

PE1801/F

Scottish Government submission of 15 December 2020

Thank you for your further letter of 12 November, concerning the above petition. We can provide the following further comments.

EU negotiations

As the Committee will know, the negotiations have reached a delicate stage and it is impossible to predict the outcome. The Scottish Government continues to do all it can to protect Scotland's interests in this process, but engagement by the UK Government with the devolved administrations has been very limited. In particular, the UK Government has throughout the process taken all decisions on the UK's negotiating position unilaterally, rather than seeking to agree them with the devolved governments as foreseen in the terms of reference of the Joint Ministerial Committee (EU Negotiations), despite the fact that the negotiations cover a wide range of devolved policy areas. The Committee will appreciate that this severely limits the Scottish Government's ability to influence even the UK's position in the negotiations let alone their final outcome.

State aid

State aid is a devolved matter. As such, the Scottish Government has repeatedly demanded that the Secretary of State for Business, Energy and Industrial Strategy fully consult with Scottish Ministers with respect to their plans for future controls and legislation on subsidy control in the UK. Responses from the UK Government on these issues to date have not provided any assurance that this will be the case and we are unsighted on their plans in this area, however we continue to press and seek clarity given the importance of these issues for the Scottish economy. It should be noted that the current EU state aid regime does not preclude state ownership of companies, provided specific criteria are met. We consider that this possibility must remain open to Scotland when a UK regime is implemented.

Transport

Our ambition is for Scotland's railway to be public sector-controlled and operated in the service of the public, fully integrated and truly accountable, which will deliver better and more efficient services for our people and our communities. We have made these points strongly and repeatedly to the UK Government, including through its UK Rail Review, which has still to report.

The Transport (Scotland) Act 2019 extended and improved the powers of local transport authorities to intervene in the market for bus services, including by operating services.

Fair Work

Fair Work continues to be at the heart of our COVID-19 response and is central to Scotland's economic recovery and renewal.

This is built on the shared expectation from the Scottish Government, the STUC and partners across the public, private and third sectors that employers, trades unions and workers should work together to ensure effective decisions are made about workplace matters and workers are treated fairly and equitably.

Through our Fair Work First approach employers are being asked to adopt Fair Work criteria, including providing appropriate channels for effective voice, such as trade union recognition. The other criteria are:

- investment in workforce development,
- no inappropriate use of zero hours contracts,
- action to tackle the gender pay gap and create a more diverse and inclusive workplace, and
- payment of the real Living Wage.

Fair work – as defined in the Fair Work Convention’s Framework - is deliberately broad and non-specific, recognising the diverse labour market context in Scotland. We believe that encouraging, rewarding and supporting employers who want to adopt fair work but need support to do so, is the most effective way for the Scottish Government and public sector partners to influence and help employers to progress on their Fair Work journey.

The Scottish Government has already taken steps to embed Fair Work considerations into our procurement processes, including through the Sustainable Procurement Duty. We have published Statutory Guidance which requires public bodies to consider, before undertaking a procurement process, whether it is relevant and proportionate to include a fair work criterion. This statutory guidance is supported by best practice guidance and a toolkit which were developed with stakeholders, including trade unions.

The Scottish Government also continues to see procurement practice as a lever to promote Fair Work and Scottish Government internal procurement processes have been updated to reflect Fair Work First. This has resulted in Fair Work First being included in high value contracts such as the Electronic Monitoring of Offenders contract and the Electronic Counting of Votes contract, as well as being included in several other procurement exercises that have not yet got to award stage such as the Government’s Facilities Management contract, Scotland’s Baby Box and Best Start contract and the National Standardised Assessments contract.