Toolkit: Worker voice in public sector procurement of digital and AI systems in Wales

> **“A contracting authority carries out public procurement in a socially responsible way by taking action, in accordance with the sustainable development principle, aimed at contributing to the achievement of the well-being goals”**
>
> Section 24 (2), Social Partnership and Public Procurement (Wales) Act, 2023

> **“Ensuring workers are heard and represented can help organisations to capture ideas, creativity, and innovation.”**
>
> A guide to fair work, Welsh Government

> **“For a smooth transition, it's best to get as much input from the people who actually do these jobs”**
>
> A Welsh trade unionist and public sector worker

Introduction

AI systems are increasingly being used in the delivery of public services. They can significantly impact the quality, value for money, and accountability of these services, and the achievement of wider policy goals.

While some may be developed in-house, many digital and AI systems are, and will continue to be, procured. Procurement processes are a powerful lever for achieving the well-being goals set out in the Well-being of Future Generations (Wales) Act 2015, as well as delivering fair work and public service

improvements. The Social Partnership and Public Procurement (Wales) Act 2023 (SPPPA) sets out the legal framework that public bodies in Wales must follow to achieve well-being outcomes through procurement.

This toolkit provides an actionable framework for empowering worker voice throughout the procurement process. It is targeted at public sector commissioners, procurement professionals and trade union representatives seeking to apply social partnership and responsible procurement practices to digital and AI systems. Suppliers to the public sector may also find this toolkit useful.

The toolkit is produced by Connected by Data in collaboration with the Trades Union Congress Cymru, with input from diverse stakeholders in trade unions and the public sector in Wales.

This toolkit on worker voice in public sector procurement should be read alongside and supported by two key documents.

First, the SPPPA provides the legal framework for public sector procurement aimed at supporting improving economic, environmental, social, and cultural well-being (including by improving public services) in Wales.

Second, the Workforce Partnership Council guidance on algorithmic management for managers, trade unions and other worker representatives on the use of algorithms and artificial intelligence systems in devolved public sector workplaces for the management of staff and their work.

Public procurement of digital and AI systems

Consultation is important in all kinds of public procurement. Digital and AI systems have distinct characteristics and challenges that mean it is vital. These include:

- **Risks** related to the potential of negative impacts on workers as well as citizens and service users
- **Rapidly changing technology** is a challenge to establishing best practices and standards for developing, procuring, deploying and evaluating digital and AI systems

- The **concentrated market** of suppliers risks reducing choice and increasing the potential of vendor lock in, especially given the relative lack of Welsh language-capable systems and implications for duties to provide Welsh language services

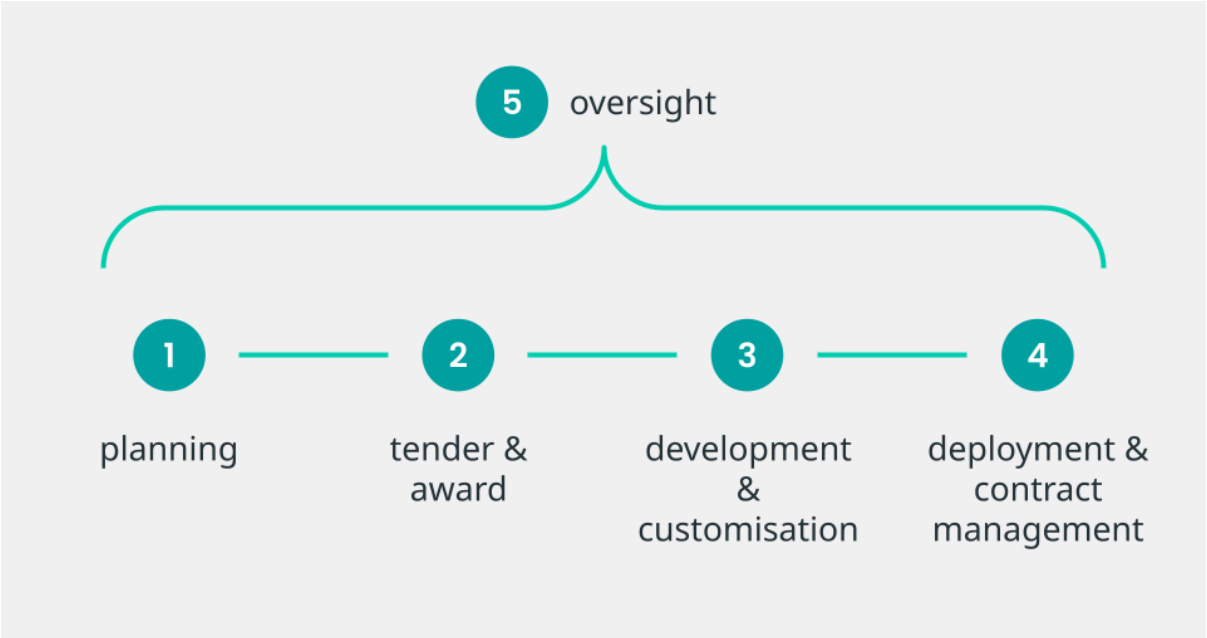
Worker voice in procurement of digital and AI systems

Research shows that involving a wide variety of stakeholders and expertise supports more effective procurement and better outcomes from digital and AI systems. This toolkit focuses on worker voice; however, similar consideration should be given to other stakeholders such as service users and civil society organisations with relevant expertise. Reviewing any relevant research and case studies may also support a better understanding of the impact of digital and AI systems in your area.

In each organisation, there is a diversity of workers and trade union representatives, all likely to have different experiences and views about digital and AI, skills and job roles. This includes workers as end users of a digital system, as well as colleagues and managers inside and outside the organisation that may be affected by it. Different workers will also have a range of needs for training and professional development, which should be accounted for throughout the process. This includes workers with protected characteristics. Understanding and accounting for this diversity throughout the process is important to ensure the approach to digital system deployment is human-centred. Not all digital and AI systems will carry the same risks and impacts on stakeholders, and so it is important to understand who will be most affected in order to design an effective and proportionate engagement process. Initial conversations between workers, trade unions and commissioners and procurement professionals can help to ensure that the procurement meets service improvement objectives and those of the fair work agenda in Wales.

Using this toolkit

This toolkit is structured around four stages of the procurement process for digital and AI systems, along with an oversight function. There are prompts for effective engagement at each stage.



As the instigator of a procurement process, the commissioner should be responsible for owning the process of ensuring worker voices are empowered, within internal discussions and with suppliers.

This will be in collaboration with trade union representatives who may also use the toolkit to advocate for worker voice.

1. Planning

Worker engagement should focus on ensuring that digital and AI systems solve actual problems, including those experienced by workers.

Worker voice engagement approaches	Prompts for discussion
Surveys of workers to identify pain points	What are our priority challenges? How can digital and AI help?
Workshops with workers with protected characteristics to identify risks	What specific risks and challenges arise from digital and AI in our context? How can these be addressed?
'Futures' forums to reimagine how public services could operate with data and AI	Given the risks, what is a proportional approach for engaging worker voice?

Worker voice engagement approaches	Prompts for discussion
	What features should digital and AI systems have to support fair work and wellbeing goals?

2. Tender & award

Worker engagement should focus on ensuring the procured systems will be fit for purpose and that the supplier will continue to include workers during system development and deployment.

Worker voice engagement approaches	Prompts for discussion
Commissioner to ensure worker participation is built into during market engagement events	*What have we agreed at the previous stage? What has changed?*
Engage workers and representatives in the setting of detailed specifications, tender questions and weightings.	How will data protection, access and ownership, reporting and evaluation be managed?
Include workers and representatives during bid assessment processes	Is there a need for interoperability with existing systems?
	How can potential suppliers demonstrate facilitation of worker and service user engagement in system development?
	How can potential suppliers demonstrate approaches to workforce development to operate the system? Will this support in-house digital capabilities?

3. Development and customisation

Workers should be actively involved in testing and refining the digital or AI system so that it works in context.

Worker voice engagement approaches	Prompts for discussion
Co-development of impact assessments e.g Data Protection Impact Assessments or Good Work Algorithmic Impact Assessment Supplier led workshops, demonstrations and user testing of functionality with workers Testing the tools with consequence mapping exercises	*What have we agreed at the previous stage? What has changed?* How will the system impact worker performance management metrics and evaluation? How will HR or line management practices be impacted? How will the system's functionality be changed? How will the process be managed to account for impact on workers? What kind of training and skills development will workers need to use the system? What else needs to change when the system is introduced? How should we monitor the impacts of its introduction? How has the system accounted for the Workforce Partnership Council guidance on algorithmic management?

4. Deployment and contract management

Worker engagement should focus on understanding the actual impact of digital and AI systems, with the aim to identify a clear pathway to resolving any problems quickly, especially those that emerge over time.

Worker voice engagement approaches	Prompts for discussion
Training and learning programmes and processes for peer learning	*What have we agreed at the previous stage? What has changed?*
Piloting system and rapid evaluations of roll out	Is the system working effectively? What bugs and errors have workers identified?
Feedback and complaints processes with clear investigation and response standards	How is the system affecting worker skills, relationships, and job satisfaction?
Standing worker-management forum to monitor system	Are different workers (particularly those with protected characteristics) having different experiences with the system?
	Are further changes needed to policies and processes as a consequence of the system?
	How does the contract need to be structured to support these needs?

5. Oversight

Worker engagement should focus on establishing good practice on worker and stakeholder participation in procurement of digital and AI systems across the organisation, through a process of learning and iteration.

Worker voice engagement approaches	**Prompts for discussion**
Standing governance body including workers, unions, and other stakeholders	*What have we agreed at the previous stage? What has changed?* What are we learning about effective worker engagement from multiple procurement processes? Can we clarify effective and proportional approaches weighed against risk and impact? How can we drive up standards for worker voice in procurement? What training and support do workers need to be effectively involved in the procurement of digital and AI systems? What can we learn from other public sector bodies? Who else can we engage with to learn more including academics, peer practitioners, community and civil society groups?

Case studies

These case studies illustrate why workers and wider stakeholders are integral to effective development and procurement of digital and AI systems for the public sector, and how it can be done.

Case study - Worker insight crucial for effectiveness of digital systems

“People were in tears when they first started working on it, because it was so cumbersome and awkward.” That's how a Wales-based former employee of the Legal Aid Agency described the 2015 introduction of a major procurement and digitisation project to administer the legal aid system.

Beset by issues, in 2020 it was discovered that the error rate of incorrect disbursement of fees had spiked from 3% from human processing to 19% with the automated system. While workers would review submissions and interpret them against the legal aid rules, the worker said “the system was just accepting a lot of these things without question”.

From the worker’s perspective as a trade union representative, issues could have been avoided with a better process involving the workforce. “I've worked in so many places where they've brought new systems in and the workers are not consulted on what they need. It's introduced by management who don't understand what the nitty gritty of the actual day job is, they don’t fully understand it and yet they won't consult.”

Source:

Connected by Data interview and case study

Case study - Discrimination through algorithms in the Dutch childcare benefits scandal

In January 2021, the Dutch government’s cabinet was forced to resign as part of a scandal following revelations that up to 26,000 parents had been wrongly accused and pursued by the state for child benefit fraud.

In 2013, an algorithmic decision-making system for fraud detection was adopted by the Dutch Tax authorities. The “risk classification model” algorithmic decision-making system included self-learning elements to create risk profiles of childcare benefits applicants who were supposedly more likely to submit inaccurate applications and renewals and potentially commit fraud. However, the system was ‘black boxed’ meaning the public sector workers administering the system did not have access to any details about what information had been used as the basis for assigning a specific risk score. Amnesty International, among others, found that the use of the risk classification model amounted to racial profiling and revealed presumptions made by the system’s developers that people of certain nationalities would be more likely to commit fraud or crime than people of other nationalities.

With workers unable to understand or contest the system and citizens not afforded transparency, the full extent of the scandal was not realised until many citizens had been harmed. Engagement with workers throughout including robust processes for review and evaluation would have contributed to the surfacing of insight as early warning of issues in the system.

Source:
Xenophobic machines: Discrimination through unregulated use of algorithms in the Dutch childcare benefits scandal - Amnesty International

Case study - Camden’s mission orientated procurement

Camden Council in London has been developing an approach to mission-oriented procurement. They have sought to ‘enable participatory and collaborative commissioning’, incorporating different voices – including residents – throughout the procurement lifecycle, helping to set strategy, score tenders, and evaluate performance and support learning.

Procurement teams across the council have engaged with the general public or specific groups of service users during procurement and

commissioning, usually around bigger, more complex and higher value contracts and people-focused services (such as social care and public health). To date, public engagement has been advisory, with decision-making staying with council officers and politicians, however this is informed by the diverse insight offered by community and worker voice.

Source:

Mission-led procurement and market-shaping: Lessons from Camden Council | UCL Institute for Innovation and Public Purpose

Resources

A selection of resources to aid trade unions, commissioners and procurement professionals on responsible procurement of digital and AI systems in the public sector.

- Good Work Algorithmic Impact Assessments, *Institute for the Future of Work*. https://www.ifow.org/publications/gwaia---a-partnership-approach
- Spending wisely: Redesigning the landscape for the procurement of AI in local government, *Ada Lovelace Institute*. https://www.adalovelaceinstitute.org/report/spending-wisely-procurement/#key-actions-for-the-taskforce-15
- The Oxford Procurement of Government Outcomes Club, *University of Oxford.*https://golab.bsg.ox.ac.uk/community/peer-learning-groups/pogo
- The Cyd 'Procurement Reform Sandbox': using foresight approaches to help deal with uncertainty and change, *Cyd* https://cyd.cymru/the-cyd-procurement-reform-sandbox-using-foresight-approaches-to-help-deal-with-uncertainty-and-change/
- Denmark: AI-powered welfare system fuels mass surveillance and risks discriminating against marginalized groups – report, *Amnesty International.* https://www.amnesty.org/en/latest/news/2024/11/denmark-ai-powered-

welfare-system-fuels-mass-surveillance-and-risks-discriminating-against-marginalized-groups-report/

- Xenophobic machines: Discrimination through unregulated use of algorithms in the Dutch childcare benefits scandal, *Amnesty International. https://www.amnesty.org/en/documents/eur35/4686/2021/en/*