



Pwyllgor Gwasanaethau Iechyd
Arbenigol Cymru (PGIAC)
Welsh Health Specialised
Services Committee (WHSSC)

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Madelaine Phillips,
Policy and Public Affairs Officer/Swyddog Polisi a Materion Cyh
Welsh NHS Confederation

Dear Madelaine

Procurement Bill Evidence

Thank you for the opportunity of contributing to the process of considering the procurement bill. In order to provide structured feedback I thought it would be helpful to provide some background around procurement in the context of commissioning specialised health services which is the role of Welsh Health Specialised Services Committee (WHSSC). The letter then gives some specific examples which support the need for the bill.

Context

WHSSC commissions specialised health services for the population of Wales on behalf of the 7 Welsh Health Boards and has a revenue budget of circa £750m per annum. WHSSC commissions these services from healthcare providers in both Wales and England with the majority procured via the NHS. Approximately £30m is procured directly from the independent sector as set out below. A further £70m is procured from independent sector providers for renal dialysis via contracts held by WHSSC's NHS health board and NHS Trust providers.

When WHSSC commissions from the independent sector it is tendered via the NHS Wales Shared Services Partnership or relevant national framework agreements. The directly annual value of services procured directly from the independent sector is fairly modest at £30m with the main components as follows:

- The key area is mental health placements for medium secure and eating disorders totalling £17.662m. This is procured via an NHS framework agreement tendered by the National Collaborative Commissioning Unit (NCCU) via NHS Wales Shared Services Partnership.

- The next largest value is a national tender via NWSSP for HPN ([Home Parenteral Nutrition for Intestinal Failure](#)) at £5.863m. This has recently been extended but at a material cost increase given market conditions and reduced competition.
- The third largest value is £3.109m for a rare disease high cost drug with the vast majority of the cost being the drug price accessed via an agreed PAS ([Patient Access Scheme discount](#)). As these prices are set nationally and not further negotiated there is little procurement risk in this area.
- The final significant area is £2.720m for the positron emission tomography scanning service from Cardiff University – this is procured via a long term contract under a limited competition procurement linked to a Welsh Government funded initiative – this is being renewed under a new national programme with NWSSP advice on the new tender arrangements owing to fixed site requirements.

WHSSC's main commissioning route to access independent sector providers is normally via its main NHS providers – for Wales, mainly CVUHB, SBUHB and BCUHB. Out of these contracts the highest value non-NHS area is the procurement of renal satellite dialysis which across Wales totals up to £70m per annum. WHSSC is closely involved in these processes via the Welsh Kidney Network - setting the requirements for specification, standards and volumes but all contracts are held by the three regional NHS providers and recharged to WHSSC. These contracts are tendered via the NWSSP who also provide ongoing contract management as part of their function.

Procurement Risks Relevant to the Bill

WHSSC's experience over the last three years is that the procurement environment has become more difficult. There has generally been upward pressure in prices on renewed contracts sometimes disproportionate to general inflation conditions. A number of areas have experienced supply problems and issues particularly when there is dependence on one or two main providers. With the supply side constraints post the pandemic the procurement environment feels less competitive which has been reflected in higher prices and generally less competition in some key areas. This means that in practice we are increasingly in competition with the NHS system in England to secure services/products which are in limited supply. This is highly relevant to the procurement bill as it is essential that doing business with NHS Wales must not be seen to be more difficult or less flexible than with other parts of the UK.

There are a number of specific experiences that WHSSC's has had that are potentially relevant to any change in procurement legislation:

- Mental Health NCCU framework – this has recently been renewed but indications are significant upward pressure on tendered prices for many framework providers in response to staffing and facilities cost

escalation. The strategic issue here is that the majority of the provision in the framework is based in England and we are competing for these resources. These places are becoming a more limited commodity as NHS England demand is growing and NHS provision difficult to meet all demand. Wales therefore needs to remain attractive for providers to be part of the framework. There is a risk that different legal frameworks could become a perceived barrier for providers to wish to bid or may price in perceived additional risk.

- Dialysis – via WHSSC’s regional providers the most recent large scale procurement has concluded for the whole of South West Wales. We experienced reduced competition with fewer providers bidding and material prices increases. Whilst the specific risks identified in this recent process predated any legislative changes elsewhere, the issues of staffing difficulties and spread of resources, will be continue to relevant for some time. [REDACTED] The strategic procurement risk is the need to remain attractive as a place to do business given the degree of systemic uncertainties in the current market. Historically, procuring dialysis capacity from the independent sector has had the advantages of price, speed, flexibility and not requiring access to capital expenditure resources. However, if conditions continue to move adversely there will at some point be a need to reconsider the balance of provision between the NHS and the independent sector. The relationships with the independent sector in dialysis are longstanding and important and hence it is essential that we remain competitive as a market with the NHS in England.
- HPN – this direct contract was recently extended via the NWSSP process. Against a background of limited effective competition and recent national supply difficulties the cost increases have been material despite negotiation. The very limited competition available for this service reinforces the need to remain an attractive market for providers as alternative provision is difficult to source or recreate in the NHS.

The risks seen in the WHSSC portfolio as illustrated in the above examples lead to a clear preference for a cautious approach where Wales remains in initial alignment with the new system in NHS England. This would give us time to assess the impact on the English system in practice and take the learning into a more localised Welsh approach which could be enabled by the proposed bill.

Other considerations:

- Foundational economy – the nature of WHSSC’s specific service requirements above mean that we can justify the need for local delivery. This may be more difficult in some other areas of procurement which technically could be supplied from a distance. Consideration could be given as to how any new Welsh

procurement framework could be more directly aligned to the principles of the foundational economy goal.

- Flexibility of contract models – a bespoke Welsh framework could enable more flexible arrangements which could encourage long term contracts with flexibility to adapt delivery models over time to increase the proportion of a service delivered by the NHS as opposed to be wholly provided by the independent provider – for example, changing the model of delivering home nursing support for intestinal failure services to a mixed economy of NHS/private provision where local services can integrate better.

I hope you find this information useful to inform collective thoughts on the proposed bill.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Stuart Davies', with a stylized flourish at the end.

Stuart Davies
Director of Finance