

## HSP3 Ceredigion County Council

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Senedd Cymru | Welsh Parliament

Y Pwyllgor Iechyd a Gofal Cymdeithasol | Health and Social Care Committee

Bil Caffael y Gwasanaeth Iechyd (Cymru) | Health Service Procurement (Wales) Bill

Ymateb gan Ceredigion County Council | Evidence from Ceredigion County Council

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### General principles of the Bill

#### **What are your views on the general principles of the Health Service Procurement (Wales) Bill?**

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The flexibilities allowed under the current Light Touch Regime are helpful when considering new and innovative approaches to Social Care contracts and the Bill looks to build upon that. However, it is felt the allowing of direct award of contracts is against the ethos of good procurement and commissioning which champions open, fair and transparent tendering. Whilst it is recognised public sector procurement and commissioning teams are under resourced and stretched, relaxing the rules that have to be followed is not the answer. Question 7 of this survey deals with unintended consequences but to summarise here, direct awards to incumbent suppliers/providers will lead to a lack of competition and distortion of the market. New suppliers/providers would not be given the chance to demonstrate their capabilities or new concepts and innovative approaches they could provide. Value for money for the public purse could not be demonstrated and would be severely compromised, at a time when financial prudence relating to Health and Social care is probably more important now than ever before.

Procurement is already devolved in Wales and the related legislation introduced by Welsh Government has been very positive. There has been strong links with legislation in the rest of the UK but with certain differences to align with the needs of Wales. The need for the Health Service Procurement Bill to work in parallel with English legislation is recognised considering the types of services to which it relates. This can be achieved by taking the same approach as to previous legislation by building on the same fundamental principles.

Legislation will enforce the need for quick changes and compliance, ensuring the positive objectives and outcomes Welsh Government want to achieve are delivered.

#### **Is there a need for legislation to deliver the Welsh Government's stated policy intention?**

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Yes

The need for the Health Service Procurement Bill to work in parallel with English legislation is recognised considering the types of services to which it relates. This can be achieved by taking the same approach as to previous legislation by building on the same fundamental principles. Legislation will enforce the need for quick changes and compliance, ensuring the positive objectives and outcomes Welsh Government want to achieve are delivered.

## Regulation making powers

### **What are your views on the 'disapplication' regulation-making power in section 2 of the Bill?**

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Procurement is already devolved in Wales and the related legislation introduced by Welsh Government has been very positive. There is no reason to suggest it would be any different in this particular case and therefore there are no concerns.

### **What are your views on the 'creation' regulation-making power in section 3 of the Bill?**

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There has been strong links with legislation in the rest of the UK but with certain differences to align with the needs of Wales. The need for the Health Service Procurement Bill to work in parallel with English legislation is recognised considering the types of services to which it relates. This can be achieved by Welsh Government taking the same approach as to previous legislation and building on the same fundamental principles.

## Implementation and impact of the Bill

### **Are there any potential barriers to the implementation of the Bill's provisions? If so, what are they, and are they adequately taken into account in the Bill and the accompanying Explanatory Memorandum and Regulatory Impact Assessment?**

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Training is going to be critical in order for the Welsh public sector to realise the optimum benefit from the Bill's provisions. Historically there has been some confusion around the current light touch regime, whether or not the freedoms apply above or below procurement thresholds, to what services they apply and what innovative approaches can be undertaken. Training is mentioned in paragraph 62 of the Explanatory Memorandum, though it only refers to NHS staff rather than acknowledging the new legislation will apply to local authority staff too. Also, the emphasis of paragraph 62 is on cost instead of gaining optimal benefit from the new legislation.

## **Are any unintended consequences likely to arise from the Bill?**

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It is noted a competition assessment has been undertaken, but by far the biggest concern in relation to unintended consequences is the proposal to allow direct award contracts. Although the intention is to take pressure off under-resourced procurement teams, the move would stop them from having to think strategically. Too many contracts will be directly awarded to incumbent providers, which would destabilise markets. New suppliers/providers would not be given the chance to demonstrate their capabilities or new concepts and innovative approaches they could provide. Value for money for the public purse could not be demonstrated and would be severely compromised, at a time when financial prudence relating to Health and Social care is probably more important now than ever before. The risk of unfair practices and bribery would also be increased should direct awards be allowed as a matter of course under the legislation.

The explanatory memorandum also states businesses would be benefited by reducing staff time and costs associated with tendering. However, businesses could lose the ability to write good quality tenders, become complacent about their service delivery and not bother updating policies etc.

## **What are your views on the Welsh Government's assessment of the financial and other impacts of the Bill as set out in Part 2 of the Explanatory Memorandum?**

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With the exception of the competition assessment, all the others seem fair.

## **Development of the policy and legislative proposals**

### **What are your views on the approach taken by the Welsh Government to develop the policy and legislative proposals reflected in the Bill?**

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There's little detail on the actual approach taken to developing the policy and legislative proposals, other than related matters that had been considered. Those matters seem comprehensive and relevant.

It is noted due to the specialised nature of the topic and the urgency to respond to the effects of the proposed procurement reforms in England, a formal consultation on this draft Bill has not been undertaken. However, informal consultations have been undertaken with key stakeholder groups, all of which seems reasonable.

## **Any other issues**

**Are there any other issues that you would like to raise about the Bill, the accompanying Explanatory Memorandum and Regulatory Impact Assessment, or any related matters?**

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None