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The Rt Hon. the Baroness Armstrong  
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Thank you for your letter of 28 July about the procurement and commissioning of services in the voluntary and public sectors and apologies for the delay in responding to you.

I am aware that Lord True wrote to you on 29 July following the House of Lords debate the previous week, and several of the points made in his letter are also relevant here. In particular I would like to reiterate that the overarching objective is achieving the best value for UK citizens; we absolutely recognise the value that the voluntary sector can bring and are committed to making it easier to bid for opportunities to support local communities through simplifying the procurement rules.

We are listening very carefully to the feedback we received to the Green Paper, including from the voluntary sector, as we finalise our policy. This process is not yet complete; we are working towards publication of the Government response to the consultation exercise in the coming months. I hope that when your committee sees the broad picture of the proposals your concerns will be allayed.

In the meantime I have addressed the specific points in your letter in turn.

- 1. The Procurement Green Paper fails to recognise that procurement and commissioning are different. To what extent, if at all, will the Procurement Bill promote collaboration in the delivery of public services ahead of competition between service providers?***

The current procurement regime, and the reforms proposed in the Procurement Green Paper, regulate the actions of contracting authorities when they go to market. Procurement is but one of the tools available to commissioners that they can use to deliver public services. If commissioners consider that a contract is the best route to deliver the required public services

then the public procurement regulations apply. We are designing the new framework to ensure fair competition, deliver value for money, maximise the benefits to the public, and avoid corruption. We want to create procurement legislation that delivers the best commercial outcomes with the least burden for all types of contracts and all types of suppliers and service providers.

**2. *The Green Paper does not embed the flexibilities that were introduced during the pandemic, nor does it give sufficient recognition to the important role played by the voluntary sector in embedding social value. How will the Procurement Bill rectify these shortcomings? How will the Government replicate the long-term funding arrangements provided by Innovation partnerships?***

The proposed reforms in the Green Paper will give commercial teams greater flexibility to design their procedure to fit their procurement. This will encourage innovation and allow them to engage with the market more effectively and proactively. It will allow buyers to build in non traditional stages and evaluation methods instead of having to rely exclusively on written tenders.

The new legislation also seeks to create cultural change in contracting authorities responsible for public procurement to establish a more innovation-friendly culture as well as practices. Government will work across the public sector to emphasise early engagement and encourage contracting authorities to articulate challenges rather than prescribing a specific solution for delivery. Under the new legislative and regulatory framework, contracting authorities will still have the option to put in place the kind of long-term arrangements provided by innovation partnerships - and indeed we very much intend that contracting authorities will feel confident to do so to a much greater extent than currently.

We have taken seriously the views expressed in the 53 responses to the Green Paper from voluntary and charitable sector organisations in formulating the legislation. The Government is fully committed to the Social Value agenda and increasing the extent to which procurement decisions take into account the benefits that many SMEs, VCSEs and responsible businesses bring to their communities. As the Green Paper confirms, the Public Services (Social Value) Act 2012 will remain in place and the publication of Procurement Policy Note 06/20 in September 2020 extends its use. This will be further strengthened by a new statutory requirement for all contracting authorities to have regard to a set of national priorities, as set out in the National Procurement Policy Statement, which can be accessed at:

<https://www.gov.uk/government/publications/procurement-policy-note-0521-national-procurement-policy-statement>

Embedding social value is further supported through the move from 'Most Economically Advantageous Tender' to 'Most Advantageous Tender'. This change of language will send a clear signal that wider socio-economic criteria that benefit society as a whole can be included as part of evaluation of tenders. We want to encourage contracting authorities to use public resources in a way that creates and maximises social value, and drives value for money using a combination of quality and effectiveness alongside the least cost outlay. A further change in this area will allow contracting authorities to take a broader view of value for money when making contract award decisions so that costs or benefits that go beyond the point of view of the authority concerned can be factored in.

**3. *In establishing a National Procurement Policy Statement, the Government must work with local public services providers rather than against them. Local services need the freedom to determine how best to achieve social value in their area. How will the Government ensure that social value requirements do not introduce***

## **excessive bureaucracy for local providers?**

I absolutely agree that local services need this freedom. As such, we have positioned the National Procurement Policy Statement (NPPS) as a tool for Contracting Authorities to leverage procurement to support priority national and local outcomes for the public benefit. As the NPPS makes clear, the listed national priorities should be considered alongside any additional local priorities - and are not intended to undermine any local priorities which may be key for contracting authorities to deliver on their commitments.

### **4. While central Government is able to draw on a wide range of procurement specialists, it suffers from a dearth of commissioning expertise. Will the Procurement Bill rectify this shortage of skills?**

The Procurement Reform Bill will regulate the processes required for public procurement. Whilst it will not legislate for other tools available to commissioners, we are planning (subject to future funding decisions) a significant training package to accompany the Procurement Reform Bill. This will focus on the contents of the new procurement regime and provide all teams involved in procurement and commissioning with upskilling for using the regime. I would expect the training would include, for example, points on outcomes-based procurement when formulating a procurement specification.

### **5. Aside from introducing legislation, what approaches will the Government take to support the sharing of commissioning best practice at the local level?**

Officials attend the National Social Value Taskforce (NSVT) and a Cabinet Office official attends the NSVT Steering Committee to support knowledge-sharing on social value across the wider public sector, private and VCSE sectors.

MHCLG funds the Local Government Association (LGA) to deliver an Improvement Support Programme for the local government sector. This programme includes a focus on providing support to build capacity and capability in relation to commissioning and buying services.

The 2021/22 MoU between MHCLG and the LGA notes that: *"The procurement and commissioning offer will support councils to build capacity to commission and buy services more efficiently and effectively in ways that contribute to local and whole public sector outcomes through LG Procurement and Commissioning programme."* The sharing of best practice at the local level is a specific deliverable, with the MoU confirming that *"Development and provision of access to learning opportunities, networking and sharing of experiences for all councils."*

DCMS has sponsored the Government Outcomes Lab (GO Lab) at the Blavatnik School of Government, Oxford University to provide online support and guidance to government commissioners seeking to work with the VCSE sector. GO Lab's initial focus was to develop a centre of expertise on outcomes-based commissioning and social impact bonds. However, their guidance has broader application for public sector commissioners who can access technical advice and case studies via the GO Lab website and webinars. As an example, the report 'Are we rallying together? Collaboration and public sector reform' examines how local authorities are joining forces with their local communities to overcome complex social problems.

### **6. The NHS white paper prioritises collaboration over competition in NHS commissioning, while the Government's procurement proposals do not. How will the Government ensure that legislation in these two areas aligns? How, if at all, will the Procurement Bill complement the NHS White Paper's focus on encouraging collaboration between councils and the NHS?**

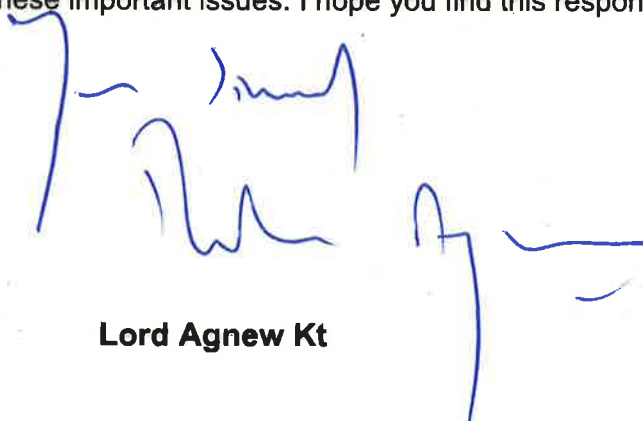
The proposals in the DHSC white paper, and the Provider Selection Regime, are intended to ensure that healthcare services can be arranged in the best interests of patients, taxpayers and the public. Competitive tendering will continue to be an important mechanism for arranging services where it can add value. DHSC, NHS and Cabinet Office are working closely to ensure that the two regimes are complementary and will support joint working between councils and the NHS where it is in the wider interests of the communities they serve. Cabinet Office and the NHS are working closely together to align the regimes for Healthcare services and connected services such as social care.

**7. How will the Government use health and social care and procurement legislation to ensure sufficient voluntary sector involvement in designing public services, and to encourage integrated commissioning and procurement between the NHS and local government?**

The Government recognises the important role that the voluntary sector plays in delivering and supporting our public services. Cabinet Office, DHSC, MHCLG and NHS England are working closely with local government to ensure the processes set out in the Provider Selection Regime provisions in the NHS White Paper and the Procurement Reform Bill can work together in an integrated manner.

The subject of the Provider Selection Regime in the NHS White Paper, and draft Health and Care Bill is the delivery of Healthcare Services. Healthcare Services are not listed in international agreements however the vast majority of the services, supplies and works regulated by the Procurement Bill are subject to international agreements that require a level of transparency and competition. It is therefore not possible to have a single regime.

I'd like to thank you for raising these important issues. I hope you find this response useful.



**Lord Agnew Kt**