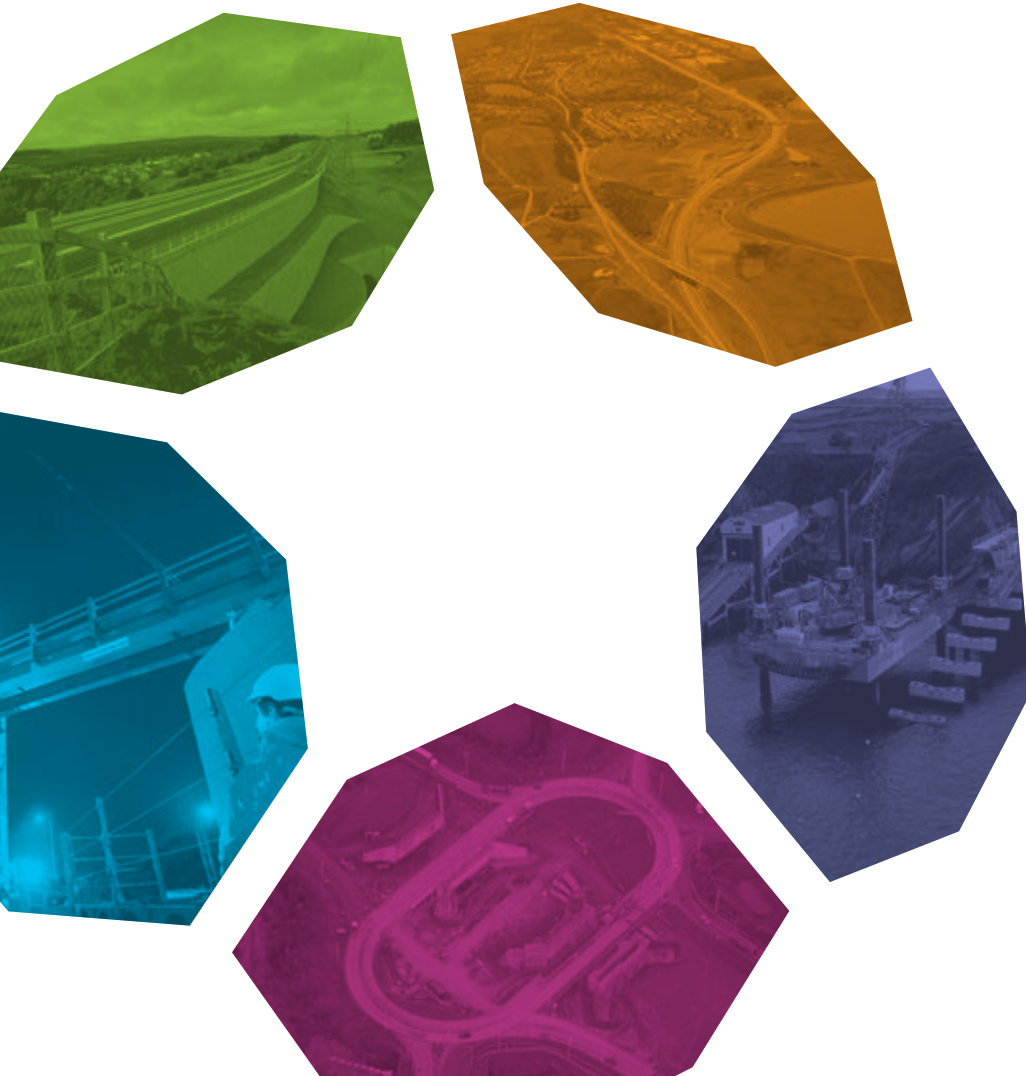
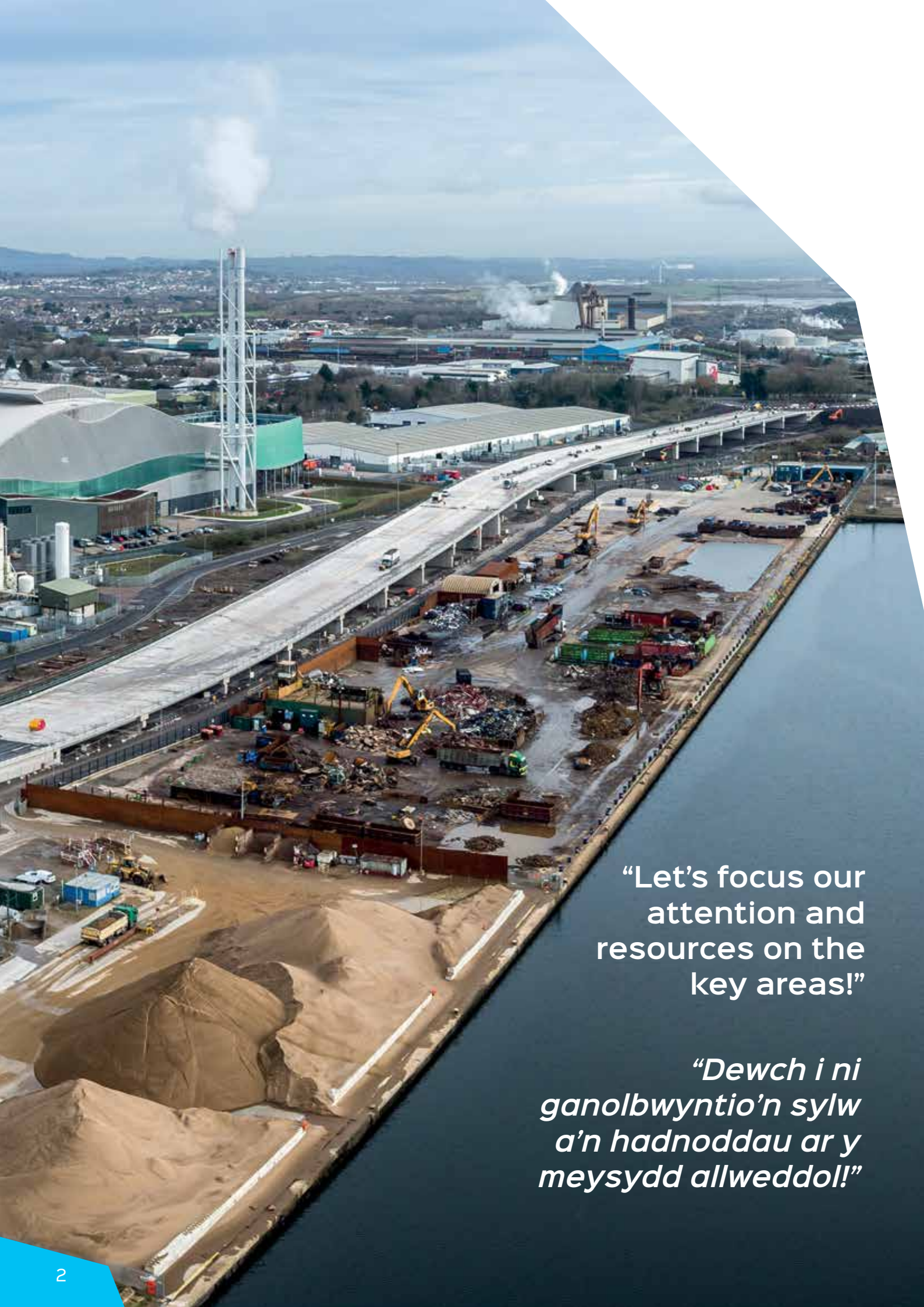


Streamlining public procurement

Symleiddio caffael cyhoeddus





“Let’s focus our attention and resources on the key areas!”

“Dewch i ni ganolbwyntio’n sylw a’n hadnoddau ar y meysydd allweddol!”

Foreword

Not a day goes by in the infrastructure and construction sector without the dreaded “P-word” being mentioned : Procurement! It feels like Groundhog Day every day!

But why do we continue to struggle with it? Particularly public sector procurement.

This report, which combines the skills, experiences and views from both public and private sectors across Wales, identifies 3 key procurement challenges faced by the sector in Wales and draws out 3 recommendations to address these challenges along with 3 areas for improvement. Clearly there are far more than this but, given how difficult it seems to be to effect change, let's focus our attention and resources on the key areas!

The report builds on previous work in this field and, therefore, unsurprisingly, there are no surprises. However, this in itself, emphasises the lack of progress in addressing these matters. As I said, Groundhog Day!

I hope you find this short report useful and that you will be able to use this to inform your discussions with other stakeholders to influence the change we need across the sector.

Best of luck!

Ed Evans
Director, Civil Engineering Contractors
Association (CECA) Wales/Cymru

Rhagair

Does dim diwrnod yn pasio yn y sector seilwaith ac adeiladu heb i'r hen air bach cas hwnnw “Caffael” godi'i ben. Caffael! Mae'r un problemau'n codi ddydd ar ôl dydd!

Ond pam mae'n dal i'n poeni? Yn enwedig caffael gan y sector cyhoeddus?

Mae'r adroddiad hwn, sy'n cyfuno sgiliau, profiadau a safbwyntiau o'r sector cyhoeddus a'r sector preifat ledled Cymru, yn nodi tair her allweddol ym maes caffael y mae'r sector adeiladu yng Nghymru'n eu hwynebu, mae'n gwneud tri argymhelliad ar gyfer mynd i'r afael â'r heriau hynny ac yn nodi tri maes y gellid eu gwella. Wrth gwrs, mae llawer rhagor i'w cael, ond gan ei bod yn ymddangos mor anodd newid y sefyllfa, dewch i ni ganolbwytio'n sylw a'n hadnoddau ar y meysydd allweddol!

Mae'r adroddiad yn adeiladu ar waith blaenorol yn y maes ac felly nid yw'n syndod nad oes dim ynddo'n peri syndod. Fodd bynnag, mae hynny ynddo'i hunan yn tanlinellu cyn lleied o gynnydd a fu wrth fynd i'r afael â'r materion hyn. Fel y dywedais i, mae'r un problemau'n codi ddydd ar ôl dydd!

Gobeithio y bydd yr adroddiad byr hwn o fudd i chi ac y gallwch ei ddefnyddio yn eich trafodaethau â rhanddeiliaid eraill er mwyn hybu'r newid y mae arnom ei angen trwy'r sector cyfan.

Pob lwc!

Ed Evans
Cyfarwyddwr, Cymdeithas Contractwyr
Peirianeg Sifil (CECA) Cymru

Introduction

The procurement of public infrastructure in Wales continues to be a seriously contentious issue and some would say it has been at crisis point for some time with dissatisfaction expressed by many clients, consultants and contractors. Despite the Welsh Government having published its Wales Procurement Policy Statement in June 2015, and it being broadly welcomed across industry, differing interpretation and implementation across Wales continues to cause significant frustration.

In an effort to move a constructive debate forward members of the Civil Engineering Contractors Association (CECA) Wales, the Association of Consulting Engineers (ACE) and the County Surveyors Society (CSS) Cymru, representing Wales' local authorities, came together at their Annual Conference on 3rd March 2017 in Cardiff to consider the most important challenges facing the procurement process in Wales and to propose improvements.

A mixed workshop session considered the findings of a UK wide report commissioned by CECA in 2016 and titled "Directions in policy for the UK's infrastructure sector". This report identified the 8 most challenging elements of the procurement process and recommended a series of proposals to address them. This subsequent report, prepared by CECA Wales, offers a Welsh dimension and takes on board views from both clients and consultants, in addition to contractors, to give a more rounded view.

The results, whilst highlighting a reasonable consistency across the groups in terms of importance, (albeit with some preferences in certain areas) did throw up some issues which would be considered unexpected!

Cyflwyniad


Mae caffael seilwaith cyhoeddus yng Nghymru yn dal yn fater dadleuol iawn a byddai rhai'n dweud ei bod yn argyfwng yn y maes ers peth amser gyda llawer o gleientiaid, ymgynghorwyr a chontractwyr yn mynegi anffodlonrwydd. Er i Lywodraeth Cymru gyhoeddi Datganiad Polisi Caffael Cymru ym Mehefin 2015 ac iddo gael croeso ar y cyfan, mae gwahaniaethau wrth ei ddehongli a'i weithredu ledled Cymru yn dal i achosi cryn rwystrredigaeth.

Mewn ymdrech i hybu trafodaeth adeiladol, daeth aelodau o Gymdeithas Contractwyr Peirianeg Sifil (CECA) Cymru, Cymdeithas y Peirianwyr Ymgynghorol (ACE) a Chymdeithas Syrfewyr Sirol Cymru (CSS), yn cynrychioli awdurdodau lleol Cymru, at ei gilydd yn eu Cynhadledd Flynyddol ar 3 Mawrth 2017 yng Nghaerdydd i ystyried yr heriau pwysicaf sy'n wynebu'r broses gaffael yng Nghymru ac i gynnig gwelliannau.

Cynhaliwyd gweithdy i ystyried canfyddiadau adroddiad ar gyfer y Deyrnas Unedig gyfan a gomisiynwyd gan CECA yn 2016 o dan y teitl "Directions in policy for the UK's infrastructure sector". Yn yr adroddiad hwn, nodwyd 8 elfen fwyaf heriol y broses gaffael ac argymhellwyd cyfres o gynigion i fynd i'r afael â nhw. Mae'r adroddiad dilynol hwn, a baratowyd gan CECA Cymru, yn cynnig dimensiwn Cymreig ac yn cynnwys safbwyntiau gan gleientiaid ac ymgynghorwyr, yn ogystal â chontractwyr, er mwyn rhoi darlun mwy cynhwysfawr.

Er bod y canlyniadau'n dangos cryn dipyn o gysondeb ar draws y grwpiau o ran pwysigrwydd y materion (gydag ychydig o wahaniaethau mewn meysydd neilltuol) fe godwyd rhai materion annisgwyl!





“The procurement of public infrastructure in Wales continues to be a seriously contentious issue... some would say it has been at crisis point for some time”

“Mae caffael seilwaith cyhoeddus yng Nghymru yn dal yn fater dadleuol iawn a byddai rhai'n dweud ei bod yn argyfwng yn y maes ers peth amser”

The Challenges

Top 3 Challenges

1. Information requirements being disproportionate to bid values
2. Lack of checking and enforcement of undertakings given by contractors in tender documents
3. Frameworks delivering less than forecasted revenue and/or including secondary or mini-competition

Information requirements being disproportional to bid value was highlighted by 69% of delegates and was the biggest issue for clients and consultants and the second biggest issue for contractors. Whilst suppliers would be expected to be concerned with this, clients could be forgiven for not sharing this concern. However, what this may demonstrate is a disconnect within client bodies between clients who are delivering the “technical/engineering” element of a project and those who are procuring the services of a supplier.

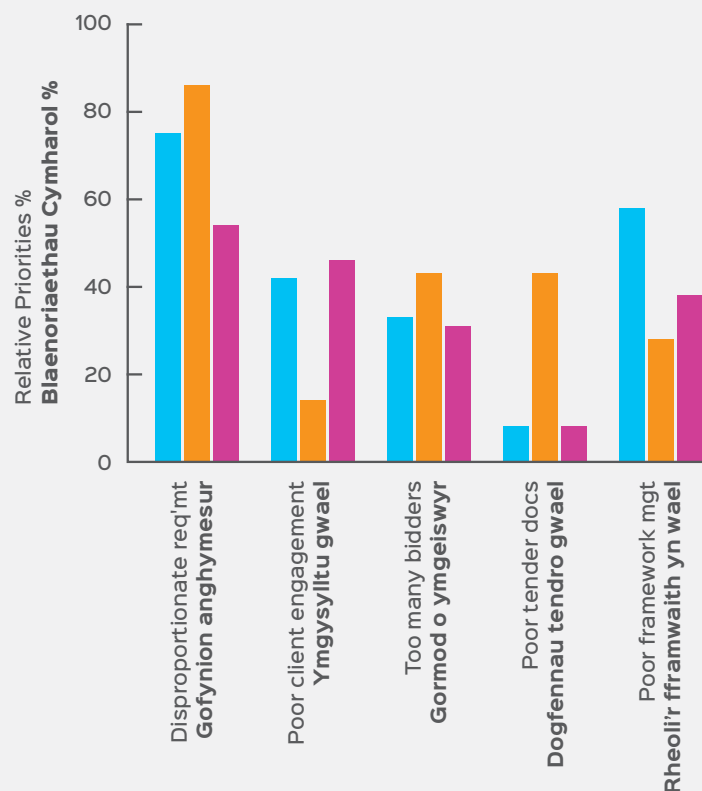
A lack of checking and enforcement of undertakings made by suppliers in tender documents was ranked the second biggest issue with 50% of delegates highlighting this. This wasn't such an issue for consultants but it was the biggest issue for contractors and ranked second in importance for clients. Its importance to clients and contractors may be for very different reasons. Potentially, clients may feel a frustration at not being adequately resourced to deal with this or are possibly unclear or insufficiently trained to deal with some of the less “engineering-focused” requirements in a contract eg social clauses. For contractors, the frustration is more likely due to the lack of a “level playing field” where some contractors price in these undertakings but others don't – giving them an unfair advantage. Client indifference to these undertakings would further exacerbate this!

Frameworks delivering less than forecast revenue and/or including secondary competition (also known as mini-competition) was ranked third overall with 44% of delegates highlighting this challenge. This ranked joint second in importance for clients, fourth for contractors but was not as significant for

consultants. This is often flagged up as a supplier frustration although, in this case, it is clients that have ranked this highest. This result is difficult to interpret although it may be due to the disconnect between procuring clients, not necessarily from an engineering background, and technical/engineering clients, no longer procuring services, which may lead to “problems” in implementation once a contract is let.

Other issues, not in the overall top-3, include contractors' concerns with a lack of client engagement during the process (also ranked fairly highly by clients) and tender lists containing too many bidders. Strict adherence to procurement directives may be partly responsible for the first issue whilst the second issue highlights client difficulties in striking a balance between ensuring competition between suppliers and ensuring that projects remain attractive to bid for. This also raises the question of how SMEs, particularly Welsh based ones, can be encouraged to participate in the public sector procurement exercises and how public sector investment can help them to grow and to employ and train people locally. This goes to the core of Welsh Government Procurement Policy and is drawn out when we consider Opportunities for the Future.

Challenges Heriau

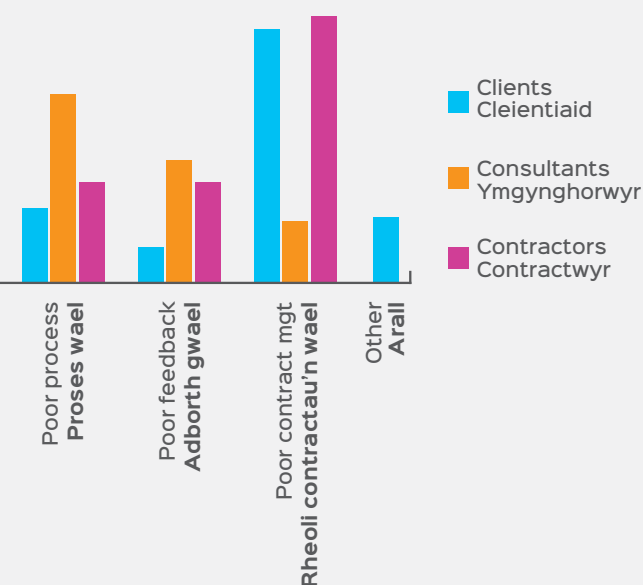


Y Heriau

Y Tair Prif Her

1. Gofyn am fwy o wybodaeth nag sydd raid o ystyried gwerth y prosiectau
2. Diffyg gwirio a gorfodi ymrwymiadau a wneir gan gontractwyr mewn dogfennau tendro
3. Fframweithiau'n darparu llai o waith na'r disgwyl a/neu'n cynnwys cystadleuaeth eilaidd neu fini-gystadleuaeth

Cyfeiriodd 69% o'r rhai yn y gweithdy at **'Gofyn am fwy o wybodaeth nag sydd raid o ystyried gwerth y prosiectau'** a dyma oedd y broblem fwyaf i gleientiaid ac ymgynghorwyr a'r broblem fwyaf ond un i gontractwyr. Er y byddai disgwyl i hyn boeni cyflenwyr, gellid maddau i gleientiaid am beidio â rhannu'r pryder. Fodd bynnag, efallai bod hyn yn dangos gwahaniaeth o fewn cyrff



cleientiaid rhwng cleientiaid sy'n ymwneud ag elfen "dechnegol/beirianyddol" prosiect a'r rhai sy'n caffael gwasanaethau cyflenwr.

Gwelwyd mai **'Diffyg gwirio a gorfodi ymrwymiadau a wneir gan gyflenwyr mewn dogfennau tendro'** oedd yn cael ei chyfrif yn broblem fwyaf ond un gyda 50% o'r rhai yn y gweithdy yn tynnu sylw ati. Nid oedd hyn yn gymaint o broblem i ymgynghorwyr ond hon oedd y broblem fwyaf i gontractwyr a'r fwyaf ond un i gleientiaid. Gall fod yn bwysig i gleientiaid a chontractwyr am resymau gwahanol iawn. Gall cleientiaid deimlo'n rhwystredig am nad oes ganddynt ddigon o adnoddau i ddelio â hyn neu efallai eu bod yn ansicr neu heb gael digon o hyfforddiant ar sut i ddelio â rhai o'r gofynion llai "peirianyddol" mewn contract e.e. cymalau cymdeithasol. Mae contractwyr yn fwy tebygol o deimlo'n rhwystredig oherwydd diffyg "cae chwarae gwastad" lle mae rhai contractwyr yn cynnwys yr ymrwymiadau hyn yn eu pris ond nad yw eraill yn gwneud hynny, gan roi mantais annheg iddynt. Byddai difaterwch cleientiaid at yr ymrwymiadau hyn yn gwneud y sefyllfa'n waeth!

Y drydedd broblem ar y rhestr oedd **"Fframweithiau'n darparu llai o waith na'r disgwyl a/neu'n cynnwys cystadleuaeth eilaidd (a elwir hefyd yn fini-gystadleuaeth)"** a tynnwyd sylw at yr her hon gan 44% o'r rhai yn y gweithdy. Daeth yr her hon yn gydradd ail o ran pwysigrwydd i gleientiaid ac yn bedwerydd i gontractwyr ond nid oedd mor bwysig i ymgynghorwyr. Dywedir yn aml bod hyn yn achosi rhwystredigaeth i gyflenwyr ond, yn yr achos hwn, cleientiaid oedd yn poeni fwyaf amdani. Mae'n anodd dehongli'r canlyniad hwn ond efallai mai'r rheswm yw'r gwahaniaeth rhwng cleientiaid sy'n caffael, ac nad ydynt o anghenraid yn dod o gefndir peirianyddol, a chleientiaid technegol/peirianyddol, nad ydynt bellach yn caffael gwasanaethau, a gall hynny arwain at "broblemau" gweithredu ar ôl gosod contract.

Roedd yr heriau eraill, na chyrhaeddodd y tair uchaf, yn cynnwys pryderon contractwyr nad oedd digon o ymgysylltu â chleientiaid yn ystod y broses (ac roedd cleientiaid yn rhoi hyn yn eithaf uchel hefyd) a'r duedd i restrau tendro gynnwys gormod o ymgeiswyr. Efallai bod tuedd cleientiaid i gadw'n gaeth at gyfarwydddebau caffael yn rhannol gyfrifol am y broblem gyntaf a bod yr ail yn arwydd o'r anhawster a gaiff cleientiaid i daro cydbwysedd rhwng sicrhau cystadleuaeth rhwng cyflenwyr a sicrhau bod prosiectau'n dal i ddenu ymgeiswyr. Yn ogystal, mae hyn yn codi'r cwestiwn sut y gellir annog BBaChau, yn enwedig yng Nghymru, i gymryd rhan yn ymarferiadau caffael y sector cyhoeddus a sut y gall buddsoddiad y sector cyhoeddus eu helpu i dyfu ac i gyflogi a hyfforddi pobl yn lleol. Mae hyn yn mynd at graidd Polisi Caffael Llywodraeth Cymru ac rydym yn ei drafod wrth ystyried Cyfleoedd ar gyfer y Dyfodol.

The Recommendations

Top 3 Recommendations

1. Early engagement between clients and suppliers
2. Pre-procurement sessions between clients and suppliers
3. Public sector need to be “informed” clients

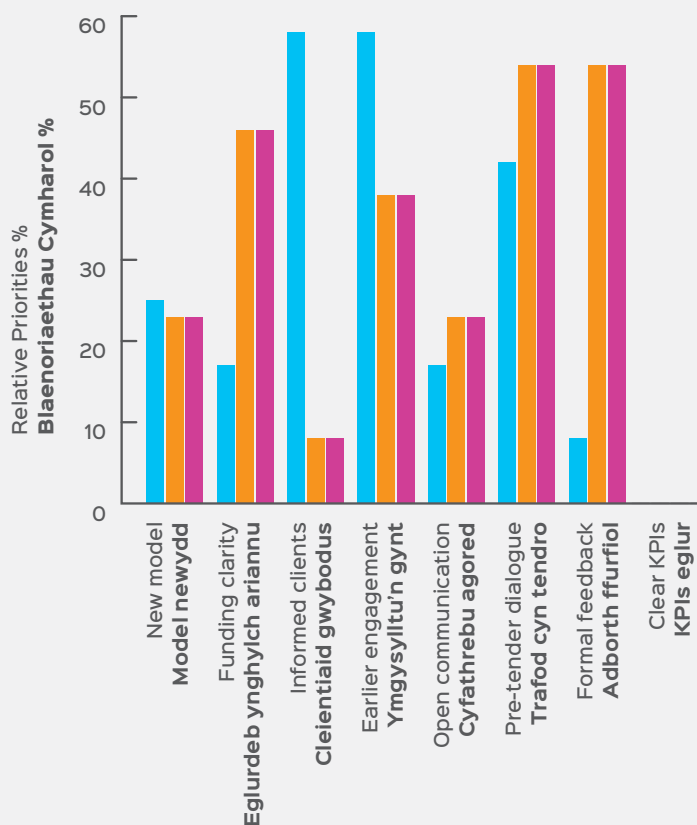
Early engagement between clients and suppliers, which attracted 50% of delegates, represented the joint highest score for clients, joint second highest for consultants and third highest for contractors. The very similar recommendation for pre-procurement sessions between clients and bidders was flagged up by 44% of delegates which was joint highest for contractors, second highest for clients but less important for consultants. Both are being practiced by an increasing number of clients but the fact that this is highlighted shows the need for the practices to be extended across the sector.

However, the third recommendation, which was highlighted by 41% of delegates, is particularly telling as the call for the public sector to be “informed clients” when it comes to public infrastructure procurement was highest from the client grouping. Whilst this may represent a growing self-awareness within client organisations it may also reflect a concern with resourcing as much as competence. Yet again, this may be due to the disconnect between procuring clients, not necessarily from an engineering background, and technical/engineering clients, no longer procuring services.

Other proposals which attracted greater attention from certain groups included a desire by contractors for funding and expectations to be made clear before projects commence (second highest in importance for contractors). This reflects a long-standing frustration which characterises good/bad project management and is probably a major reason why some projects end up in a very bad place. It also seems to sit very clearly within the broader client body. A need for formal post-tender

feedback (joint first in importance for contractors along with pre-procurement sessions) represents good project management and should be carried out as a matter of course – although it may suffer when client bodies are under resourced. And finally, the need for open communication, which was specifically highlighted by the consultants group, could and should be seen in the light of the main recommendation for early engagement and pre-procurement sessions and reflects an over-arching theme of improved communications and engagement.

Recommendations Yr Argymhellion



Yr Argymhellion

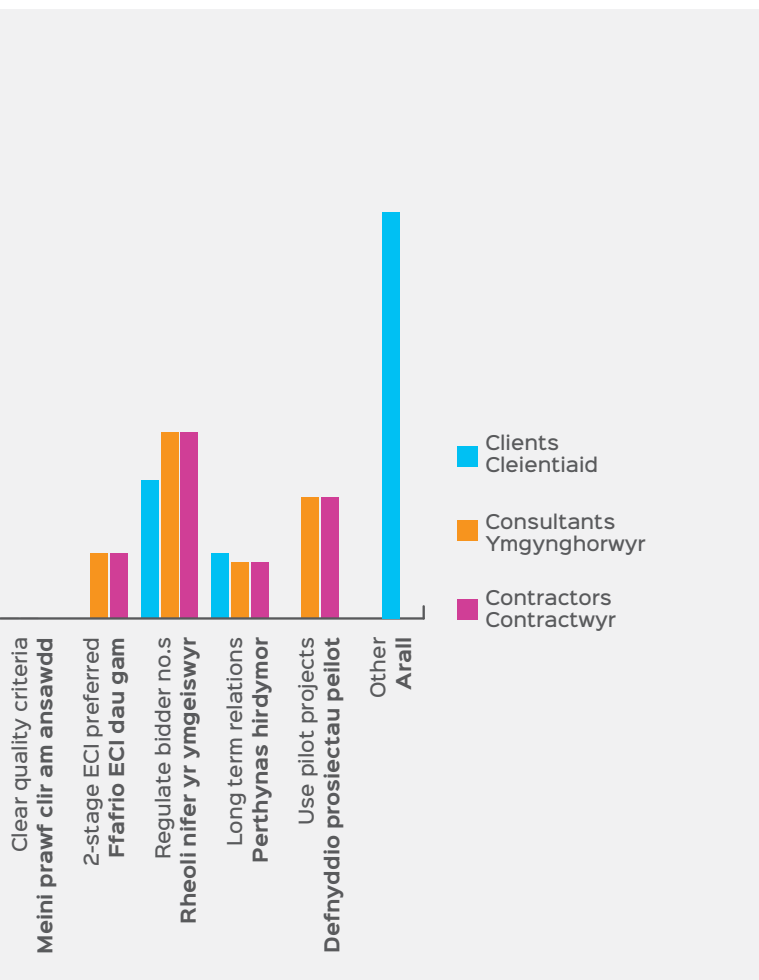
Y 3 Phrif Argymhelliad

1. Ymgysylltiad buan rhwng cleientiaid a chyflenwyr
2. Sesiynau cyn-gaffael rhwng cleientiaid a chyflenwyr
3. Angen i'r sector cyhoeddus fod yn gleientiaid "gwybodus"

Soniodd 50% o'r rhai yn y gweithdy am 'Ymgysylltiad buan rhwng cleientiaid a chyflenwyr'. Daeth yn gydradd gyntaf gan gleientiaid, yn gydradd ail gan ymgynghorwyr ac yn drydydd gan gontractwyr. Cyfeiriodd 44% o'r ymatebwyr at yr argymhelliad tebyg iawn am sesiynau cyn-gaffael rhwng cleientiaid ac ymgeiswyr. Daeth hyn yn gydradd gyntaf gan gontractwyr, yn ail gan gleientiaid ond roedd yn llai pwysig gan ymgynghorwyr. Mae mwy o gleientiaid yn gwneud y ddau beth hyn yn awr ond mae'r ffaith fod y mater yn cael cymaint o sylw'n dangos bod angen ei ehangu ar draws y sector.

Fodd bynnag, mae'r trydydd argymhelliad, y cyfeiriodd 41% o'r rhai yn y gweithdy ato, yn arwyddocaol iawn gan mai'r galw ar y sector cyhoeddus i fod yn "gleientiaid gwybodus" ym maes caffael seilwaith cyhoeddus ddaeth yn uchaf gan y grŵp cleientiaid. Efallai bod hyn yn dangos bod sefydliadau cleientiaid yn dod yn fwy hunan-ymwybodol ond gall fod yn arwydd o bryder ynghylch diffyg adnoddau, yn gymaint â diffyg cymhwysedd. Ac eto, gall hyn fod oherwydd y gwahaniaeth rhwng cleientiaid sy'n caffael, ac nad ydynt o anghenraid yn dod o gefndir peirianyddol, a chleientiaid technegol/peirianyddol, nad ydynt bellach yn caffael gwasanaethau.

Ymhlith y cynigion eraill a gafodd fwy o sylw gan rai grwpiau roedd dymuniad contractwyr i sicrhau bod yr arian sydd ar gael a'r disgwyliadau'n cael eu nodi'n glir cyn dechrau prosiectau (dyma oedd yr ail o ran pwysigrwydd i gontractwyr). Mae hyn yn adlewyrchu'r rhwystredigaeth a fu ers amser maith ynghylch gwaith rheoli gwael ar brosiectau ac mae'n debyg ei fod yn un o'r prif resymau pam y mae pethau'n mynd yn ddrwg iawn ar rai prosiectau. Mae'n ymddangos ei fod yn canu cloch gyda'r corff ehangach o gleientiaid hefyd. Mae'r angen am adborth ffurfiol ar ôl y tendro (cydradd gyntaf o ran pwysigrwydd gyda chontractwyr, ynghyd â sesiynau cyn-gaffael) yn arwydd o waith rheoli da ar brosiectau a dylid gwneud hyn fel mater o drefn – ond gallai ddiodef os nad oes digon o adnoddau gan gyrff cleientiaid. Ac yn olaf, gallai, a dylai, yr angen am gyfathrebu agored, y tynnwyd sylw arbennig ato gan y grŵp ymgynghorwyr, gael ei weld yng ngoleuni'r prif argymhelliad am ymgysylltu buan a sesiynau cyn-gaffael ac mae'n adlewyrchu thema gyffredinol sef gwell cyfathrebu ac ymgysylltu.



Opportunities for the future

This report has been developed by a cross-section of senior decision makers across the infrastructure sector in Wales encompassing both public and private sectors. It builds upon previous work to gather evidence and develop recommendations at a UK level but provides a specific Welsh dimension.

There is clearly a high level of agreement across the sector as to the challenges faced and the opportunities for improvement. These opportunities must be taken forward.

There are 3 immediate issues to be addressed:

1. Many of the challenges and recommendations for improvement depend on having an **“informed public sector client”**, adequately resourced and sufficiently competent to make sensible and sensitive decisions over procurement strategies, “lotting” strategies for frameworks and encouraging the participation and growth of SMEs as a result of public infrastructure investment.
2. The need for **regular and high quality engagement and communication** between all parties to the delivery of infrastructure at all stages is clear. This is not a difficult issue to address.
3. Specific attention needs to be given to **growth opportunities for Welsh based SMEs** via the public sector procurement process. Although a cornerstone of Welsh Government Procurement Policy the focus on this area varies considerably across Wales with successful practices in some areas counterbalanced by little or no attention paid in others. The role of an “informed public sector client” is key to this.

Cyfleoedd ar gyfer y dyfodol

Datblygwyd yr adroddiad hwn gan drawstoriad o benderfynwyr mewn swyddi uchel ym mhob rhan o'r sector seilwaith yng Nghymru, yn y sectorau cyhoeddus a phreifat. Mae'n adeiladu ar waith blaenorol i gasglu tystiolaeth a datblygu argymhellion ar lefel y Deyrnas Unedig ond mae'n cynnig dimensiwn Cymreig neilltuol.

Mae'n amlwg bod cryn gytundeb trwy'r sector cyfan am yr heriau a wynebir a'r cyfleoedd i wella. Mae'n rhaid symud ymlaen â'r cyfleoedd hyn

Mae tair problem i'w hwynebu ar unwaith:

1. Mae llawer o'r heriau a'r argymhellion ar gyfer gwella yn dibynnu ar gael **“cleient gwybodus o'r sector cyhoeddus”**. Mae angen iddynt gael digon o adnoddau a bod yn ddigon cymwys i wneud penderfyniadau doeth a sensitif am strategaethau caffael, strategaethau “rhannu'n lotiau” ar gyfer fframweithiau, ac annog BBaChau i gymryd rhan a thyfu o ganlyniad i fuddsoddiad yn y seilwaith cyhoeddus.
2. Mae'n amlwg bod angen **ymgysylltu a chyfathrebu rheolaidd o safon uchel** rhwng pawb sy'n ymwneud â chyflenwi seilwaith ar bob rhan o'r daith. Nid yw hyn yn fater anodd i fynd i'r afael ag ef.
3. Mae angen rhoi sylw arbennig i'r **cyfleoedd i BBaChau Cymru dyfu** trwy broses gaffael y sector cyhoeddus. Er ei fod yn un o gonglfeini Polisi Caffael Llywodraeth Cymru, mae'r sylw a roddir i'r maes hwn yn amrywio'n sylweddol ledled Cymru gydag arferion llwyddiannus mewn rhai ardaloedd ond ychydig neu ddim sylw mewn ardaloedd eraill. Mae rôl y “cleient gwybodus o'r sector cyhoeddus” yn allweddol i hyn.



“There is clearly a high level of agreement across the sector as to the challenges faced and the opportunities for improvement.”

“Mae’n amlwg bod cryn gytundeb yn y sector am yr heriau a wynebir a’r cyfleoedd i wella.”



“Representing professional consultancies and engineering companies, large and small, operating within the built and natural environment.”

“Cynrychioli ymgynghoriaethau proffesiynol a chwmnïau peirianyddol, bach a mawr, sy’n gweithio mewn amgylcheddau adeiledig a naturiol.”

CSS

County Surveyors Society

“Improving key strategic infrastructure whilst promoting a safe, enhanced and sustainable environment for Wales”

“Gwella'r seilwaith strategol allweddol a hybu amgylchedd sy'n ddiogel, yn well ac yn gynaliadwy yng Nghymru”



“Representing Wales’ largest and smallest civil engineering contractor businesses. Our members build the infrastructure that our nation needs to prosper.”

“Cynrychioli busnesau mwyaf a lleiaf Cymru ym maes contractwyr peirianeg sifil. Ein haelodau ni sy’n adeiladu’r seilwaith y mae ei angen ar ein cenedl er mwyn ffynnu.”

Ed Evans

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