



Llywodraeth Cymru
Welsh Government

Deddf PGChC – Dyletswyddau Rheoli Contractau Adeiladu

SPPP Act – Construction Contract Management Duties

Dr Sue Hurrell

Pennaeth Caffael Gwaith Teg
Head of Fair Work Procurement



Y Lifer Caffael

The Procurement Lever

- Dylem hyrwyddo a gwobrwyo canlyniadau llesiant drwy
 - signalau
 - manyleb
 - hysysebu
 - tendro
 - amodau contract
 - rheoli contract
- Ond dim ond hyd at bwynt...
 - canolbwyntio ar y contract, nid y sefydliad
 - cymesuredd
 - gweithredu o fewn cyfyngiadau cyfreithiol
- We should promote and reward well-being outcomes through
 - signalling
 - specification
 - advertising
 - tendering
 - contract conditions
 - contract management
- But only up to a point...
 - focus on the contract, not the organisation
 - proportionality
 - operating within legal constraints



Y dyletswyddau caffael

The procurement duties

Beth?

- Nodau llesiant.
- Llesiant cymdeithasol, amgylcheddol, economaidd a diwylliannol

Pwy?

- Rhan fwyaf o Awdurdodau datganoledig Cymru.

Sut fydd hyn yn gweithio gyda diwygio'r broses gaffael ar draws y DU?

- Y broses gaffael yn cael ei diwygio ar yr un pryd gan Lywodraeth y DU
- Ffocws ar broses, nid polisi/canlyniad
- Llywodraeth y DU yn deddfu ar ran Awdurdodau Contractio Cymru.

What?

- Well-being goals.
- Social, environmental, economic and cultural well-being

Who?

- Most of the devolved Welsh Authorities.

How will this fit with reform of the procurement process across UK?

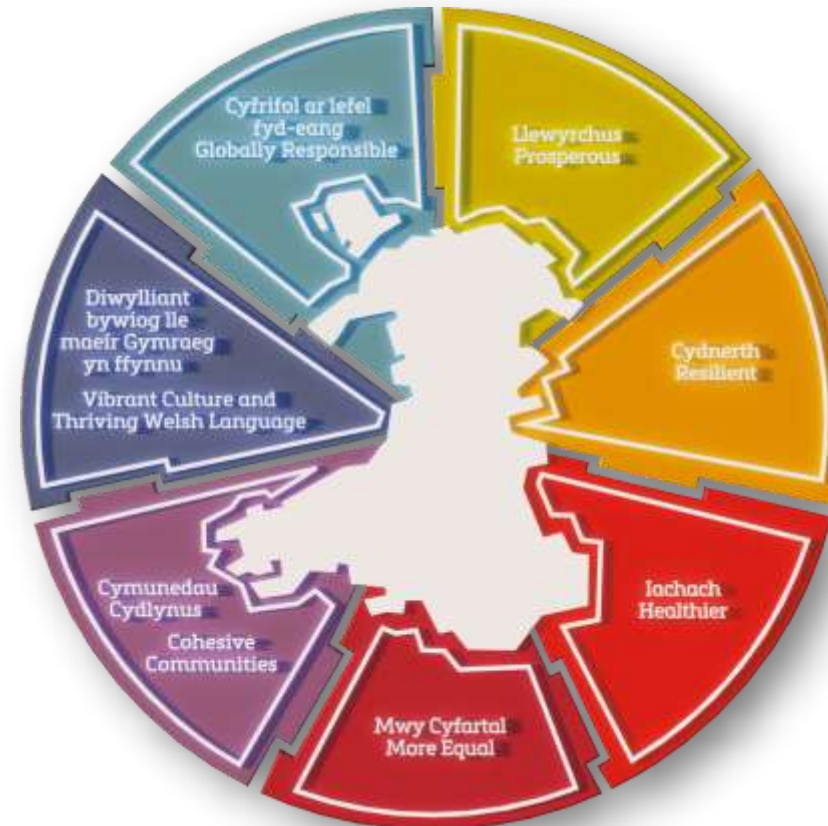
- Procurement process being reformed in parallel by UK Government
- Focus on process not policy/outcome
- UK Government legislating for Welsh Contracting Authorities.



Dyletswydd Caffael Cymdeithasol Gyfrifol

Socially Responsible Procurement Duty

- Dyletswydd trosfwaol o'r dechrau i'r diwedd ar sefydliadau i wella *llesiant economaidd, cymdeithasol, amgylcheddol a diwylliannol*, drwy gyhoeddi amcanion
- End-to-end, overarching duty on organisations to improve *economic, social, environment and cultural well-being*, by publishing objectives





Strategaethau, Adroddiadau a Cydymffurfiad

Strategies, Reports and Compliance

- Cyhoeddi Strategaeth Caffael
- Adroddiad blynyddol
- Adroddiad cryno gan Lywodraeth Cymru
- Pwerau ymchwilio i Weinidogion Cymru
- Cyngor Partneriaeth Gymdeithasol – Yr is-grŵp statudol ar gaffael
- Cynlluniau polisi i ddatblygu gwasanaeth adborth
- Publish a Procurement Strategy
- Annual report
- Welsh Government summary report
- Investigatory powers to Welsh Ministers
- Social Partnership Council - Statutory procurement subgroup
- Policy intention to develop a feedback service



Rheoli contract

Contract management

Ar **gyfer adeiladu mawr** (1) ac allanoli gwasanaethau (2) uchod:

1. Cymalau gweithiau cyhoeddus cymdeithasol
2. Cymalau gweithlu cyhoeddus cymdeithasol

Mae angen tri cham:

1. Cynnwys mewn contractau
2. Cynnwys drwy gydol y cadwyni cyflenwi
3. Rhoi proses ar waith i sicrhau bod y rhain yn cael eu gweithredu

Hysbysu Llywodraeth Cymru os NAD ydynt wedi'u cynnwys

Gall arwain at gyfarwyddyd gweinidogol, neu adroddiad cyhoeddedig.

For **major construction** (1) and outsourcing services (2) above:

1. Social public works clauses
2. Social public workforce clauses

Three steps needed:

1. Include in contracts
2. Include throughout supply chains
3. Put a process in place to ensure these are implemented

Notify Welsh Government if they are NOT included

May result in ministerial direction, or a published report.



Rheoli contract

Contract management

- Cymalau posibl a fydd yn berthnasol ar draws pob categori
 - Sicrhau bod cymalau (neu rai o effaith gyfwerth) yn cael eu cynnwys mewn is-gontractau
 - Cytundeb ar amllder a chynnwys cyfarfodydd rheoli
- Gofynion data ar gyfer bwrpasau adrodd a monitro e.e. perfformiad talu
- Tystiolaeth y gall awdurdodau contractio ofyn am brawf e.e. slipiau cyflog, cymwysterau
- Potential clauses that will be relevant across all categories:
 - Ensuring clauses (or ones of equivalent effect) are included in sub-contracts
 - Agreement on frequency and content of management meetings
- Data requirements for reporting and monitoring purposes e.g. payment performance
- Evidence that contracting authorities may request for proof e.g. payslips, qualifications



Datblygu cymalau contract

Contract clauses development

- Categoriâu cymalau gweithiau cyhoeddus cymdeithasol: **Taliadau, Cyflogaeth, Cydymffurfedd, Hyfforddiant, Is-gontractio, yr Amgylched**
- Dwy gyfres o weithdai: 1) syniadau cychwynnol, 2) trafodaethau manwl
- Cyfarfodydd gydag arbenigwyr pwnc
- Ymchwil desg ar ddeddfwriaeth, canllawiau, dulliau eraill
- Datblygiad papurau cynigion ar gyfer pob un o'r categorïau
- Cymalau drafft yn cael eu datblygu...
- Social public works clauses categories: **Payments, Employment, Compliance, Training, Sub-contracting, Environment**
- Two series of stakeholder workshops: 1) initial ideas, 2) detailed discussions
- Ad-hoc meeting with subject experts
- Desk research on other legislation, guidance, tools
- Development of proposals papers for each of the categories
- Draft clauses being developed...



Taliadau Payments

- *Sicrhau a gorfodi taliadau prydlon*

Dau brif faes ffocws: cyfrifon banc prosiect ac arian dargadw

Bydd y cymal yn ei gwneud yn ofynnol i sefydlu PBA neu'n debyg i weinyddu taliadau, a chyfrifon wedi'u clustnodi ar gyfer arian dargadw

- *Ensuring and enforcing prompt payments*

Two main areas of focus: project bank accounts and retention money

Clause will require the setting up of PBAs or similar to administer payments, and ring-fenced accounts for retention money



Cyflogaeth Employment

- Darparu cyfleoedd cyflogaeth i bobl ifanc, pobl hŷn, pobl ddi-waith hirdymor, pobl anabl neu bobl a all fel arall fod o dan anfantais (er enghraifft oherwydd eu hil, eu crefydd neu eu cred, eu rhyw, eu hunaniaeth rhywedd neu eu cyfeiriadedd rhywiol)*

Awgrymodd rhanddeiliaid i osod targedau, chwalu rhwystrau, cyflogaeth hirdymor



Gofyniad cynllun ar gyfer darparu cyfleoedd, ymdrin â bylchau sgiliau, gyrru cyflogaeth barhaus

- Providing employment opportunities to younger people, older people, the long term unemployed, disabled people or people who may otherwise be disadvantaged (for example because of their race, religion or belief, sex, gender identity or sexual orientation)*

Stakeholders suggested the setting of targets, breaking down barriers, long-term employment



Requirement of a plan for providing opportunities, addressing skills gaps, driving continued employment



Cydymffurfedd Compliance

- *Sicrhau cydymffurfedd â rhwymedigaethau cyfreithiol mewn perthynas â hawliau cyflogaeth (gan gynnwys yr isafswm cyflog a chyflog byw), iechyd a diogelwch, a chynrychiolaeth undebau llafur.*

Themâu allweddol yn cynnwys Gwaith Teg, addysgu a chefnogi'r gadwyn gyflenwi, a chyflogaeth foesebol

Bydd cymalau yn ei gwneud yn ofynnol i'r gadwyn gyflenwi gael gwybod am rhwymedigaethau cyfreithiol, casglu data, a chynllun ar gyfer ymdrin â materion caethwasiaeth modern a hawliau dynol

- *Ensuring compliance with legal obligations in relation to employment rights (including the minimum and living wage), health and safety, and trade union representation.*

Key themes included Fair Work, educating and supporting the supply chain, and ethical employment

Clauses will require the supply chain to be informed of legal obligations, the collection of data, and a plan for dealing with modern slavery and human rights issues



Hyfforddiant Training

- *Darparu hyfforddiant priodol i weithwyr.*

- *Providing appropriate training for workers.*

Roedd trafodaethau rhanddeiliaid yn canolbwyntio ar osod targedau ac uwchsgilio'r diwydiant



Bydd y cymal yn gofyn am gynllun ar gyfer sicrhau bod gweithwyr yn cael eu hyfforddi i'r lefel briodol (cymhwysedd), ac yn cael cyfleoedd i hyfforddi ac i uwchsgilio

Stakeholder discussions focussed on setting targets and upskilling the industry



Clause will require a plan for ensuring workers are trained to appropriate level (competency), and are provided with opportunities to train and to upskill



Is-gontractio Sub-contracting

- Darparu cyfleoedd i fusnesau bach a chanolig a sefydliadau gwirfoddol i gyflawni gweithiau, cyflenwi cynhyrchion neu ddarparu gwasanaethau.*

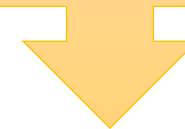
Trafodaethau ar osod targedau/%, gofynion hysbysebu a rhannu contractau mewn i lotiau



Bydd y cymal yn gofyn am gynllun, casglu data, a gofynion hysbysebu

- Providing opportunities to small and medium sized enterprises and voluntary organisations to execute works, supply products or provide services.*

Discussions on setting targets/%, advertising requirements and breaking up contracts into lots



Clause will require a plan, the collection of data, and advertising requirements



Amgylchedd Environment

- Gwneud rheoli adnoddau naturiol yn gynaliadwy, defnyddio deunyddiau cynaliadwy, cydnerthedd rhag effaith newid hinsawdd, lleihau allyriadau nwyon tŷ gwydr, a gwella'r amgylchedd naturiol a bioamrywiaeth yn ofynnol.*

Roedd y trafodaethau yn cynnwys pwysigrwydd y cam dylunio, gosod targedau a chasglu data, angen dulliau a chanllawiau



Bydd y cymal yn gofyn am ystyriaeth gydnerthedd hinsawdd, targedau ar gyfer lleihau gwastraff a defnydd o ddeunyddiau cynaliadwy, cynlluniau ar gyfer lleihau carbon oes gyfan a gwella'r amgylchedd naturiol a bioamrywiaeth

- Requiring sustainable management of natural resources, use of sustainable materials, resilience to the impact of climate change, reduction of greenhouse gas emissions, and enhancement of the natural environment and biodiversity.*

Importance of the design stage, setting targets and collecting data, needing tools and guidance



Clause will require climate resilience consideration, targets for reducing waste and use of sustainable materials, plans for reducing whole life carbon and enhancing the natural environment and biodiversity



Beth nesaf? What's next?

- Gweithio ar y cyd ar ganllawiau statudol
- Ffocws arbennig ar y data y mae angen i ni ei gasglu
- .. ac ar gymalau contract ar gyfer adeiladu ac allanoli gwasanaethau
- Cyd-fynd â diwygio caffael Llywodraeth y DU
- Trefnu a darparu hyfforddiant i staff caffael cyhoeddus, ac i fusnes.
- Working collaboratively on statutory guidance
- Particular focus on the data we need to collect
- .. and on contract clauses for construction and outsourcing services
- Aligning with UK Government procurement reform
- Organising and delivering training to public procurement staff, and to business.



Cwestiynau?
Any questions?

Sue.Hurrell@gov.wales

Geraint.Walsh@gov.wales