolve?
17. Will you commit to *not* using an intergovernmental agreement with the UK Government as a mechanism for resolving your concerns?

18. What involvement will you and your officials have throughout the scrutiny and amending process in Westminster?
19. What regulations do you foresee as being necessary to implement the reforms under the Bill and under which powers (and procedures) in the Bill? Will those regulations brought forward by the Welsh Ministers be consistent with any taken forward by UK Government Ministers?

Yours sincerely,

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

Mark Isherwood

Chair, Public Accounts and Public Administration Committee

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Huw Irranca-Davies

Chair, Legislation, Justice and Constitution Committee

