

Procurement Reform (Scotland) Bill – Stage 1 Debate Feb 2014

This briefing is for the Procurement Reform (Scotland) Bill Stage 1 debate on Thurs 20 Feb 2014.

UNISON Scotland urges Members to strongly support using public procurement to roll out the benefits of the living wage to **all** those employed on public contracts. Commendably, much has been done in the public sector but many services are outsourced to the private and voluntary sectors.

This Bill is **a major opportunity to make payment of the living wage a stipulation for all public contracts, by including this in performance clauses.** The [legal advice](#) that we referred to in oral evidence demonstrates clearly that this is possible within the EU procurement regime.

We hope MSPs will call on the Scottish Government (SG) to stand up for low paid workers, many of whom are women working in care services. Paying the living wage helps families and local economies, tackling in work poverty and boosting spending locally. As highlighted in the recent [Living Wage Commission](#) report, one in five Scots still earn below living wage levels. At a time when workers have experienced the longest real wage pay squeeze since 1870, with inflation going up faster than pay for 43 months, this is of huge importance to many thousands of your constituents.

We are very disappointed that the SG made no mention of the living wage in the Bill or any supporting documents. The Infrastructure and Capital Investment Committee's [Report](#) (ICI Report) merely asks Ministers for information about addressing encouragement of payment in draft guidance. Instead, **we need a strong statement of intent in the Bill, backed with detailed guidance.**

Nicola Sturgeon, the Deputy First Minister, who introduced the Bill in October, told the SNP conference that the SG would support an [Accreditation Scheme](#). (We welcome that, but maintain the call for a [Living Wage Unit](#) to help persuade employers of the positive case.) In doing so, she said: "We intend to make decent pay the norm, not the exception, in our rich country." **Not taking this opportunity now fails that ambition.**

The Scottish Living Wage was one of [ten asks](#) for the Bill from a coalition of coalitions of civil society organisations, including the STUC, Stop Climate Chaos Scotland and SCVO. The asks include action on blacklisting and tax dodging, a sustainable development focus and measures on ethical/fair trade, employment standards and positive social outcomes.

Nicola Sturgeon's [letter](#) to the ICI Committee gave little reassurance on addressing the asks with any changes to the Bill. On **sustainability**, there is widespread disappointment that a Bill which was originally due to be the Sustainable Procurement Bill has not backed up that expectation and largely is about 'business-friendly' processes. The ICI Report seeks assurance from the SG that the statutory guidance to be published on procurement strategies and annual procurement reports will be "extensive and robust enough to impose the kind of cultural change sought by stakeholders." They must also be monitored effectively. The civil society organisations state that the Bill **must include reference to the established definition of sustainable development.** There are deep concerns that short term economic arguments will be prioritised, with only lip service paid to sustainability. The recent floods in England, among many other examples, illustrate the dangers and recklessness of this

approach. The ICI Report also highlights the concern that the requirement to only “consider” sustainable procurement in applying the duty doesn’t result in “these important issues being circumvented or downgraded in importance.”

On blacklisting, we welcome the [action](#) that the SG has taken and is promising, while pushing for more. But much more must be done to stop tax dodging companies winning public contracts. **Are Members on the side of the tax dodgers? Or will you take action to tackle them?** The ICI Report notes that Section 23(3)(b)(i) indicates that regulations may provide that where an economic operator has failed to comply with an obligation to pay tax, the operator may not take part in a procurement exercise. The ICIR asks whether the SG has considered adding provisions to address aggressive tax avoidance as well as illegal tax evasion, as UNISON suggested. (par 132) **Members should call on the SG to go much further than the [UK Treasury/HMRC](#) on this.** (See par. on this in [ten asks](#).)

Procurement should be used to promote positive social outcomes and to drive up employment standards. We need government support linked to greater earnings equality; full compliance with the public sector equality duty; adherence to the two-tier workforce provisions; proper training; and ending other poor employment practice such as zero hours contracts. These are important for the quality of Scotland’s public services. UNISON’s Dave Watson [highlighted](#) (col 2309) one aspect of the pressures on staff on zero hours contracts. He gave examples of care workers who spoke honestly about how difficult it would be to raise health and safety issues or concerns about abuse of vulnerable people while on zero hours contracts, knowing that people raising ‘difficult’ questions are often denied work, just as with blacklisting. Social care services across the UK are under attack from the combined effects of austerity cuts and privatisation, driving a race to the bottom which is a national disgrace.

In this context, person-centred procurement is also crucial and we have strongly made the case for a differentiated approach between the buying of ‘things’ and the buying of ‘services’. Members should speak out against the ‘race to the cheapest’, which is not the way anyone should want care delivered for the most vulnerable. We welcome Ms Sturgeon’s assurance that Ministers intend an amendment to exempt health and social care contracts from the advertising and competition provisions, while ensuring, where possible, the other provisions will apply if a competition is held.

On climate change, as with overall sustainability, the Bill does not go nearly far enough. It is telling that there is no mention of the public bodies climate change duties, where procurement has a big part to play in reducing emissions and supporting a Just Transition to a low carbon economy. Most councils don’t currently report emissions associated with procurement. This Bill should change that.

UNISON and others, including Nourish Scotland, also highlight the key role of [food procurement](#). The public sector in Scotland spends a significant amount of money on food. **It is important that the procurement strategies produced under the bill specifically address food issues.** A sustainable food procurement strategy is one way in which contracting authorities can address a number of cross-cutting issues such as cutting their carbon emissions, reducing health inequalities through providing better publicly procured meals, supporting local businesses and fairly/ethically traded products, upholding Scotland’s responsibilities as a Fair Trade Nation.

Scottish Water and other public corporations should be brought within the scope of the Bill. And finally, UNISON is disappointed that once again the opportunity is not being taken to ensure that Freedom of Information rights follow the public pound.

Useful links

- [UNISON’s evidence to the ICI Cttee](#)
- [UNISON Scotland Bargaining Briefing](#)
- [Ten civil society priorities for the Bill](#)

For further information contact [Dave Watson](#) Bargaining and Campaigns Team on 0141 342 2840.

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