

31 October 2011

Sian Phipps

Clerk of the Enterprise and Business Committee

National Assembly for Wales

Cardiff Bay

CF99 1NA

Our reference: 311011/ALJ/PMB

Dear Sian Phipps

### **Influencing the modernisation of European procurement policy**

Thank you for this opportunity to express my views on the topic outlined above: I would like to put forward my comments in relation to two questions that are of interest to the committee.

How effectively are the current UK procurement Regulations working in Wales, both from a supplier/contractor and from a purchasing authority perspective?

The public sector in Wales purchases goods and services that are worth around £4-5 billion a year, which equates to around 30% of total public expenditure.<sup>1</sup> The Welsh Language Board monitors the public procurement arrangements of public bodies in relation to the Welsh language. The Board's monitoring and inspection reports indicate that where goods are required to be purchased for the provision of services to the public alone (e.g. signage, branded uniforms etc.), bodies governed by Welsh language schemes demonstrate a high level of compliance.

There is less consistency with regard to the standard of public services that are provided by third parties, particularly in person or over the phone. One of the Welsh Government's objectives in introducing the Welsh Language (Wales) Measure 2011 was to secure more Welsh-language services of a high standard for the Welsh public. Given the clear increase in the provision of public services by contract, the Measure's success will be largely dependent on ensuring that public service contracts fully consider the needs of Welsh speakers. In order to achieve this, the Welsh Language Board (the Board) recently published an advisory document, entitled 'Contracting Out Public Service Contracts and the Welsh Language'.<sup>2</sup> The document is chiefly aimed at public bodies that contract third parties to provide services on their behalf. The document discusses the interaction of domestic Welsh language legislation with the principles of European Union law and offers practical assistance and advice.

The Board will promote the advisory document detailed above by holding a series of training sessions over the coming months for heads of procurement and procurement managers in the

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<sup>1</sup> Value Wales figures

<sup>2</sup> [www.byig-wlb.org.uk](http://www.byig-wlb.org.uk)

public sector. We have worked closely with officials from Value Wales in organising the sessions, and we are very grateful to Value Wales for supporting our work to date.

**We trust that the task and finish group will be eager to ensure that the Board's advisory document will be considered alongside with any EU reforms that affect public procurement in Wales.**

How should the EU procurement Directives be modernised from the perspectives of Welsh suppliers/contractors and purchasing authorities?

We believe that there is an opportunity to ensure that procurement rules in Wales to permit promoting of the use of the Welsh language in contracting out services. Contracts can safeguard the provision of Welsh-medium services but it is not clear to what extent the current rules permit the promotion of Welsh-language use, for example by placing requirements on suppliers in contracts to promote the Welsh language on a community level or by taking reasonable steps to increase the use of Welsh language services. Ensuring that procurement rules permit this would be a means of bringing the objectives of language legislation in Wales in line with the procurement rules that are in place in Wales. A change of this kind could also ensure that companies in Wales that have the ability to provide services through the medium of Welsh and an understanding of the needs of Welsh speakers would be in a better position to succeed in tendering for work by public bodies in Wales.

Concern has been raised that it is not possible to conduct procurements bilingually where they are regulated via the Official Journal of the European Union (OJEU). Procurements are required to be conducted via the OJEU in one of the EU's official languages. The Board believes that it is important to ensure that Welsh is not treated less favourably than in English when procurements are contracted out through the OJEU, in accordance with the Welsh Language Measure (Wales) 2011.

**We ask the task and finish group to urge the European Union to change the procurement rule that are in place in Wales to address the issues outlined above.**

The task and finish group is welcome to contact the Board to obtain further information about our work in the field of procurement.

Yours sincerely

Alun Lloyd Jones

Development Officer

The Central Government and Justice Unit

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