

Cyflwynwyd yr ymateb i ymgynghoriad y [Pwyllgor Cydraddoldeb a Chyfiawnder Cymdeithasol](#) ar [Y Bil Partneriaeth Gymdeithasol a Chaffael Cyhoeddus \(Cymru\)](#)

This response was submitted to the [Equality and Social Justice Committee](#) consultation on [Social Partnership and Public Procurement \(Wales\) Bill](#)

SPPP 24

Ymateb gan: Open Rights Group | Response from: Open Rights Group

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# **Equality and Social Justice Committee of the Senedd: Social Partnership and Procurement Bill consultation**

We are very pleased to be able to provide input to the work of the Equality and Social Justice Committee of the Senedd on the Social Partnership and Procurement Bill. We would like the Committee to think particularly about the role of Open Source software in delivering sustainable, ethical and socially progressive outcomes. We believe this is a very important aspect of socially just procurement, and an important means for the Senedd to drive social partnership in the Welsh economy. It is however unfortunately not touched on in the current form of the Bill.

## **Summary**

Open source software confers many benefits, from greater protection of privacy rights, to enhancing sustainable economic growth. By encouraging sharing of code, prices can be reduced, a greater share of expenditure can be kept in the Welsh economy and Welsh suppliers can compete with global providers.

We recommend the inclusion in the Social Partnership and Procurement Bill of a requirement that software created by all public expenditure authorised by the Senedd be licensed as Open Source under an OSI-approved license unless mitigating factors approved by the Welsh government apply.<sup>1</sup>

## **Context**

Open Source Software (often prefixed with “Free/” in recognition of the conceptual legacy of the Free Software movement, indicating the presence of user freedom) or “FOSS” is software licensed such that anyone is free to enjoy it in any way – use, improve, share or monetise – without engaging with any of its creators. Licences delivering this “software freedom” are community-reviewed and approved under an open process administered by the charity Open Source Initiative (OSI).

## **Benefits of Open Source**

In brief, FOSS allows the Government

- To better determine the privacy outcomes of users
- To save money through reuse and supplier transparency
- To encourage a sustainable Welsh IT industry
- To choose the energy efficiency of cloud products and servers
- To help other national, local and regional governments be more sustainable through supporting reusable FOSS projects
- To deliver accessibility, translation and localisation of software
- To be free to develop security fixes, improvements, etc independent of the vendor's whims

## **Issues With Proprietary Licensing**

On the other hand, 'closed source'

- Depends on centralised, often US-owned software development
- As a consequence directs funds out of the local economy
- Will typically be more expensive in the long run
- Discourages local competition
- Takes away or at best limits energy efficiency choices
- Does not help other governments act sustainably
- Is hard to audit independently of the supplier
- Complicates exit strategies

While Open Source has the potential to be better, of course there can be disadvantages, if the software or project is not well developed or maintained.

We would therefore recommend that the new legislation covers a requirement or drives a requirement to prefer open source software. There is a significant opportunity to drive benefits for Wales and social partnership in Wales that should not be neglected.

## **How Open Source licensing drives these benefits**

The code for Open Source software is shared and reusable by any other company or government. This places governments in a better bargaining position, as well as smaller companies. It also makes supplier change easier in the case of project

underperformance. In contrast, when software is wholly owned by private entities, they can dictate pricing and terms, and benefit disproportionately. This leads to extraction of public capital, and flows of money usually to US-owned global companies such as Microsoft, Google and Apple. Use of open source can rebalance the social contract and encourage a sustainable Welsh IT industry.

## **Cloud services and Open Source**

Cloud services also benefit from an open source policy, whether we mean software owned and developed by the Welsh government, run on someone else's servers, or software that might be owned and developed by a third party ( know as "Software as a Service", or SaaS). For the latter, SaaS poses privacy compliance risks, adequacy questions, difficulties ensuring languages are catered for, and presents near impossibilities for auditing for either emissions or compliance with security or privacy standards.

Offshoring cloud services will generally mean offshoring CO2 emissions, and avoiding responsibility for energy use. The risks of SaaS services ending with new costs also needs to be properly managed, and can be better dealt with if the underlying software is open source, and therefore redeployable.

## **Current legal situation**

There is policy from the UK Cabinet Office requiring consideration of open source in procurement, devised in the 2010s, which it was hoped would drive greater open source procurement and savings across the UK. While this has led to some easy wins - such as open source web software being used by much more of government - it has reached some limits in other areas. In particular "software as a service" and "cloud based" or remote services, are now much more pervasive, and therefore more important for policy development.

### **Signatories**

#### **Individuals**

Alan Cox, [software engineer](#)

[David Clubb](#), open source advocate and Partner, Afallen

[Carwyn Edwards](#), Digital Innovation Manager

[Ben Laurie](#), security engineer

[Neil McGovern](#), Chief Executive, GNOME Foundation

Simon Phipps, [open source advocate](#)

[Joseph Seddo](#) software engineer

[Anita Shaw](#), STEM specialist

[Angharad Shaw](#), Lecturer, Computer Science, Aberystwyth University

[Nikki Watson](#)

### **Organisations and companies**

[Adra](#)

[Afallen](#)

[Collabora Productivity](#)

The Girl Lab

[Kodergarten](#)

[Open Rights Group](#)

i A European initiative is driving similar policies to great effect, see <https://publiccode.eu/>