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19 June 2025

Dear Baroness Warwick and Lord Watson,

### **Employment Rights Bill: Public Sector Outsourcing**

Thank you for your contributions to the committee stage debate on the Employment Rights Bill (the Bill) on 3 June, on the important topic of the possible impact of Clause 30 (Public sector outsourcing: protection of workers) on higher education providers particularly universities. I appreciate your interest and engagement on this topic, and I am pleased to write with further information as promised.

For context, Clause 30 is responding to the government's manifesto commitment to reinstate and strengthen the historic two-tier code on workforce matters (the Code), made in its plan to Make Work Pay.

### **Contracting Authority Definition**

Contracting authorities are defined in section 2 of the Procurement Act 2023 (the Act). Section 2 defines a contracting authority as 'a public authority'. A public authority is defined as being wholly or mainly funded out of public funds, or subject to public authority oversight, and not operating on a commercial basis. If a university meets the definition of a contracting authority in the Act, Clause 30 of the Employment Rights Bill will apply to it.

Whilst we do not propose to include carve outs on the face of the Bill, Clause 30 allows the Code to be designed flexibly to ensure it does not impose undue burdens on contracting authorities that it will apply to. There are a range of options available here that could be pursued; for example, by specifying to which bodies the Code should apply or only applying the Code to higher value contracts which could exempt low value procurement activities, such as those often carried out by educational establishments that may have fewer procurement resources. These options will be explored through consultation which we will undertake with key stakeholders including universities.

### **Impact Assessment**

An impact assessment has not been undertaken for this clause because procurement provisions and their impacts are out of scope of the Better Regulation Framework, which is the system the government uses to manage the flow of regulation and understand its impacts. However, we will consider any impacts on the university sector raised as part of our consultation.

## **Pension Provision**

We intend to consult with stakeholders on the extent to which pensions may be included in the Code, noting that parity between workers' pensions was a provision of the historic code, whilst acknowledging that the legal landscape on pensions has moved on. The Transfer of Undertakings (Protection of Employment) Regulations 2006, will protect the pension rights of staff transferring from the public sector to another organisation.

## **Shared Services Impact**

We are yet to develop the detailed content of the Code and welcome you raising concerns regarding the implications for shared service provisions. We will certainly take this into consideration when designing the Code and will seek additional views during our consultation.

## **Separate Outsourcing Rules Across UK Nations**

Public Procurement is largely a devolved matter in Wales and Scotland and largely a transferred matter in Northern Ireland which means that the Welsh Government, Scottish Government and Northern Ireland Executive (respectively) have the power to determine the rules by which certain procurements are conducted and contracts managed and as long as they comply with international obligations. The powers in Clause 30 of the Employment Rights Bill have been extended to the Welsh and Scottish Ministers so that they may also establish a Code in respect of their devolved authorities. This ensures the benefits of a consistent approach to fair and equitable employment terms and conditions on outsourced contracts can be spread through the UK.

The UK Government along with the devolved governments are also parties to the Common Framework. This provides a non-legislative agreement for UK-wide collaboration, coordination, and cooperation on procurement policy. It sets out agreed approaches to manage policy divergence across the UK as well as a framework of regular meetings between each government and mechanisms for dispute resolution and escalation as necessary.

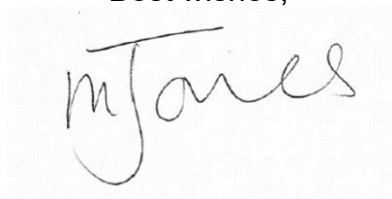
Through the Common Framework we will engage, collaborate and share good practice. This will also help to mitigate operational issues and complexity for example where there is collaboration across borders.

## **Government engagement with Universities**

We will engage with educational institutions during our consultation and my officials would also be very happy to meet Universities UK in the meantime to explore their concerns further.

I hope this provides you with the necessary clarity and reassurance. Thank you again for your engagement. I am also depositing a copy of this letter in the Library of the House.

Best wishes,

A handwritten signature in dark ink, appearing to read 'm Jones', is centered below the text 'Best wishes,'. The signature is written in a cursive, flowing style.

**BARONESS JONES OF WHITCHURCH**

Parliamentary Under-Secretary of State (Minister for Legislation)  
Department for Business and Trade