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Llywodraeth Cymru
Welsh Government

Peredur Owen Griffiths MS
Chair, Finance Committee

5 May 2023

Annwyl Peredur,

I refer to the Finance Committee's report published on the 25 April with their findings and recommendations as part of Stage 1 scrutiny of the Health Service Procurement (Wales) Bill.

I would like to express my thanks to the Committee for scrutinising the Bill and its supporting documentation.

I have carefully considered the report and have set out in Annex A my responses to the committee's recommendations in advance of the Stage 1 General Principles Debate on the 9 May.

Yn gywir,

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

ANNEX A

HEALTH SERVICE PROCUREMENT (WALES) BILL

WELSH GOVERNMENT RESPONSE TO THE FINANCE COMMITTEE'S STAGE 1 SCRUTINY REPORT 25 APRIL 2023.

Recommendation 1: The Committee recommends that the Welsh Government provides an assessment of the risks and financial impact of temporarily having two different health service procurement regimes operating in England and Wales

Response: ACCEPT IN PRINCIPLE

At the time of producing the Explanatory Memorandum and Regulatory Impact Assessment to support the introduction of the Bill it was not considered practicable to attempt to undertake a full detailed financial assessment of the proposed new health service procurement regime. This is because, without knowing the full extent of the required changes to existing procurement procedures, governance and regimes as a result of the Bill; the health services in scope and the way they are currently procured between the NHS and local authorities in Wales, it is not possible to quantify the financial impact of the new regime in an accurate and meaningful way.

The information in the Explanatory Memorandum and Regulatory Impact Assessment therefore set out a 'best estimate' of the financial impacts of the Bill and the introduction of a new procurement regime for health services in Wales, based on the best available evidence and information at that point in time.

Therefore, it is considered that this is also the case when seeking to assess the risks and financial impacts of temporarily having two different health service procurement regimes operating in England and Wales.

In noting the committee's recommendation around this, my officials will continue to work with the 'relevant authorities' and stakeholders that that will be affected by the introduction of the Bill, to explore if the impact of temporarily having two different health service procurement regimes operating in England and Wales can be meaningfully quantified. In any event, my officials will seek to provide the best available evidence and as much information as practically possible on the financial impacts and present as part of our commitment to undertake a full Regulatory Impact Assessment for the future regulations.

Recommendation 2: The Committee recommends that the Welsh Government provides a full and robust Regulatory Impact Assessment for any regulations made as a result of the Health Service Procurement (Wales) Bill and that sufficient time is provided to allow the Senedd to consider any related financial implications that will arise.

Response: ACCEPT

Following on from the response above in Recommendation 1 and in line with requirements under Standing Order 27 of the 'Standing Orders of the Welsh Parliament' and the policy set out in the Welsh Ministers' RIA Code for Subordinate Legislation, we are fully committed to undertaking a Regulatory Impact Assessment, using the best available evidence to include within the Explanatory Memorandum that will accompany the future regulations.

The proposed future regulations will follow the 'draft affirmative process', allowing the Senedd the appropriate timeframe to consider the draft regulations and supporting documentation, including the Regulatory Impact Assessment.

Recommendation 3: The Committee recommends that the Welsh Government provides information on how it will explore with stakeholders:

- ***the estimated familiarisation and implementation costs to local authorities and service providers,***
- ***the estimated cost savings to procuring authorities, providers and service users, and***
- ***the ongoing costs of the new regime.***

Response: ACCEPT IN PRINCIPLE

As outlined in Recommendation 1 above, the Explanatory Memorandum and Regulatory Impact Assessment produced when introducing the Bill, set out a 'best estimate' of the financial impacts of the Bill.

It is acknowledged that there are likely to be costs associated with the familiarisation and ongoing implementation of the proposed new health service procurement regime for relevant authorities (including local authorities) and service providers.

However, it is difficult to quantify the full financial impact of the new regime to provide an accurate assessment of the financial impacts this stage, as those costs are unknown. Further analysis of costs will be undertaken in coming months as part of the detailed development of the future regulations, including measures to understand any cost savings and ongoing costs for implementation of the proposed new procurement regime. As such, my officials will seek to provide best available evidence and as much information as practically possible as part of the commitment to undertake a full Regulatory Impact Assessment as part of scrutiny for the future regulations.

Recommendation 4: The Committee recommends that the Welsh Government clarifies its approach to monitoring and reviewing the implementation of the Health Service Procurement (Wales) Bill, including the proposed timescales

Response: ACCEPT

As set out in the Explanatory Memorandum, the Welsh Government is committed to monitoring and reviewing the implementation of this Bill, together with the impacts of its provisions, in the post implementation period.

I note the committee's recommendation and will seek to ensure that provisions are built into statutory guidance for the new regime that will monitor the use and effectiveness in a timely manner.

During the development of the future regulations and statutory guidance, my officials and I will consider the most meaningful methods for monitoring the implementation of the Bill's outputs, being mindful of ongoing stakeholder feedback on the effectiveness of the proposed new regime, and alignment with any future changes instigated by the Department of Health and Social Care under their Provider Selection Regime.