



Llywodraeth Cymru
Welsh Government

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Cyfarwyddwr Cyffredinol / Director General

Y Grŵp Addysg a Gwasanaethau Cyhoeddus
Education and Public Services Group

21 August 2018

Dear Mr Ramsay,

Re: Public Accounts Committee follow up to meeting on 25 June: 21st Century Schools and Education Programme

Thank you for your letter of 24 July 2018 in which you raised some issues for clarification following the scrutiny meeting on 25 June.

I am pleased to enclose a paper which provides a response to the areas outlined by the Committee which has been drawn together with input from colleagues across the Welsh Government.

I note your request for an update in January 2019 on Band B including the issues in this response and the Auditor General's recommendations, as well as an update on the Band A position at that point.

Yours sincerely

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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

WRITTEN RESPONSE TO THE PUBLIC ACCOUNTS COMMITTEE

21st CENTURY SCHOOLS AND EDUCATION PROGRAMME

Introduction

This paper provides an initial response to the letter from the Chair of the Public Accounts Committee of 25 June which details specific areas where the Committee would like some further assurance.

Mutual Investment Model

We note that the Committee's main concerns relate to the Mutual Investment Model (MIM). The Committee felt there was an inconsistency in evidence as to whether MIM was mandated for the Further Education sector, quoting Colegau Cymru as saying that, for larger projects, MIM was 'the only game in town'.

In response, we would strongly emphasise that capital remains an option for both local authorities and Further Education Institutions (FEI) for all large-scale projects, as we are investing some £1.8 billion of traditional capital funding in Band B (50% Welsh Government contribution and 50% from our delivery partners), which the MIM will complement, not supplant.

MIM has most certainly not been mandated. All stakeholders were given the option within their strategic outline programmes for Band B to choose whether they wanted to deliver their schemes via MIM or Capital. MIM is really only suitable for 100% new build projects of mainstream schools and FEI, due to the obligation on the contractor to design, build, fund and maintain the building over twenty five years.

In some instances, the MIM option has been chosen by stakeholders due to the fact that their capital budgets are constrained. In other cases, local authorities and FEI see the long term benefit in the ongoing maintenance and lifecycle provided under the MIM contract. In addition the 75% Welsh Government contribution for MIM is attractive to local authorities and FEI in comparison to the 50% Welsh Government contribution for capital and this goes some way to explain the large take-up of MIM by the Further Education sector.

We recognise that more work needs to be done to explain the approach and the potential benefits of the MIM to both local authorities and FEI that might wish to avail themselves of MIM funding. It is a model designed with additionality as its *raison d'être*. We would all wish for more capital, as the WLGA has pointed out in its evidence to you. But with the continued constraints on our capital budget by the UK Government, our choices are to live within that budget or to innovate and do more. We have chosen the latter. Should local authorities and FEI make the same choice – and the choice really is theirs – we will do all we can to help them make a success of their respective MIM schemes.

The Committee sought reassurance on three areas in relation to the MIM and whether it represents the best value in the round:

The alternative options – capital and supported borrowing had been fully exhausted before embarking on a novel, risky and potentially more expensive model.

On the question of whether capital and supported borrowing has ‘been fully exhausted’ - from a budgetary perspective, supported borrowing has the same effect as traditional capital. It is not additional. It therefore does not provide an attractive option for the pursuit of significant, additional investment in the Programme.

As the Cabinet Secretary for Finance has made clear in the Assembly, the Welsh Government will always use conventional capital first to fund public infrastructure, making sure to use every penny of it. Next, we use all the capital we get through the European funds which come to Wales. We will then make use of the new capital borrowing powers – our budget shows we will use all the capital borrowing available to us over the next budget period. We will then seek to enable investment by other bodies in Wales. When we have exhausted all the courses of action above, we still have major public needs that cannot be covered. This is exactly why we have devised the MIM – to do more.

In 2010, at the outset of the Programme, it was estimated that circa £5 billion was needed to get just the schools building stock up to good repair. The additionality of MIM enables us to accelerate £500 million of investment targeted, in the main, to the areas of greatest need (i.e. those buildings in the poorest condition) which would otherwise not happen for sometime due to the constraints of capital budgets.

In response to the comments that the MIM is ‘novel’ and ‘risky’, this is not a view shared by the Welsh Government. We advise that the MIM incorporates the best of the Scottish Non-Profit Distributing (NPD) model – such as optimum risk allocation, whole-life costing, and performance-based payments – while ensuring that new investment is classified to the private sector; and is therefore genuinely additional to investment from other public sources. Furthermore, the approach, which was market-tested at two major engagement events in 2017, is considered bankable by contractors and funders alike.

That the Welsh Government as a whole has identified that the school building programme is the most appropriate programme for using the MIM. In particular, that there is a clear assessment that the Welsh Government’s borrowing powers would not be better used for building schools and MIM for road building schemes, such as the M4 relief road.

We can confirm that ‘the Welsh Government as a whole has identified that the school building programme is the most appropriate programme for using the MIM’, alongside completing the dualling of the A465 and redevelopment of the Velindre cancer centre. The schemes to be included in the MIM were agreed by Cabinet, prior to the launch of the model in the Assembly in February 2017.

That there is an appropriate ‘pause and review’ moment. Over time, for understandable reasons, the original aspiration to use a form of the Non-Profit Distributing model has changed significantly. We would like assurance that as the details are finalised and before committing to going ahead, there will be an opportunity for reflection in the round as to whether MIM is indeed a good value for money method for building schools and colleges.

We recognise the good sense of a ‘pause and review moment’ prior to proceeding with new and innovative ventures. We can assure you that we have taken many opportunities to pause and review developments with the MIM since the adverse Office of National Statistics (ONS) decisions on Scottish NPD schemes in 2015. We spent the following year developing the MIM, subjecting the model to peer review by experts at the European Investment Bank, subsequently submitting it to the ONS in October 2016. After receiving assurance that the model would be classified to the private sector, we paused again, as additional assurances were sought from Eurostat – a process which constituted more than a year of further review.

The process of review will not stop with Eurostat’s endorsement of the ONS decision. We want to continue to learn, and evolve the model. The Cabinet Secretary for Finance has said repeatedly that promoting the public interest and value for money must be at the heart of the MIM. The real test of value for money will be on the individual projects that we undertake – how efficiently we develop and procure them and manage the benefits over the long run. Our approach to these things will be tested rigorously through departmental review of each project’s business case, through independent government Gateway reviews, and through the Commercial Approval Point (CAP) checks that we have developed in Wales as an additional tier of constructive challenge to project teams.

Other areas

The Committee also sought assurance in six areas - collaborative ethos, demand for places, energy performance, technical support, community benefits and active travel.

Collaborative ethos

Where there was a discrepancy between the WLGA evidence and that of Welsh Government. Would want to see that the joint working and collective ownership continues into Band B.

The evidence from the WLGA acknowledges that the collaborative arrangement between Welsh Government, the WLGA and local authorities is, to date, one of the most successful examples of genuine co-construction and central-local relations.

We can assure the Committee that the WLGA’s role will continue in Band B in the same way as in Band A of the Programme, with representation on the Programme Board and involvement in policy decisions. The success of the Programme to date has been down its collaborative nature, as the WLGA commented in its evidence to

the Committee. We have no intention to erode this success by undermining the culture of collaboration.

However, as has been the case in Band A of the Programme, the Welsh Government will continue to make its own investment decisions for its contribution to the Programme as will local authorities and FEI.

Demand for places

We were not convinced on the responses we received around the flexibility of the programme to adapt to changes in the birth rate. In particular, we wanted to know whether the programme was factoring in technical solutions to the fabric of schools that mean they can build in flexibility – for example to open and close or re-purpose classrooms - as the demographics change.

Anticipated increases or falls in the birth rate are highlighted as part of the advice on business cases for investment in terms of provision of school places. The 21st Century Schools and Education team also works closely with local authorities, to be aware of emerging trends.

In addition, local authorities already flex school configuration as demographics change. They employ various design techniques such as: removable partitions between rooms; learning streets to provide group space; and flexible library and IT facilities which can be reconfigured as needed.

Any technical advances in the construction industry, where appropriate, will be factored into the delivery of Band B. Any changes to the Programme's delivery will be done with the joint approval of the Welsh Government, local authorities and FEI. This is part of the collaborative ethos of the Programme.

Energy performance

We were not convinced that the Welsh Government understood the concerns on energy efficiency savings. Your evidence said you were good at specifying the savings up front but those specifications are not leading to the cost savings expected. We think there is a wider issue of the realism of the potential savings from energy efficiency that needs to be factored into plans up front. We would like to see the Welsh Government take a lead role in challenging the industry if industry specifications are not actually delivering the sorts of financial and environmental benefits you would like to see. The WLGA has suggested that MIM contracts would look to transfer risks associated with the energy efficiency of the design of buildings to the private sector and we would also welcome clarification of how the Welsh Government expects that risk transfer to work.

The issue of energy efficiency is given serious consideration within the Programme and we commissioned a report giving details of how to avoid the performance gap.

The resulting Best Practice Guidance has been shared with delivery partners via our website and presented at a series of seminars with stakeholders.

Facilities delivered under MIM will be maintained by the private sector Contractor for 25 years. The MIM Education Project Agreement will contain provisions that ensure that the Contractor retains design risk for the energy performance of the building for the 25 year contractual term. Broadly speaking, the contract will allow for performance deductions to be made against the Contractor if a building does not perform efficiently. The full details of the strategy are currently being developed.

We are also monitoring energy reduction targets in stakeholders' post completion reports which are submitted approximately 18 months following project completion. Due to the long lead in time from project conception to completion the majority of these reports are yet to be received. In addition, the Programme has established a five-year evaluation process which seeks to gather feedback from completed school projects. This will be used to demonstrate the reduction in the performance gap over the five year funding period. The data will be monitored and lessons learned shared with all delivery partners.

The issue of energy performance is however, as much a matter of how buildings are occupied, managed and maintained as it is about design and build. We will request local authorities and FEI as asset owners to address this.

Technical support

We had evidence from the Design Commission Wales whose services are clearly not being used as they could be to support the delivery of the Programme. We would like the Welsh Government to rethink how it can make best use of the Design Commission to support the successful delivery of Band B alongside its consideration of the wider technical support that is needed. While you explained that the support that has been provided to date by Constructing Excellence Wales was for three discrete projects, members remain concerned about whether sufficient technical support will be available to support delivery of the Programme in the next wave. It is for the Welsh Government to decide who provides that support. However, we would welcome an update on your plans in the context of recommendation 10 in the Auditor General's report and taking account of the lessons learned from the impact of the technical support provided during Band A and any capacity/capability constraints in the organisations responsible for project delivery.

We regularly review the need for and provision of advice and support to our delivery partners. Lessons from Band A will be fed into Band B. As we develop the MIM element of the Programme we are reviewing the expertise required to enable its delivery. We will provide an update on this support once the plans are developed.

We used the Design Commission to provide input at the beginning of Band A, and we intend to do the same for Band B. This is against the backdrop of increased standardisation in the Programme to achieve greater efficiencies. The Director

General for Education and Public Services met with the Chief Executive of the Design Commission for Wales in August to discuss the Design Review Service, understand the issues as they saw them, and consider opportunities and ways to renew the working relationship.

In addition, during the evidence session on 25 June, the Director General also undertook to discuss the position of Constructing Excellence in Wales (CEW) with Welsh Government colleagues.

CEW was established as a company limited by guarantee to promote improved efficiency in the construction industry, following the Egan report 'Rethinking Construction'. It is designed to champion collaborative working and best practice across the construction industry, encouraging individuals and organisations to share their experiences, knowledge and information with the wider construction industry.

Core funding has been provided to CEW by Welsh Government since 2003 with CEW being reliant on this funding to undertake a number of activities. In 2017, a decision was taken to cease grant funding to CEW from the end of September 2018. The current grant funding to CEW is to enable them to become more commercial in nature.

The previous work undertaken by CEW on 21st Century Schools was procured and CEW provided specific services to the programme. Moving forward, the services that CEW offers remain available to be procured competitively alongside other organisations.

Community Benefits

We welcome the commitment to community benefits. It is clear that there are complexities involved in making school facilities more available to the communities. We recognise that ultimately it is the governing body's responsibility. However, the Welsh Government and councils have significant leverage through the funding provided through the programme. We would like to be assured that the Welsh Government is using that leverage to full effect to ensure that wherever possible and feasible, schools funded from the programme make their facilities open to community use.

Schools and colleges sit at the heart of the communities they serve and so we are working across the Welsh Government to maximise the use of school facilities by the community as part of *Prosperity for All*.

We have established a task and finish group that is looking at ways to overcome or remove barriers; to encourage the wider community use of educational assets; to disseminate best practice and funding.

We are also investigating potential changes to the grant award letter to make community use of facilities a more binding and sustained commitment.

Community benefits are wider than just community use of assets. For example, we ensure that during the construction phase of our projects we look at opportunities to create jobs, apprenticeships, training opportunities and STEM engagement with our schools.

Active travel

Active travel – we are not convinced that the Active Travel (Wales) Act 2013 is being given sufficient consideration. Your recent letter appears to acknowledge a need for greater scrutiny and challenge in this respect and we would ask for clarification of what this will mean in practice. If the Welsh Government can highlight specific examples where Active Travel opportunities have been maximised then we would be interested to learn of them. Similarly, examples of where poor consideration of active travel access in business cases has been addressed.

We have updated our business case guidance to incorporate key messages with respect to active travel so that our partners consider this aspect carefully when developing their projects. This is tested during the business case assessment process when the cases are scrutinised by a wide range of policy areas within the Welsh Government; this includes input from the Active Travel team. Any questions or concerns raised by policy officials are referred to the delivery partner for additional information. Policy officials need to be satisfied that appropriate actions have been taken before the case is taken forward to the Cabinet Secretary for Education for consideration.

For example, in the last month, challenges to our delivery partners have included asking the local authority to actively explore how they could improve facilities for access on foot and by bicycle as part of the new project.