

Survey on Procurement Reform January 2021

Click on the link to complete on-line: [Welsh Government Survey on Procurement Reform](#)

Views on Potential Procurement Reform in Wales (survey)

The Procurement Reform team in Welsh Government wish to undertake a survey of public, private and third sector organisations as part of its consideration of procurement reform in Wales.

The aim of the survey is to seek stakeholders' views and opinions on potential procurement reform in Wales. The survey will also touch on the UK Government's Green Paper proposals on procurement reform.

The UK's departure from the EU provides each of the UK's four Administrations with the opportunity to reform current procurement regulations.

This survey will help Welsh Ministers make a formal decision on a way forward for procurement reform in Wales in March 2021. Your views are important to us and once Welsh Government has gathered and analysed your feedback it will help inform this decision.

To find out more about procurement reform, please click here to read the Welsh Government's Procurement Policy note: [WPPN 04/20: Procurement Reform and Common Framework for Public Procurement](#)

The Welsh Government is the data controller for the research. The Procurement Reform team in Welsh Government will remove personal data before writing up the analysis and will not provide personally identifiable data to others in Welsh Government unless you ask us to.

Your participation in this research is completely voluntary. However your views and experiences are important in order to help inform Welsh Ministers on Procurement Reform in Wales.

PRIVACY NOTICE

What personal data do we hold and where do we get this information?

Personal data is defined under the UK General Data Protection Regulation (UK GDPR) as 'any information relating to an identifiable person who can be directly or indirectly identified by reference to an identifier'. [The Privacy Notice can be found here](#)

Sector *

Sector Industry if appropriate e.g. Construction, Food, Legal

Organisation name *

.UNISON Cymru/Wales

Welsh/Non-Welsh based *

Welsh Based

SME/Non-SME

Non-SME

Contact details (eg. e-mail address, telephone number) *

1. Given the current procurement landscape in Wales, how strongly do you agree that procurement reform could help Wales?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please enter any comments you may have here (optional)

This offers an opportunity to further embed social partnership into ambitious public procurement rules.

Key to implementing will be social dialogue, adequate funding, skilling and training of workforce, social, environmental and labour protections, collective bargaining mechanisms.

Focus must also be given to the already agreed Code on Ethical Employment in Supply Chains. There is also an opportunity in Wales for procurement to strategically support the development of good quality jobs, training, and apprenticeships and economic development in turn supporting a Green, Equality based COVID recovery.

The policy context in Wales is one which prioritises social value, and this must run throughout our legislation, including procurement. It is up to Welsh Government to determine how procurement works within a devolved context and for the benefit of citizens in Wales, rather than procurement being determined by UK-wide legislation.



Section A: General Questions

**2. From your perspective what are the critical issues linked to the current procurement regulations that need to be addressed in Wales?
(Please tick all that apply)**

- Lack of transparency
- Lack of fair treatment for suppliers
- Lack of competition
- Lack of innovation
- Lack of procurement capacity and capability
- Lack of compliance with the procurement regulations
- Complex regulations
- Complex procedures
- Outdated processes
- Too many / overlapping procedures
- Too many / overlapping regulations
- Lack of digital solutions
- Corruption [1 - see definitions below]
- Poor performance
- Misconduct
- Framework agreement
- Dynamic Purchasing Systems
- Light Touch Regime
- Payment delays
- Award criteria
- Evaluation of tenders
- Damages [2 - see definitions below]
- Automatic suspension [3 - see definitions below]
- Redress [4 - see definitions below]
- Other (please specify):

Monitoring

Definitions

[1] Corruption - dishonest or fraudulent conduct by those involved in public procurement

[2] Damages - compensation awarded to an unsuccessful bidder in a flawed public procurement process

[3] Automatic suspension - if an unsuccessful bidder begins court proceedings before a contract is signed, it will automatically prevent the contracting authority from signing the contract with the winning organisation)

[4] Redress - remedy or compensation to aggrieved bidders who believe they have suffered harm because of breaches against regulations

3. What key principles do you think should underpin any potential new procurement legislation for Wales? (Please tick all that apply)

- Public good
- Transparency
- Integrity
- Value for money
- Equal treatment of suppliers
- Non-discrimination
- Proportionality
- Other (please specify):
 1. Public procurement is a devolved regulation and must promote the fundamental right of democratic elected public bodies to deliver quality public services in the public interest, including through in-house services only.
 2. Awarding contracts on a cost or price only criteria must be ruled out with a mandatory 'price-quality ratio' tendering process, giving sufficient weight to International (ILO) and UK social provisions, to prevent a UK 'race to the bottom'.
 3. Tendering processes must be regulated, open, fair and transparent and subject to Freedom of Information (FOI) requests, with no emergency (crisis) exceptions or commercial sensitivity privacy clauses used to deviate from stringent regulations or prevent disclosure, particularly of labour costs, in order to serve the public interest.
 4. Social value criteria must as a minimum promote, enforce and protect:
 - good work practices, fair pay, equality, trade union recognition and collective agreements and exclude companies which operate blacklisting of workers;
 - strategic use of public procurement in support of employment, training and apprenticeships for local economic development and inclusive growth;
 - enforcement of International and UK labour and human rights, due diligence, ethical procurement and environment criteria through both domestic and international supply chains of goods and services, incorporating joint and several liability;
 - GDPR standards for digitalisation and artificial intelligence in support of public service data ownership, data privacy rights, civil liberties, workers' digital rights and employer obligations to meet these standards.

A social contract approach must include the involvement of public service trade unions at all levels of public procurement decision making – from International agreements in the OECD and WTO, new global FTAs to domestic national, regional, local and workplaces to deliver the ambitious transformation that will benefit all.



Section B: UK Government's Green Paper

We want to understand your views on the UK Government's Green Paper.

4. Are you content with the general direction of the UK Government's Green Paper on "Transforming Public Procurement"?

- Yes
- No

5. Are you planning to respond, or have you responded formally to the UK Government's Consultation on the Green Paper?

- Yes
- No

If you **are planning to respond, or have responded formally** to the UK Government's Consultation and you are happy to share a copy with us, please e-mail a copy to ProcurementReformTeam@gov.wales.

If you **do not want to formally respond** to the UK Government's Consultation on the Green Paper but would like to share with Welsh Government your views on the UK Government's Green Paper proposals - please follow this [link](#). Please complete the areas within the form that you wish to give your views on and e-mail a copy to ProcurementReformTeam@gov.wales

6. Please enter any comments you may have here (optional)



It is UNISON's view that the UK Government's Green Paper could be a regressive action for public services and those working within public services. The duty on public procurement must prioritise what is in the best interests of the public and ensuring quality services are in place for tax-payers. It is not up to public procurement to support and develop local business.

Section B: UK Government's Green Paper

7. Are there any areas in the UK Government's Green Paper that you think are missing, which would be beneficial to Wales?

- Yes
- No

Please enter any comments you may have here

- Worker's rights and collective bargaining not mentioned once in the Green paper, this does not support WG position in relation to Social Partnership
- Trade union recognition.
- Pay and terms and conditions of employment – for example, the foundation living wage rate should be identified as a minimum requirement for a valid procurement contract.
- There is no emphasis on modern slavery.
- Public procurement legislation must be at least equal to EU standards.
- Access to collective bargaining is a right – ILO.
- The Green Paper doesn't address whether a service should or should not be put out to tender.
- Public bodies must be able to consider the complexities in coordinating hundreds of contracts – is this viable? What resource will be available to allow authorities to manage multiple contracts?
- Process should not bypass proper scrutiny.
- Will health and social care be considered under separate public procurement policy?

8. Are there areas within the UK Government’s Green Paper that you do not think should be included in Wales?

- Yes
- No

Please enter any comments you may have here

- Issue with use of “crisis” to publicly procure in urgency – what constitutes a “crisis” at local level? Such exceptions must go through Senedd.
- There must be greater weight on non-cost factors and should explicitly rule out award on cost basis only
- Blacklisting of unionised workplaces should be explicitly ruled out.
- A percentage of contracts should not be reserved for local SME’s – the purpose of public procurement is not to support and develop business.
- Public procurement should prioritise public benefit.

Section C: Specific Green Paper Proposals

We have identified three key proposals within the UK Government’s Green Paper that could have an impact on Wales:

The Light Touch Regime

Dynamic Purchasing System + (DPS+)

Open Framework

9. The UK Government propose removing the Light Touch Regime (LTR) as a distinct method of awarding contracts. To what extent do you agree that the UK Government's proposal on the LTR would work well for Wales?

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree

Please enter any comments you may have here (optional)



10. Would there be any advantages / disadvantages to Wales if the LTR was removed as a distinct method of awarding contracts?

- Advantages
- Disadvantages

Please enter any comments you may have here (optional)

11. The UK Government propose legislating for a new Dynamic Purchasing System - Dynamic Purchasing System + (DPS+), to replace the current Dynamic Purchasing Systems (DPS) and Qualification Systems (QS). In your opinion, would the proposed UK Government changes to the current DPS bring any benefit to you as a buying organisation/supplier?

- Significant Benefits
- Some Benefits
- No Benefits
- Unsure

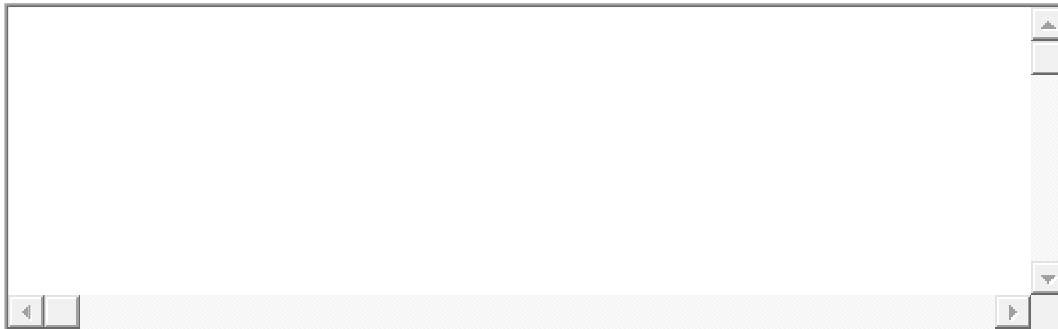
Please enter any comments you may have here (optional)

12. The UK Government proposes legislating for new options in framework agreements including an option for an ‘open framework’ with multiple joining points and a maximum term of 8 years.

How far do you agree that the UKG’s proposal on the introduction of an ‘open framework’ would work well for Wales?

- Strongly agree
- Agree
- Neither agree or disagree
- Disagree
- Strongly disagree

Please enter any comments you may have here (optional)



13. In your opinion, are Framework Agreements needed in Wales?

- Yes
- No

Please enter any comments you may have here (optional)



Framework agreements can be a useful tool to ensure standardisation of certain elements within contracts, such a pay, terms and conditions of employment and to ensure these remain in place for the duration of the agreement.

14. Are there any alternative approaches to framework agreements that you feel would be more appropriate to Wales?

- Yes
- No

Please enter any comments you may have here (optional)



UNISON would welcome the code of practice on the ethical procurement in supply chains be given a statutory grounding in addition to the use of framework agreements.

15. Are there any other proposed changes within the UK Government's Green Paper that you feel could have an impact on Wales?

- Yes
- No

Please enter any comments you may have here (optional)

- There must be a public UK-wide database advising who holds which contract and where – this must also include information about past performance.
- The issues around the Internal Markets Legislation need to be addressed before this can be considered in any detail.



16. The Procurement Reform team would like to keep you informed about the progress of procurement reform in Wales and in some cases to discuss your views in further detail. If you would be happy to be contacted by the Procurement Reform team for these purposes, please enter your e-mail address below.

Thank you for taking the time to complete this survey - please select 'finish survey' below to submit your responses.