

**Y Pwyllgor Iechyd a
Gofal Cymdeithasol**

—
**Health and Social Care
Committee**

Jessica Morden MP
Chair, Joint Committee on Statutory Instruments

The Rt Hon. The Lord Hunt of Wirral MBE
Chair, House of Lords Secondary Legislation Scrutiny Committee

MPs representing constituencies in Wales

24 May 2023

Dear colleague

Health Service Procurement (Wales) Bill

The Welsh Government's Health Service Procurement (Wales) Bill ("the HSP Bill") is currently passing through the Senedd. It has been referred to the Health and Social Care Committee for Stage 1 (general principles) and Stage 2 (committee consideration of amendments) scrutiny.

As you may be aware, the Welsh Government Minister for Health and Social Services has said that she has introduced the HSP Bill in response to the UK Government's anticipated health service procurement reforms for England. Those reforms include the proposed introduction of a Provider Selection Regime ("PSR") using the regulation-making power inserted into the National Health Service Act 2006 by section 79 of the Health and Care Act 2022 ("HC Act 2022"), and the power in clause 119 of the Procurement Bill (as amended in Public Bill Committee) for a Minister of the Crown to disapply any provision of the Procurement Bill where provision made in regulations under the NHS Act 2006 apply. The HSP Bill would, if passed, provide the Welsh Ministers with equivalent regulation-making powers in respect of health service procurement in Wales.

Speaking about the HSP Bill on its introduction to the Senedd, the Minister said:

"The provisions in the Bill and the future regulations will facilitate [...] flexibility, providing a supportive mechanism that aims to maintain the current procurement level playing field for NHS health services between England and Wales. This will assist in mitigating the risk of NHS Wales being adversely affected by the operation of a different health service procurement regime in England. It will retain the ability

Senedd Cymru

Bae Caerdydd, Caerdydd, CF99 1SN
Seneddlechyd@senedd.cymru
senedd.cymru/Seneddlechyd
0300 200 6565

—
Welsh Parliament

Cardiff Bay, Cardiff, CF99 1SN
SeneddHealth@senedd.wales
senedd.wales/SeneddHealth
0300 200 6565

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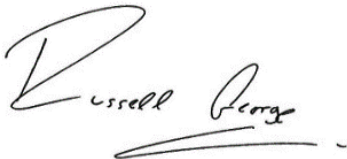
for the NHS in Wales to commission independent health service providers on a co-compliant and collaborative basis, in turn supporting and optimising financial and staff resources, supporting the NHS in Wales to deliver efficiently and effectively".¹

Throughout the Senedd's scrutiny of the HSP Bill the Minister has consistently said that the powers it contains will provide "the opportunity and the ability to be able to align, should [the Welsh Government] wish to do so",² but that she will not determine the detail of any new health service procurement regime for Wales until she has been able to consider the final details of the UK Government's PSR for England.

The complexity of the policy and legislative context, and the interrelationships and dependencies between health service procurement reforms in England and Wales, and the wider public sector procurement reforms taking place on an England, Wales and Northern Ireland basis as set out in the Procurement Bill, has been a consistent theme during our scrutiny.

Any regulations brought forward by the UK Government under section 79 of the HC Act 2022 and clause 119 of the Procurement Bill will be subject to the affirmative scrutiny procedure in the UK Parliament. On this basis, we agreed to write to you to draw your attention to our [Stage 1 report on the general principles of the Bill](#), and to ask that when you scrutinise regulations under section 79 of the HC Act 2022 and clause 119 of the Procurement Bill, you take into account any potential implications for Wales, including any cross-border issues.

Yours sincerely



Russell George MS

Chair, Health and Social Care Committee

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

¹ Plenary RoP [para 236], 14 February 2023

² Health and Social Care Committee RoP [para 10], 30 March 2023