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Y Dirprwy Weinidog Partneriaeth Gymdeithasol
Deputy Minister for Social Partnership



Llywodraeth Cymru
Welsh Government

Peredur Owen Griffiths MS
Chair of the Finance Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

15 December 2022

Dear Peredur,

Social Partnership and Public Procurement (Wales) Bill

During the General Principles debate on the Social Partnership and Public Procurement (Wales) Bill on 29 November 2022 I stated that I would write to you to confirm in more detail the Welsh Government's responses to your Committee's recommendations.

Recommendation 1 asks that we update the Regulatory Impact Assessment to model costs based on current/forecast inflation data. I confirm that we accept this recommendation and will update the analysis to reflect inflation and relevant pay agreements since the RIA was originally prepared.

Recommendation 2 is accepted - but accepted only in principle - as it relates to matters wider than this Bill for which I am responsible as lead Minister. Given the broad scope of the recommendation, it has been shared with Cabinet colleagues, and the Welsh Treasury has been asked to consider how supplementary financial information which incorporates general price inflation might best be presented in future Explanatory Memoranda. The Committee will receive a full response on this matter in due course.

Recommendation 3 is rejected. As I mentioned during the debate, there is a limit to what is achievable in terms of estimating the potential costs and benefits of legislative changes of this kind. We are not able to identify the extent to which contracting authorities are already carrying out socially responsible procurement, and so the costings in the RIA are based on our assessment of the work that would be needed to review existing documents and processes and make the necessary changes. Having said that, I also committed during the debate to undertaking as thorough an update of the RIA as time allows between now and the re-laying deadline before stage 3, and as part of that work we will explore whether there is any way of providing a greater level of detail in relation to Part 3 of the Bill.

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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.

Recommendation 4 requests that the Welsh Government “work with the Scottish Government to see if there are any lessons learnt around cost impact and report back to the Committee with those findings”. I accepted this recommendation on the basis that we have already engaged with Scottish Government to discuss the costs and timescales associated with their procurement legislation, and I can assure the Committee that this information was used to develop the costings presented in the RIA.

Recommendation 5, which is accepted, asks that we undertake “further work analysing and estimating the cost benefits of the whole Bill once the relevant data is available and this information should form part of the post-implementation review”. I can confirm that costs and benefits will be considered, as far as is possible, as part of our post-implementation review work.

In relation to recommendation 6, which we also accept, it is important that I be clear with the Committee that whilst we agree that any additional requirements placed on businesses must be proportionate (the procurement duties have been intentionally designed in a way that provides for them to be applied proportionately), the due diligence requirements in relation to socially responsible outcomes will have to be paid for, and will therefore need to be factored in to bid costs. This will inevitably mean that some cost increases will have to be passed on to customers.

Recommendation 7 is accepted in principle. This legislation will not be the sole causative influence on take-up of the real living wage over time, and as such it will be impossible to disaggregate its effect from the many other factors at play. Welsh Government will however undertake a separate exercise to assess take-up of the real living wage alongside our post-implementation review work.

Recommendation 8 asks that we provide support specifically for small and medium-sized businesses to enable them to participate in contracts. I accept this recommendation and can assure the Committee that this is something that Welsh Government is already committed to.

In the debate I said that the Welsh Government would not be able to accept recommendation 9 because an analysis of the impact of the construction contract management duty on small and medium-sized businesses is simply not possible in the time available. We have not yet developed the detail of what will be required by the construction contract management duties, and so we are unable to analyse the potential impact any more than we have already done - the details of which are included in the RIA.

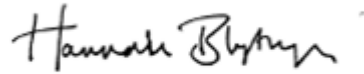
In relation to recommendation 10, we will be publishing a summary of the consultation on extending the well-being duty to new devolved public bodies shortly. An RIA will also be produced in relation to any regulations which may be required as a result. In relation to the Future Generations Commissioner’s funding, I understand that the Minister for Social Justice is currently considering the statutory estimate from the Commissioner’s office as part of ongoing budget discussions. If it is decided that the Commissioner requires additional funding to support the proposed additional bodies subject to the well-being duty, we will ensure that this information is conveyed to the Committee.

Finally, I confirm that the Welsh Government accepts recommendation 11 and will include a mid-term assessment outlining financial costs as part of our post-implementation evaluation work.

I trust that the information provided in this letter is useful to the Committee.

I have attached for information copies of the letters I have sent to the chairs of the Equality and Social Justice Committee and the Legislation, Justice and Constitution Committee, and I am sending a copy of this letter to the chairs of both of those Committees also.

Yours sincerely,

A handwritten signature in black ink that reads "Hannah Blythyn". The signature is written in a cursive style with a small mark at the end.

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