

Richard Dooner
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Local Government House
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18 December 2017

Dear Richard,

Rethinking food in Wales – Public sector procurement

The Committee has agreed that I should write to you in relation to several issues that were raised in the course of our work.

Public sector food procurement spend

The Public Sector Food Purchasing in Wales Report 2013 was commissioned by the Welsh Government. It estimated public sector food and drink spend at £74.4 million, with purchases from Welsh companies including producers and distributors accounting for 63% (£47.2 million).

The Committee heard that there is no public source for accurate and up to date figures on public sector procurement of Welsh food. It was suggested that the Welsh Government should ensure this information is updated and published regularly.

What is your view on whether this information should be published regularly?
What would be the advantages and disadvantages of making this information available publicly?



What is the total amount of food procurement spend by local authorities through NPS frameworks and outside the frameworks? Please provide figures for both.

Procuring fresh, nutritious, locally produced food

Increasing the amounts of Welsh or local food procured by the public sector provides an opportunity to support local food producers. Furthermore, it provides the public (e.g. hospital patients, school children) with healthy and nutritious food.

In 2016, the Public Policy Institute for Wales reviewed the Welsh Government's food and drink strategy and action plan. Professors Terry Marsden and Kevin Morgan of Cardiff University produced the report: **Food Policy as Public Policy**. The report's first recommendation relates to procurement:

Placing sustainable diets at the heart of food and nutritional policy through adopting successful public health interventions such as Food for Life and bolstering public sector food procurement and catering provision.

In your view, would it be useful for the Welsh Government to respond publicly to the report by the Public Policy Institute for Wales?

What is the level of participation in Wales in the Food for Life programme? What is your view on this matter? What are the advantages and disadvantages of the Food for Life programme?

The Committee heard that EU procurement rules do not prevent contracts specifying food that is fresh, affordable and nutritious; nor to prevent buyers from engaging with local suppliers to develop sustainable and collaborative approaches to food.



We were told that Wales should take a leading role in encouraging public bodies to buy local or Welsh produce. In addition to the obvious economic benefits, it was suggested that this would have benefits in terms of reducing food miles, job creation and ensuring that value added further down the supply chain is kept in Wales.

The importance of ensuring that value, rather than price, should be the more prominent factor in procurement decisions was also emphasised to the Committee. It was suggested that decisions should place a weighting of at least 60% on quality, with price not exceeding a 40% weighting. The use of quality and assurance indicators could also support the identification of the quality of produce. However, it was acknowledged that an emphasis on healthy, local food could increase costs, particularly in the short term.

The Committee also heard concerns about the amount of food waste.

How do local authorities, through their procurement practices, support the procurement of healthy, locally produced food?

How do local authorities, through their procurement practices, promote sustainability (e.g. food miles); freshness (e.g. how long from field to plate); and provenance (e.g. protected status)?

What should be done to aid local authorities to develop their procurement practices to focus on healthy, locally produced food?

When making procurement decisions, how do local authorities determine the balance between quality and cost?

How is food waste recorded; reported and monitored by local authorities?

The Welsh Government's food and drink action plan



The Welsh Government's food and drink action plan, Towards Sustainable Growth: An Action Plan for the Food and Drink Industry 2014–2020, says that the National Procurement Service (NPS) will be measured against increasing:

- the opportunities for food businesses to supply the public sector;
- the number of suppliers and volume/range of product supplied; and
- the benefits to food producers targeting this marketplace.

One of the plan's actions (action 30) relates to public procurement:

Enable public sector market opportunities to be developed for the food industry and in particular SME and micro food businesses.

There was also a suggestion that an overarching food strategy would be helpful to ensure balance between competing policy demands such as market-based growth strategies, sustainability and health. The importance of political will and continuity was emphasised. Furthermore, leadership is needed to move incrementally to more sustainable food systems and better public health nutrition.

What is your view about whether an overarching food strategy is necessary?
What are the advantages or disadvantages for public procurement of food of such an approach?

Do you believe sufficient emphasis is placed on public procurement of food in Towards Sustainable Growth?

NPS food frameworks

The WLGA told the Committee that there are some concerns about the appropriateness of food and drink as a national procurement framework:

There are however now concerns among officers that the issues experienced with the food category reflect some difficult truths; that



food does not suit aggregation and needs to be an exception to the 'buying once for Wales' philosophy.

The Committee heard that some local authorities have decided not to participate in national frameworks for food procurement and will make their own arrangements.

Do you believe that Framework 1: Fresh Food and Drinks Products provides sufficient flexibility for local authorities to procure healthy, locally produced food?

What actions need to be taken by the NPS to address the concerns expressed by local authorities that food is not appropriate to be procured through the NPS?

Alternative procurement structures

The Committee was told that local authorities could work together, independently of the NPS, where they have common procurement needs: It was suggested that dedicated regional innovation budgets could be deployed to support innovative procurement. Shared solutions could allow more resources to be deployed and risks to be reduced.

Can you provide the Committee with examples of good practice of local authorities working together in relation to public procurement of food? What more needs to be done to support this type of collaboration in future?

Brexit

The potential impact and opportunities arising from Brexit was discussed with the Committee. Given that EU Directives relating to procurement have been transposed into UK law, there is likely to be no immediate change to procurement law from the date the UK leaves the EU.



However, it was suggested to the Committee that it would be timely to review legislation relating to procurement to ensure appropriate arrangements are in place when the UK has exited the EU. It was suggested that the review should consider –

- Whether and how state aid rules might apply, particularly in the context of service concessions.
- Whether the legislation can facilitate more flexibility to allow local authorities to promote local suppliers.

On 12 September 2017, the Cabinet Secretary for Finance issued a written statement, *Repositioning of the National Procurement Service and Value Wales*, in which he announced a refocusing of the NPS and Value Wales to ‘take advantage of any changes in procurement rules which follow Brexit’. He said:

We will also work with businesses to explore all possible options to develop local supply chains and to fill any supply voids across Wales so that Welsh businesses are well-placed to compete and bid for public sector contracts here in Wales and further afield. And we will explore how we can best align infrastructure investment with our regional development funding programmes to maximise their impact and promote inclusive economic growth and prosperity across Wales.

What consideration is being given to how Brexit may impact on food procurement?

In what way should legislation after Brexit provide more flexibility to allow local authorities to promote local suppliers?

I would be grateful if you could respond to this letter by 2 February 2018. I look forward to receiving your response.



Yours sincerely,

A handwritten signature in black ink that reads "Mike Hedges". The signature is written in a cursive, flowing style.

Mike Hedges AM

Chair of Climate Change, Rural Affairs and Environment Committee



Date/Dyddiad:
Please ask for/Gofynnwch am:
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22nd January 2018
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CLILC • WLGA

Mike Hedges AM

Chair of Climate Change, Environment and Rural Affairs Committee
National Assembly for Wales

Chair,

Thank you for your letter of 18th December concerning Rethinking food in Wales – Public sector procurement.

You asked for information and views concerning several issues that were raised during your work. I'll be glad to address each of these directly and have appended the questions as asked, with a narrative response.

It's a pleasure to support your Committee and its good work. If I can be of further assistance to you in this matter, please do not hesitate to get back to me.

Yours sincerely

Richard.

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Rethinking food in Wales – Public sector procurement.

Response to questions from the Committee from Richard Dooner, Programme Manager, WLGA.

Public sector food procurement spend

The Committee has heard that there is no public source for accurate and up to date figures on public sector procurement of Welsh food. It was suggested that the Welsh Government should ensure this information is updated and published regularly.

Whether this information should be published regularly?

Yes. Responsible publication of properly qualified information would allow local authorities, suppliers and the public alike the opportunity to understand the category area. It would facilitate planning and production and could address supply voids.

As with any publication of data, there needs to be a reasonable balance between the cost and effort of acquiring the information and the utility of its use. Public access will also need to be appropriate to the content and its intended application.

Information is however already being collected through Welsh Government's procurement policy team, Value Wales and may also exist in other forms, supporting other thematic work streams. The additional costs and effort would be those of acquisition or re-use from current sources, interpretation for purpose, and dissemination to public benefit.

This data observatory is the descendant of one of the first initiatives to be undertaken by the collaborative WLGA and Welsh Government teams that merged to form Value Wales, some 14 years ago. It is not food specific; but can be analysed on a category basis which includes food procurement. Categorisation is based on the main business activity of the person or organisation being paid.

There is no public access to the data which is subject to controls, being commercially sensitive. The use of the data for strategic procurement is however well understood and within Value Wales' remit. I have not been made aware of any initiative to make this information available to the public; nor of any initiative to exploit the data, beyond the existing programmes for Value Wales and the National Procurement Service.

What would be the advantages and disadvantages of making this information available publicly?

The main advantages of making this information publicly would be to facilitate engagement with the food industry and assist with strategic planning. There might also be efficiencies if the 'once for Wales' philosophy could be applied to data collection and re-use.

The main disadvantages of making this information publicly are those of potential misuse and misinterpretation of the data; and the potential cost of acquiring the data if current sources cannot be reused. Creditor feed data is also notoriously difficult to interpret well and this category is one of the most difficult. In a time of considerable change to public services, local forecasting also needs to be done in conjunction with operational planning. I respectfully suggest that for procurement purposes the food category is better analysed locally, where supporting knowledge can be brought to bear.

There might also be practical issues concerning permissions and the privacy of the data. These might be overcome; but it would be wise to consider which data source is to be used and how the value and utility of making this information publicly available is to be realised.

What is the total amount of food procurement spend by local authorities through NPS frameworks and outside the frameworks? Please provide figures for both.

The food category was valued by the NPS at £25,000,000 a year, including catering equipment. There have however been issues in establishing the category and throughput is considerably less. In November 2017 the Wales Audit Office reported a total 2016-17 spend for all organisations using the NPS. The total for all food categories was £1,593,693. The majority of this is believed to be spend by Local Authorities.

The historic food spend for Welsh Local Government was known to be in the region of £50,000,000. If we use Caerphilly¹ County Borough Council (pop. 178,806) as a representative example for food spend and pro rata this to Wales (pop. 3,200,000) we reach £51,064,326.

It is difficult to be more exact about spend. Analysis can be particularly deceptive within the food category. Definitions could refer to basic ingredients, food products or ready to eat food at point of consumption. Spend may or may not include distribution or labour costs. Some food supply might also be within the scope of an organisation but independently provided (local management of schools, leisure or hospitality spinouts, care services) or otherwise provided by means which are not recorded in the spend analysis.

Analysis of creditor systems is also difficult because the analysis categorises organisations by their main business activity. The catering trade is diverse in nature, so the main business activity does not necessarily reflect what is being supplied locally.

These differences are especially relevant in cross-sector comparison as some sectors procure for bulk supply into stores. In these instances, the costs of internal distribution and breaking bulk should be considered as part of the overall spend; but will not feature in the amounts invoiced by food suppliers.

Procuring fresh, nutritious, locally produced food

In your view, would it be useful for the Welsh Government to respond publicly to the report by the Public Policy Institute for Wales?

I believe it would be useful for the Welsh Government to respond publicly to the report by the Public Policy Institute for Wales. This will show that Welsh Government are serious in improving the way in which the public sector procures food for our most vulnerable citizens. It would assist in developing a transparent way forward for food procurement in Wales

PPIW's report makes a lot of sense and policy makers would do well to consider its findings. In many respects however, the Welsh Government has anticipated the underlying issues and already legislated to enable change. The Wellbeing of Future Generations Act, for example, encourages an enlightened approach to procurement specification; which is both sustainable and good business practice.

¹ Caerphilly was an early adopter of a modern e-procurement system, which is well embedded and now has a reasonably accurate capability for subjective analysis. Spend is £2,853,315.

My view is that it would be most useful for Welsh Government to foster an environment which enables the application of the Act in practice and allows good things to happen. My suggestion is that a public response to the report should be along supportive lines.

What is the level of participation in Wales in the Food for Life programme? What is your view on this matter? What are the advantages and disadvantages of the Food for Life programme?

The majority of Welsh Authorities do not participate in the Food for Life programme. The motivations for the programme are however likely to feature in local policies and take up of the programme or otherwise is a local choice of finding the right tool for the job.

Welsh Authorities mainly use The Healthy Eating in Schools (Nutritional Standards and Requirements) (Wales) Regulations 2013. Flintshire County Council has taken up the Food for Life programme; but other Authorities have not been convinced it offers value for money. The catering aspect of the programme (previously called 'Catering Mark' now called 'Food for Life Served Here') comes at a cost of £2,388 per year (£1,194 for primary school menu + £1,194 for secondary school menu).

Authorities also have excellent engagement with the Welsh Network of Healthy Schools Scheme (which is based on a whole school approach to health - including food). The National Procurement Service includes sustainability in its procurement process and The Healthy Eating in Schools (Nutritional Standards and Requirements) (Wales) Regulations 2013 legislate the nutritional content of an average school lunch and food/drink requirements throughout the school day.

How do local authorities, through their procurement practices, support the procurement of healthy, locally produced food?

Local Authorities have a duty of community wellbeing that is reflected in their local procurement practices. Considerable effort has been made, and continues to be made to encourage local provision of the nature and type that Local Authorities can use.

The Committee has heard from practitioners at Caerphilly Council about specific local initiatives. One example included employment of a dedicated Food Procurement Officer within the centralized procurement function. Procurement documentation was developed to include social clauses and evaluation criteria which will support local supply chains. Caerphilly CBC also supports the procurement of healthy, locally produced food by working closely with producers and trial innovative procurement practices. The Committee was given an example where the local provision of meat was successfully piloted; with explanation of why the initiative is unlikely to continue.

There are issues in resourcing. Initiatives of any kind require people and effort and Local Authorities are genuinely short of capacity. Efforts to support procurement centrally have not contributed positively to the procurement of locally produced food.

This is of ongoing concern to Local Government. WLGA is therefore leading an initiative which considers methods developed by Local Authorities in England for improving the contribution of procurement to social value. These include measures which consider healthy local production and enable its consideration within procurement processes.

How do local authorities, through their procurement practices, promote sustainability (e.g. food miles); freshness (e.g. how long from field to plate); and provenance (e.g. protected status)?

The procurement practice aspect of this is in the specification process. These requirements can all be specified and awarded upon. Whether they are specified depends on the needs of the organisation, the availability of supply and the relative value attributed to them.

Caerphilly CBC for example promotes sustainability, freshness of product and provenance by ensuring that all of these areas are covered within its tender documentation. All procurements are undertaken within the scope of the EU Public Contract Regulations 2015 and by professional procurement officers.

Specification is intended to support business need. Which, as a definition, refers to all the needs of the organisation, as prioritised by the organisation. There is nothing in the procurement process that prevents sustainability. The Wellbeing of Future Generations Act provides the basis for reconsideration of business needs and relative value of attributes such as provenance.

What should be done to aid local authorities to develop their procurement practices to focus on healthy, locally produced food?

Enable a coordinated approach. The realisation must be that the value in the food product is in its effective deployment to purpose; within a much bigger environment. The outcome is wellbeing and prevention of adverse social and health issues in communities.

This is far more important than the narrow scope of buying the ingredients cheaply. There's nothing in that statement preventing the achievement of value for money; which is made to highlight that the understanding of value needs to be raised away from a narrow focus on the price of commodities. The procurement objective is to manage all aspects of supply and production to provide the best possible product at the point of consumption; given the resources available and the environment within which we operate. In most instances, including school food, this includes a marketing dimension; because the food is made to be sold.

This requires a management resource that supports the overarching strategy, with procurement resource at local level, working in close cooperation with those who prepare and market the food.

Historically the Welsh Government had developed a Food Procurement Route Planner in conjunction with local authorities. This gave public organisations a best practice approach in how to procure their food requirements although this is now out of date and has not been periodically refreshed. The Welsh Government could consider putting working groups together to drive this area and assist Public organisations in changing the approach to the procurement of food. It should be noted that any working groups remit should be to drive real change and not be a discussion only forum. Going forward, Welsh Government can support the procurement profession and support training in this critical supply area.

Welsh Government could also foster the use of longer term contracts to enable producers to invest in long term business models. We need supplier development and support mechanisms to assist local producers in doing business with the Welsh Public Sector.

When making procurement decisions, how do local authorities determine the balance between quality and cost?

They use a formula integrated into their specification of needs and competitive evaluation processes. All competent procurement entities will do this. At its simplest level, the balance will be a quality/cost ratio. Historically, quality was the driving criteria in the evaluation methodology. The

majority of the Welsh Purchasing Consortiums tender arrangements for food were 60% quality and 40% Price.

The definitions which underpin Price/Quality evaluation can be far from simple to apply in practice and an increasingly sophisticated approach has been developed. This includes tools which help measure underlying social value and cost factors that might otherwise be unappreciated and not measured.

A practical example is the new Themes Outcomes and Measures (TOMS) tool that was launched in November 2017 in support of the Social Value Act in England. WLGA is in the process of evaluating TOMS in conjunction with the Wales Head of Procurement network. We are already aware that our Wellbeing of Future Generations Act goes further than the Social Value Act; though we are considering that the additional considerations apply mainly to pre-procurement procedures and there's a strong compatibility in TOMS for procurement practice here. One of these measures, NT35, is:

“Percentage of procurement contracts that includes sustainable procurement commitments or other relevant requirements and certifications (e.g. to use local produce, reduce food waste, and keep resources in circulation longer.)”

This is measured as a % of contracts and is a record only. It is however just one measure within a toolkit containing 5 principal issues, 18 Outcomes and 35 Measures. Measure NT1 is for more people in local employment:

No. of local people (FTE) employed on contract for one year or the whole duration of the contract, whichever is shorter.

This is measured as number of people FTE x £28,213 to provide a Social Value Proxy. Local employment is expressed as a cost factor and provides a more realistic evaluation of the financial impact to the Authority than that available by comparison of tendered prices alone.

It would be a relatively straightforward matter to develop an outcome and associated measure that related to the Wellbeing Act here. It would be particularly useful if this measure went further than NT35 above; to provide a social value proxy for local food provision which resembled the financial value given to local employment.

TOMS was developed in Local Government but includes 'plug-ins' for different organisations across a variety of themes. Available free of charge from <https://socialvalueportal.com/national-toms/>

How is food waste recorded; reported and monitored by local authorities?

Food waste is monitored, recorded and reported to Welsh Government by each Authority's waste management team. Food waste from households is reported as their separate food waste collections and would also be recorded in waste data flow and as part of individual contracts to anaerobic digestion plants.

There has also historically been a significant element of food waste in the black bag and wheelie bin waste. A snapshot was taken about 18 months ago to provide a compositional analysis of all 22 Local Authorities on their residual waste. This suggested that about 25% of that bin was food waste. This was however a snapshot in time it is likely that the mix would have changed by now.

Separation of internal food waste from schools and other providers might not be recorded separately. It depends on their individual waste management contracts. Where the Local Authority provides the service there may be separation of the food waste - but it will go in a truck with probably household and other trade waste so can't be measured. The Environment Act will in future require all public-sector bodies to keep their food waste separate, and for it to be collected separately. This may make the measurement easier but the problem of one truck picking up multiple sources of food waste will remain.

WLGA is encouraging Local Authorities to sign up to the WRAP Courthauld 2025 agreement where they have to actively manage their food waste better and reduce it. Cardiff and Monmouthshire Councils are among the early adopters.

The Welsh Government's food and drink action plan

What is your view about whether an overarching food strategy is necessary?

Food is important. It forms an integral part of our lives; its production is part of our nation's social and economic fabric. Its nature determines the health of the nation. It is entirely necessary that our Government has an overarching strategy for food. This would assist Public Bodies in Wales in delivering the procurement of food in Wales.

What are the advantages or disadvantages for public procurement of food of such an approach?

An advantage of such a policy would be to give Public Bodies the necessary direction to ensure that they could deliver healthy, nutritious and safe food to all areas of the public sector. We foresee no disadvantages. We need a consistent approach which will give comfort to producers within Wales.

Public procurement presently relies almost entirely upon the supply arrangements that already exist to supply the catering trade. This brings integration and economies of scale; but adapting to industry capabilities is not the same as shaping them; which an overarching strategy could help to do. This would intuitively offer improvement. Food supply is presently dependent on supply economies that are geared up to service large concentrations of population and care little for local boundaries or the plans of Government.

A suggested example would be to encourage the relationship with foods that are highly seasonal or localised in nature, involving smaller suppliers. These need a local connection for the relationship basis to be sustained; but they could form part of a deliberate strategy that would otherwise not be admitted into procurement arrangements.

Do you believe sufficient emphasis is placed on public procurement of food in Towards Sustainable Growth?

I am an advocate for better public procurement, so might naturally be expected to suggest more emphasis. It is however important that our collective efforts are made on things that make a difference and we must understand that in the context of a food industry in Wales that's worth £16.8 Billion. I currently believe that Towards Sustainable Growth has its emphasis just about right and we can support it in the place it resides.

Public procurement is however worth more than its spend value. There is a significant role as an influencer, because of what public procurement is and where it happens. It is my belief that the

public procurement of food products should be considered as a lever within a whole system approach. Public spend is important; not because of its quantity, because of its influence.

Councils have always been proactive in developing local food suppliers and producers and we can be proud of our achievements to date; but there is much more to do. We have not been helped by austerity or by recent initiatives to centralize food procurement. Further links should be forged between Welsh Government, Food and Drink Wales and Public-Sector bodies to ensure that there is joined up thinking between all areas which can only be beneficial moving forward. We need to develop stronger relationships and partnerships between producers and food buyers.

NPS food frameworks

Do you believe that Framework 1: Fresh Food and Drinks Products provides sufficient flexibility for local authorities to procure healthy, locally produced food?

I have had no direct involvement in the NPS tender and have not seen its framework documentation. I am however in touch with Local Authorities who report that their market intelligence informs them that the NPS has experienced difficulties with the food category and has not been able to establish the level of trust in the supply chain that is required to make this work centrally.

The objectives of healthy food, locally produced are not necessarily affected by the flexibility of the framework. This type of arrangement can drive down the costs of buying food ingredients through process reduction, aggregation of common volume and a move to more homogeneous specification. If local supply can fit that type of high-volume process and is engaged; or if the framework is structured to suit specific local conditions; a local supply relationship for healthy food can be established.

Otherwise, the process will attract suppliers from elsewhere that operate competitively in the high-volume segment and are able to win tenders through their scale of operations; or by other means such as being better at responding to tenders. In such instances, food might be healthy, but whether it is locally produced will be determined by the supply chain for that supplier. The remote supplier might also procure locally; sometimes at scale.

It could therefore be that a less flexible arrangement is more conducive to local production; or that a provider from out of the area is beneficial to local producers; albeit different ones. The point is that there is no formulaic approach and the objective will only be achieved if the procurement is intelligently done and applied with the correct objective in mind.

What actions need to be taken by the NPS to address the concerns expressed by local authorities that food is not appropriate to be procured through the NPS?

There needs to be more planning, transparency and trust developed before any future procurement take place. Due consideration must be made to social and economic development going forward.

This is a difficult ask of the NPS because the structural advantages of the 'Once for Wales' buying philosophy require novation to the centre. If the operational need is best served by having the balance of control near the point of use; it makes no sense to procure centrally.

There have been concerns among procurement practitioners in Local Government that the NPS has insufficient expertise, knowledge, and experience in this critical field. The organisation has

attempted to address this insufficiency through recruitment; but this has proved problematic. I have some sympathy with the NPS in this regard; they have tried. It is however ultimately weak to expect to carry this at the centre through recruitment; because in a strategic resourcing terms, it's a mismatch. The nature of engagement required is simply too much for one person.

My suggested response would be to coordinate procurement on a distributed network basis. Some element of central contracting need not be inconsistent with that; provided the balance of control is a pull from the user, rather than push from the centre. It may however be difficult to justify resourcing this on cash savings such as those required for the NPS; particularly if the benefits of procurement are in social and economic value that is not immediately cashable.

It is my view that tactics of aggregation which work well in other categories are simply not appropriate for food; unless the overarching policy for food is one of a more homogeneous approach; akin to the approaches of the big supermarkets. That does not appear to be the policy direction for Welsh public services. We must strategize for the objectives we have.

The strategic procurement choice for food should therefore be disaggregation; with emphasis on social and economic value in determining value for money. This can be supported by a small number of frameworks at the centre; but these must be locally led. It is important to understand Wales and the local and social aspect of food in the wider context. The required level of engagement with the supply chain is also quite different to other categories of procurement. In relative terms, it is disproportionate to the spend value; but that's what the category requires.

Alternative procurement structures

Can you provide the Committee with examples of good practice of local authorities working together in relation to public procurement of food?

The Welsh Purchasing Consortium (WPC) was an excellent, if understated, example of good practice for a collaborative approach to food procurement in Wales. This operated as a distributed network, centrally coordinated to optimise the mix of local, regional and national working.

The collaborative arrangements operated invisibly, behind the scenes to coordinate multiple frameworks and operations; including those for food safety and quality improvement. Procurement 'just happened' which is to say that a lot of work was done diligently and competently to support operational provision and nobody noticed because it worked.

There were occasions when the wider business of food supply did not work. Notably the tragic e-coli 0157 outbreak of 2005 and the horse meat substitution scandal of 2013. Neither of these was caused by the WPC; but the organisation did provide Local Government with the collective resource to expertly respond, coordinate with other agencies and manage new procurement methods which incorporated additional measures for prevention. This included innovative co-working with environmental health officers within the local government structure and a collective early warning system on matters of food quality as a preventative measure for food safety.

It is concerning that the collective knowledge share structures previously facilitated by the WPC are no longer in place and that the central service is experiencing fundamental difficulties.

What more needs to be done to support this type of collaboration in future?

There is no reason why collaborative working cannot be taken forward by individual organisations together for innovative projects but this must be allowed by Welsh Government. The development

of centres of excellence would be beneficial going forward and support the development of Procurement experts.

The main impediment to progress is a lack of people and uncertainty around future provision.

Brexit

What consideration is being given to how Brexit may impact on food procurement?

Food procurement is being considered by the WLGA as part of its support to local authorities generally and its ongoing support of the procurement function in Local Government. WLGA acts as an interface between Welsh Local Government and the Local Government Association in England on these matters and is presently engaged in several Brexit related activities. This includes a newly formed member led group set up for the purpose.

The main issue in the field of food procurement and indeed the Brexit process more generally, is the lack of information from the UK government. This raises concerns regarding certainty and predictability, which is very worrying, especially given the impact Brexit is already having upon the practical operation of supply markets in the UK. Some food commodity areas are for example showing high price increases; however, we will not have a greater idea on how this will affect the market long-term until much nearer our exit from the EU.

In what way should legislation after Brexit provide more flexibility to allow local authorities to promote local suppliers? Whether and how state aid rules might apply, particularly in the context of service concessions and whether the legislation can facilitate more flexibility to allow local authorities to promote local suppliers

Current legislation has a great amount of flexibility. Application on the ground is what is missing.

It is difficult to advise how more flexibility can be allowed until the UK Law is changed on our exit from the EU. Current thinking is that procurement will continue as it is today although there may be an opportunity to state in tenders a more local approach which would allow the flexibility we require to ensure the Welsh food supply chain is fully engaged.

It is also difficult to advise on legislation after Brexit in relation to Welsh policies which have a substantially different emphasis to those in the rest of the UK. The Wellbeing of Future Generations Act for example goes much further than the Social Value Act in England. It influences strategic pre-procurement choices and could result in a fundamentally different determination of value. Future promotion of local suppliers here will be on the basis of the Welsh Act and post-Brexit legislation must be equally supportive of the provisions of Welsh Government.

Service Concessions

In my previous submission to this Committee I mentioned the need for clarity on state aid rules in the context of service concessions. This form of provider relationship has been largely overlooked for public services in the UK but exploited in other countries.

Whether this business model is realistic for public services or not, need to be decided in the context of potential application. It will not be suitable for everything and we will need to be mindful of the cultural significance of the model; particularly in respect of territorial control and service management. In some applications however, such as those empowering third sector provision, service concessions could be the way forward.

In his judgement for the case of *JBW v Ministry of Justice* CA 2011, Lord Justice Elias outlined the characteristics of service concessions very clearly:

1. The concession places the contractor in a position to exploit a service. Typically, this would also allow freedom for enterprise, including fixing prices and growing the business. Some control by the authority need not be inconsistent with a concession.
2. A concession usually involves a direct contractual relationship with third party clients or customers of the service who are charged directly by the contractor.
3. The contractor typically has considerable control over the manner in which the service is provided; the authority takes a back seat.
4. Although the contracting authority has an interest in the service being performed for the benefit of third parties, it does not itself directly benefit from its performance.

The matter of definition should not be a barrier. Concerns here seem to be around lack of precedent and convention; with a specific barrier that concessions may qualify as state aid.

The main issue is the lack of information. State aid for example is currently governed by EU state aid rules. Logically, these would cease when the UK leaves the EU; but we don't know this.