

Cynulliad Cenedlaethol Cymru	National Assembly for Wales
Pwyllgor yr Economi, Seilwaith a Sgiliau	Economy, Infrastructure and Skills Committee
Caffael cyhoeddus yn yr economi sylfaenol	Procurement in the foundational economy
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Ymateb gan Individual Response	Evidence from Individual Response

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## PUBLIC PROCUREMENT IN THE FOUNDATIONAL ECONOMY: SUBMISSION TO THE EIS COMMITTEE

**Q. What is your view of the Welsh Government's intended approach to increasing the amount of 'local procurement' undertaken by the public sector in Wales?**

**1. Answer relating to the well-being goals**

1.1 The current focus on the appointment of Welsh-based contractors to deliver public contracts and retain funds within the Welsh economy is just one element of how procurement could be used to deliver 'prosperity, resilience and a more equal Wales'. Other elements are set out below:

1.1.1 A focus on Welsh companies may mean that contract obligations to support the Welsh economy and people may not be included in the very largest projects where the procurement team do not envisage the contract being delivered by an indigenous firm and may be concerned that the inclusion of local benefit requirements may be a deterrent to attracting bids from UK or International firms with the capability that is considered important.

1.1.2 To maximise employment opportunities now and in the future, and to ensure that Wales can offer a skilled and employable workforce to indigenous and incoming employers, it is important that there are opportunities for all young people and those returning to the labour market to obtain the work experience that converts pre-employment training to a skill that can be traded in the labour market. This has been the key success of The Can Do Toolkit on Targeted Recruitment and Training, and is a well-used approach in public contracts - including the very largest building and infrastructure contracts. The current focus on appointing local firms and recording job outcomes does not necessarily deliver all of the well-being objectives.

- 1.1.3 Where UK-based or international firms are appointed to deliver contracts then there will be opportunities - if these are asked for - to maximize the use of Welsh supply-chains and the recruitment of people and trainees living in Wales.
- 1.2 So it is argued that the focus on employing Welsh firms to deliver Welsh contracts is a valid part of achieving the goals of the Well-Being of Future Generations (Wales) Act, but it is not sufficient and potentially misses out on the opportunity to deliver other valuable outcomes that will help achieve 'prosperity, resilience and a more equal Wales'.

## **2. Answer relating to the measurement of outcomes**

- 2.1 Information about the current operation of the Welsh Government Measurement Tool that has not been accessed by the author, recently. However, based on the Report of the Auditor General for the period 2014-17 several important questions should be asked:
  - 2.1.1 What proportion of the contracts that should be reporting outputs to the Measurement Tool are doing so, and what are the reasons why others are not? In 2014-17 only £310m out of a potential £12billion in relevant public contracts had reported their outcomes - so which contracts were not complying?
  - 2.1.2 Is the information on which reports to the Measurement Tool are made robust. Is this based on evidence built up and moderated over the period of the contract, or is it just estimated by the contractor and/or client team?
  - 2.1.3 It is not clear whether the reported job opportunities were newly advertised rather than transferred workers (e.g. in construction), and how many of the reported number of trainee-weeks was for apprentices and new trainees, rather than existing workers. This matters if an aim is to ensure that opportunity and prosperity are shared by all.
- 2.2 The Auditor General's Report showed that in 2017 the delivery of community benefits and the requirements of the Well-Being Act were the 8th and 10th priority (out of 10) for procurement teams. So it was clearly not a significant priority for procurement teams.
- 2.3 This approach to monitoring and reporting can be compared with the approach developed for the Northern Ireland Government's Buy Social approach. This allows/requires project managers to compare the delivery of the contract requirements relating to recruitment and training with the proportion (i.e. value) of the contract delivered to date, and remedial action to be taken if the requirements are not being met. This approach also generates evidence of the delivery of the relevant contract conditions that could also be used to generate estimates of the value to the NI economy. However, the initial and critical focus is ensuring that the contractual obligations are delivered.

**Q. In what ways can local spend .... be sustained and increased while working within the EU Procurement Framework?**

**3. Answer: The current Framework is likely to continue and it is easier to include contract conditions like targeted recruitment and training and the seeking to identify and utilize a local supply-chain that must be met, than to seek to bend the award process to favour Welsh companies.**

3.1 Initial expectations – whatever the outcome of Brexit the EU procurement framework will continue as UK law for some while and may be part of any long-term trade agreement. This is because if British firms want access to EU markets then reciprocal arrangements will have to be provided.

3.2 In relation to delivering the Welsh Government's well-being objectives compliance with the Framework is more difficult where the focus is on utilising Welsh-based firms since for most contracts there is a need to provide a level playing-field for bidders from across the EU. Ways to increase the work going to Welsh contractors include:

3.2.1 Letting the contracts in smaller packages which are within the delivery capacity of more Welsh firms and are of less interest to other UK and EU firms (but this may increase the appointment and management costs for the client);

3.2.2 Increasing the capacity of Welsh firms to compete for contracts;

3.2.3 Requiring the successful contractor - after award - to take action to identify and contract with a local supply-chain, including through the provision of registers of local firms e.g. Welsh firms, and their capacity.

3.3 To level the playing field action may be needed to ensure that all contractors have equal access to the targeted recruits e.g. through a register of providers.

**Q: Can you give examples of similar public procurement initiatives elsewhere in the UK and EU.**

**4. Answer: A most robust 'system' has been developed by The Strategic Development Board for Northern Ireland in partnership with the NI Department of Finance. This is the Buy Social approach. This would be underscored by legislation similar to the Procurement Reform (Scotland) Act 2014.**

4.1 Unpublished research into the use of community/social benefit clauses in the four jurisdictions of the UK (focusing on Government policy and practice rather than LA or RSL actions) found a similar pattern of development in all jurisdictions:

4.1.1 pioneering work focused on targeted recruitment and training (e.g. The Can Do Toolkit used by Welsh RSLs) and SME opportunities (including social enterprises);

4.1.2 a broadening of the focus as Government bodies adopt the approach, in particular to include environmental actions that were already an established part of the

contracting requirements so that a client or contractor comply with the requirements but avoid using innovative requirements like targeted recruitment and training);

- 4.1.3 weak or non-existing monitoring and reporting requirements relating to economic and social requirements, and/or a weak response to under-delivery (i.e. breach of contract);
  - 4.1.4 poor or non-existent training and implementation support for procurement teams in relation to the scale and diverse nature of public procurement.
- 4.2 The above approach could easily lead to a perception amongst leadership teams, procurement teams and contractors that delivering community benefits - let alone those that would address disadvantage and the needs in the community where the contract is being delivered - is not a high priority.
- 4.3 The Buy Social approach in Northern Ireland (see [www.buysocialni.org](http://www.buysocialni.org)) seeks to address some of these issues by taking a more focused and systematic approach:
- 4.3.1 adopting a policy whereby implementation of targeted recruitment and training requirements is mandatory for works and services contracts over pre-determined thresholds (£2m for building works, £4m for infrastructure works and £500k per annum for services contracts);
  - 4.3.2 developing standard text that should be included in each mandatory procurement process, including measurable output requirements;
  - 4.3.3 developing a 'traffic light' approach to the monitoring of the community benefits requirements in each contract, with output data then being aggregated to show Province-wide outputs against targets;
  - 4.3.4 having a team of 6+ officers that help procurement teams implement the approach in both works and services.
- 4.4 In England two unconnected approaches emerged from Government. The requirements of the Social Value Act reflect the 'common pattern' set out above. In parallel, Crown Commercial Services have produced a Procurement Action Note (09/16) called 'Procuring Growth Balanced Scorecard' that applies to the award of major infrastructure contracts (£10m+). This does not refer to 'social value' but reverts to the terms used in earlier documents with tender evaluation criteria related to 'employment and training' and 'community benefits'. Both of these approaches apply to UK Government contracts being delivered in Wales.
- 4.5 In Scotland the more comprehensive legislation in the Procurement Reform (Scotland) Act 2014 requires contracting authorities to account for commissioning benefits in procurement with much more rigour than the Public Services (Social Value) Act 2012 and should be the template to be considered if a legislative approach is taken.

- 4.6 It can be argued that the Buy Social approach in NI provides a more systematic approach to the inclusion of community/social/well-being requirements in public contracts and that this could provide a basis for the development of a similar system in Wales. The approach accepts that there is a minimum scale of contract where the full approach is worth applying (i.e. where the outcomes justify the work required to include, monitor and enforce the contract conditions) and aims to provide data for jurisdiction-wide outputs to be calculated from the evidence and data that is used to monitor and enforce the contract conditions by the client's project manager. The limits to the number of projects where the approach is mandatory helps to get support from hard-pressed procurement teams and their clients.
- 4.7 In addition, the team managing the work has developed a data-base of organizations based in all areas of the Province that will work with contractors to help them recruit new entrant trainees and access funding for training where possible. This levels the playing field for local and non-local bidders and allows local targeting of beneficiaries to be a contract condition. A similar approach can be used for identifying local supply-chains.