



Mr Sean Wixted
Local Government and Regeneration Committee
Room T3.60
The Scottish Parliament
EDINBURGH
EH99 1SP

10 January 2012

Dear Sean

Local Government and Regeneration Committee: Living Wage Inquiry 2011-12

The FSB is Scotland's largest direct-member business organisation, representing over 20,000 members. The FSB campaigns for an economic and social environment which allows small businesses to grow and prosper. We therefore welcome the opportunity to contribute to the above Inquiry.

We believe that the issue of whether local authorities in Scotland adopt a living wage policy for their own staff is essentially a matter for each authority to decide upon. Such a decision needs to be based on each authority's assessment of the potential for individual and organisational benefit and the impact on the wider local community and economy, over which authorities have a great deal of influence.

Of the issues being considered in this Inquiry, use of the public procurement process to drive adoption of the living wage in other sectors is the one which has the most potential to impact directly on our members. Given the wide range of variables (type and size of contract) and the lack of information about current pay policy in public contracts, it is difficult to assess effectively the impact of a living wage condition. Our comments therefore draw upon our members' experience of bidding for public sector contracts and our involvement in procurement reform in Scotland.

1. Practical issues with implementation

The FSB believes there are several practical issues with the idea of using the public procurement system to drive adoption of the living wage in other sectors.

- **Cost to suppliers:** The uplift from minimum to living wage costs, including employer NIC contributions, represents a 20% increase to the cost of paying any minimum wage employee. Moreover, this increase would hit small businesses harder than larger businesses which would be able to offset increases in the wage bill by cross subsidy or savings elsewhere. In the current economic climate and given the relatively low margins which exist in certain contracts, this additional cost would be likely to make it more difficult for small, local businesses to participate in the public

procurement arena, leaving the stage to larger businesses which are more likely to be based outside the region served by the contracting body.

- **Cost to suppliers' other customers:** While it is possible that a public body could reflect any cost increase imposed by a living wage requirement in the value of a tender, suppliers to the public sector often supply other sectors. Thus, in private business-to-business contracts, uplifts from minimum to living wage are likely to have a knock-on impact on costs for other contracts and customers (again, particularly for small businesses who have less scope to absorb cost increases). This might result either in businesses focusing and becoming reliant on public sector contracts, or discourage them from participating in public procurement in the first place.
- **Uncertainty about applicability:** The point above, of course, presumes that the intention is for the public body to contract only with businesses which pay the living wage to all its staff. If this is the case, it would be necessary to clarify whether this applies only to all Scottish staff, all UK staff or all staff regardless of location. Alternatively, if the requirement relates only to staff engaged on that particular contract, a number of further practical questions around equal pay and staff working on more than one contract arise. On a related point, as many public contracts are delivered through a series of subcontract chains, it would be helpful to know whether the intention is to bind only the primary contractor or all contractors, all of their subcontractors and all of their suppliers, regardless of location. The latter also raises particular questions about enforceability, to which we now turn.
- **Cost to public bodies:** The FSB notes that while no local authorities have imposed the living wage as a condition of contract, one or two state that a question on payment of the living wage is included in the Pre-qualification Questionnaire, which interested potential suppliers complete ahead of any tendering process. Those mentioning this stated that they took responses 'on trust' and that there was no way of checking whether prospective suppliers were actually paying living wage or not. This raises several questions: 1. Why do authorities ask the question if it is not a condition of contract? How can they demonstrate transparently how the answers to this question influence decisions and does this influence differ depending on the contract (e.g. a contract for legal services versus a contract for cleaning services). 2. If authorities do not have a mechanism for checking and monitoring that the condition is met by suppliers, is the public sector willing to spend additional funding setting up and running a mechanism whereby this happens consistently and transparently?

The FSB notes the concerns many local authority representatives have voiced in their submissions to the Committee regarding the legality of setting living wage as a condition. We are not sufficiently familiar with any of the legal problems surrounding this issue to comment but would expect the Committee to seek clarification on this as part of its Inquiry.

2. Economic development imperative

With public sector budgets becoming increasingly restrained and unemployment rising, many hopes have been pinned on the private sector being able to create jobs. This however, should be seen in the context of a unique set of increasingly difficult challenges:

- Worsening business confidence – There is a continuous downward trend from March 2011 of FSB members predicting an increase in business revenue/sales (FSB Voice of Small Business Index Q1-3, 2011-12)
- Rising costs – Three-quarters of members have experienced an increase in the cost of running their business over the past 3 months. Fuel, utilities and raw materials are the main causes of the increase. (FSB Member Survey 2011)
- Caution regarding employment – Around 60% of FSB members report no actual or planned changes in staffing levels, but more predict that they may soon have to lose staff than in previous quarters. (Voice of Small Business Index Q1-3, 2011-12)

In the light of these challenges, smaller business owners would struggle to maintain or create employment if faced with increased wage costs associated with a public contract. The FSB believes that government at all levels has an important role in driving economic development.

We agree that public procurement is a key lever to support economic development but we believe greater benefit from public spending, particularly in terms of recirculation of money in local communities, comes by increasing and sustaining the participation of local businesses in public contracts. We look forward to discussing this in more detail as the debate on a Sustainable Procurement Bill progresses. While some improvements have been made to procurement practices and policy in recent years, discussion with suppliers indicates that there is still a long way to go in improving procurement practice by buying authorities. Procurement policy should therefore be geared towards enabling more local businesses to bid for public contracts. We feel it is likely that imposing a living wage condition on public contracts and therefore increasing costs associated with procurement will skew the system in favour of larger businesses, often from outwith the region. Further, it may discourage smaller businesses from engaging in public procurement and from creating additional jobs.

We hope that this contribution is useful to the Committee's Inquiry and would be pleased to provide further comment at its forthcoming evidence session.

Yours sincerely,



Andy Willox OBE

Scottish Policy Convenor