

Public Accounts Select Committee			
Report Title	Draft Procurement Social Value Policy and updates to Sustainable Procurement Code of Practice		
Key decision	No		Item 6
Contributors	Strategic Procurement and Commercial Services Manager		
Class	Part 1	Date	20 December 2018

1. Purpose of paper

- 1.1. To provide an update on the development of a new Social Value Policy for procurement and the updates required to the Sustainable Procurement Code of Practice for contractors to reflect changes in legislation.

2. Recommendations

- 2.1. The Public Accounts Select Committee is recommended to:
- note that the draft Social Value Policy be taken to Mayor and Cabinet in early 2019 for approval; and
 - note the changes to the current Sustainable Procurement Code of Practice for contractors.

3. Policy context

- 3.1. This work has been undertaken in line with the Sustainable Community Strategy policy objectives:
- Ambitious and achieving: where people are inspired to and supported to their potential; and
 - Dynamic and prosperous: where people can actively participate in maintaining and improving their health and well-being.
- 3.2. In addition, this work supports the Mayor's priorities through:
- Directly supporting the objective to build an economy for the many; and
 - Indirectly supporting the remaining six objectives through supporting a sustainable financial position which will fund activity in these areas.

4. Background

- 4.1. The Public Services (Social Value) Act 2012 came into force on 31 January 2013. It requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits.
- 4.2. The Act is a tool to help commissioners get wider value for money from procurement. It also encourages commissioners to talk to their local provider market or community to design better services, often finding new and innovative solutions to difficult problems.
- 4.3. The Council procures a significant level of goods, works and services annually. Expenditure with supplier in excess of £500k for 2017/18 accounted for £187m of revenue spending, a further £38m of capital monies and £48m in the HRA spend. In procuring these services the Council has the duty to obtain best value, which is defined as being the acceptance of the most economically advantageous tender (MEAT).
- 4.4. The ongoing period of austerity has meant that the Council has maintained a default tender evaluation weighting of 60:40 for price:quality for all tenders. Officers must adopt this framework unless they obtain permission from the procurement team to alter this weighting.

5. Current Position on Social Value

- 5.1. The Social Value Act has been adopted into procurement practice and the current procurement handbook states that: "Lewisham aims to reduce inequality and ensure that Lewisham citizens have access to a choice of high quality local services in accordance with the Public Services (Social Value) Act 2012. For the procurement of services over £200,000 one of the Method Statements must relate to Social Value. The Social Value element is currently set as standard by the Council with templates available on the Procurement Intranet page."
- 5.2. It further instructs that "procuring services Officers should seek to use local businesses as well as voluntary and community groups if possible. Officers should also ensure that suppliers price both including and excluding the London Living Wage. The Council will, where possible, ask suppliers to pay the London Living Wage."
- 5.3. However, whilst there is the requirement to consider social value (and this is referenced in all award reports drafted), and there is a sample method statement for officers to tailor and utilise, there is currently no explicit policy or process which officers must adhere to when procuring.

- 5.4. The result of this is that there is inconsistency in the approach to securing wider social value through procurement activity. As a result it is difficult to confidently measure the benefits that this brings to both the Council and more importantly the borough as a whole.
- 5.5. The work undertaken by Lewisham's Poverty Commission is aimed specifically at community wealth building and seeks to address social value through procurement. With few large businesses in the borough, the challenge for Lewisham is to harness the collective power of these institutions to support the growth of the local economy and provide more opportunities for local residents, in the form of apprenticeships, employment and pre-employment programmes and access to training and new skills.
- 5.6. The Commission's October 2017 report identifies the key anchor institutions within the borough as: LBL, Goldsmiths University of London, Lewisham Southwark College, Lewisham and Greenwich NHS Trust, Lewisham Homes and Phoenix Community Housing. Lewisham's anchor institutions make significant contributions to the local economy through the money they spend procuring goods and services, the number of local people they employ and their ownership of public assets. These anchor institutions are currently working to develop the 'Lewisham Deal' across the six key public sector institutions in the borough to promote inclusive growth.
- 5.7. The "Lewisham Deal" will be a jointly shared set of commitments to improve opportunities for residents and support inclusive local economic growth through the development of "The Lewisham Deal". The Deal will provide a solid foundation for future cooperation and will be marketed as a shared offer to residents from Lewisham's public sector. Possible elements of the 'Lewisham Deal' include:
- A coordinated approach to apprenticeships and to the use of the new Apprenticeship Levy (a common apprenticeships framework or charter, for example).
 - A shared commitment to promoting the London Living Wage, flexible working and opportunities for job progression (along the lines of Croydon's Employer Charter,¹ for example).
 - A common approach to procurement and social value (a shared social value or outcomes framework, for example).
 - A shared strategic approach to the skills and local economic development agenda, including training, employment opportunities and business engagement.

¹ <http://www.goodemployercroydon.com/good-employer-charter>.

- A commitment to understand local spend and investigate local economy's capacity to provide goods and services to anchor institutions to keep more money in the borough.
- A coordinated approach to volunteering, linking staff and service users with local volunteering opportunities, and a joint commitment to supporting the community and voluntary sector.
- A commitment to engage with local schools and FE colleges to raise aspirations and provide information and advice about apprenticeships and further/higher education opportunities.

5.8. Work to develop the Deal is underway and there has already been some early outcomes. A Procurement sub-group has been established (which is chaired by Lewisham) to take forward the Procurement work stream element of the Lewisham Deal.

6. Proposed New Social Value Policy

6.1. The new draft Social Value Policy is a step change in that it now mandates a weighting for social value within all tenders in excess of £50k, ranging from 5% - 10% and which clearly identifies a range of Key Performance Indicators (KPIs) which we would expect providers to meet as part of the service delivery.

6.2. This will place both greater emphasis on social value but also consistently and collectively focus wider societal benefit on those areas which the Council has identified as being of the greatest strategic need as defined in our core strategies and objectives. It is important to note that when discussing social value in any procurement this is defined only as the additional social value which the contract can deliver, i.e. on top of the direct societal benefit which the recipients or users of the service will receive as this value is measured directly through the quality and performance of the contracted service itself. Officers will however need to ensure that (on a case by case basis) they clearly identify those social value objectives which are relevant to the subject matter of a contract.

6.3. In order to determine whether 5% or 10% of the evaluation weighting should be applied, each procurement will need to consider:

- additional impact of social value
- how many KPIs under each of the 4 key objectives set out in part 6 can be delivered
- the geographical impact of the contract

6.4. The Council has identified a number of KPIs grouped under 4 key objectives that can be used in the procurement process as part of the evaluation and then

to be measured and tracked through the lifetime of the contract. The 4 key objectives are:

- Employment, skills & economy;
- Creating a greener Lewisham;
- Training Lewisham's future; and
- Making Lewisham healthier.

6.5. The clear identification and measurement of individual KPIs will enable the achievement of these and the broader corporate strategies and Mayoral commitments, together making Lewisham the best place in London to live, work and learn.

6.6. We recognise that it is important to pin down actual and sustained value to the community throughout the life of each contract. Benefit must be tangible and measurable and enduring. Therefore alongside the development of the policy there is the development of measurement models to ensure that throughout the term of the contract the actual levels of community wealth and benefit being generated can be monitored, and the intention is to ensure that these are formal contractual obligations and not simply aspirations.

6.7. The monitoring of the KPIs should be built into the contract management of the service, and where appropriate financial or commercial penalties can be associated with these. There is a simple tool for commissioners and contract managers to use to enable a complete picture of Social Value outputs to be recorded correctly.

6.8. All KPIs identified should be reported by contractors/providers on a quarterly basis using the Council's reporting tool. Contract managers will be responsible for reporting into the Social Value Report for Lewisham at the end of each financial year – this will be a mix of the data collected as well as qualitative data and will feed into the wider Social Value Report under the Lewisham Deal.

7. Sustainable Procurement Code of Practice for contractors

7.1. All procurement is undertaken in accordance with both EU Regulations and the Council's Contract Procedure Rules as set out in the Constitution. In addition to these, the procurement service has a number of key documents, notably its:

- Sustainable Procurement Strategy;
- Sustainable Procurement Code of Practice; and
- Procurement Handbook

7.2. The Procurement Handbook is a working manual for officers and as such is regularly updated.

- 7.3. The strategy was developed and adopted for the period 2012 – 2016, and the code of practice was drafted to support the delivery of this. Furthermore the code forms part of the contract established between the Council and its contractors and is formally incorporated as a schedule to each contract.
- 7.4. The strategy has now expired and the procurement service will bring forward a new procurement strategy in the first half of 2019, which the new Social Value Policy will support. However given the inclusion of the code in all existing contracts and current procurements it is necessary to ensure that this remains fit for purpose and reflective of all current legislation.
- 7.5. The amended code is attached as Appendix B but the key changes are:
- Updated to reflect changes to data protection legislation, including the Data Protection Act 2018 and General Data Protection Regulations (GDPR) under 2.1.5
 - Updated to reflect the Equality Act 2010 under 'Equality and Diversity' at 2.1.6
 - Removal of outdated reference to Government Procurement Card under 2.3.9 'Prompt Payment' in favour of all procurement via purchase order.
 - Updated to reflect new policy including the Social Value Policy under point 2.1.4 which has been renamed 'Social Value' from 'Community benefits'
 - Updated to include reflection of the Council's position on Modern Slavery under 2.1.10 on 'Labour practices'
 - Updates to legislation and EU directives throughout to ensure document refers to that which is in force and most recent
 - Minor updates to wording, language and format within the document as required for clarity and accuracy

8. Next steps

- 8.1. Further to feedback from Committee, the Procurement Social value Policy will be taken to Mayor and Cabinet in February next year. Implementation work will be progressed, with particular regard towards updating the procurement handbook as well as developing and delivering guidance, templates and training for roll out to all Council staff to ensure successful implementation.
- 8.2. The revised Sustainable Procurement Code of Practice will be implemented and adopted for all current and future procurements and contracts.
- 8.3. The procurement service will commence work on the drafting of a new procurement strategy in early 2019 which it will then bring to this Committee.

9. Financial implications

- 9.1. A key outcome of the social value policy is a shift in approach from a 60:40 price:quality evaluation weighting to that of 50:50. Whilst we are unable to predict with any certainty or quantify in advance the implications of this change in weighting upon the cost of contracts awarded, it is likely that this may result in marginally increased pricing in contracts. However, this is effectively a re-defining of how the Council ensures the achievement of best value and value for money.

10. Legal implications

- 10.1. As set out in the report, all procurement is undertaken in accordance with both EU Regulations and the Council's Contract Procedure Rules as set out in the Constitution (7.1). Various legal issues need to be taken into account. These include those set out below.
- 10.2. Some matters are irrelevant considerations and may not be considered in a procurement or contract process. That applies to matters which are defined as 'non-commercial'; regard may not be had to these in a procurement process (Local Government Act 1988). However, the Council can make use of public procurement in support of common societal goals (such as those referred to in the proposed policy), provided that these are relevant and proportionate to the subject matter of the contract. Evidence can be required through the procurement process, provided always that these are linked to the subject matter of the contract and that this is done in a transparent, non-discriminatory and proportionate way (Public Contracts Regulations Regulation 70).
- 10.3. The Council has a duty to obtain best value in the procurement of works, services and supplies and to secure continuous improvement in the way functions are carried out, having regard to a combination of economy, efficiency and effectiveness (Local Government Act 1999). This means that when procuring contracts the Council must, on a case by case basis, weigh up the costs of the contract against the benefits of the particular relevant issue (here, social value issues).
- 10.4. There is a statutory requirement to consider 'Social Value' for contracts worth over the EU procurement threshold; that is, how a procurement might improve the economic, social and environmental well-being of the area, and how the procurement might be done so as to secure that improvement (Public Services (Social Value) Act 2012). The same approach can be applied to all contracts, within the constraints set out above.

11. Equalities implications

11.1. The Social Value Policy is designed to support the Council in commissioning contracts which also secure wider social, economic and environmental benefits. It also encourages commissioners to talk to their local provider market or community to design better services. Both of these principles of the approach will be in support of better outcomes for residents of all characteristics, and will drive activity in education, employment, health and environment. It will be necessary to consider the specific impacts of the social value activities within their contracts on a case by case basis.

11.2. The updates to the Code of Practice bring it in line with the Equality Act 2010 so ensuring the contract process has specific regard to the duties contained therein and contractors and suppliers are aware of their duties as part of this. There are also updates around social value, which share the implications outlined in 11.1, and modern slavery. All these elements have been evaluated to have a positive impact on equality. In other respects there are no new implications as this is an update to the policy which has previously been agreed.

12. Further implications

12.1. There are no further implications, environmental, public safety or equalities related, arising from this report.

12.2. These implications are considered and addressed on a case by case basis as part of the procurement process.

13. Background documents

13.1. There are no current background reports to Committee.

13.2. The table below outlines the appendices to this report:

Appendix A	Procurement Social Value Policy
Appendix B	Revised Sustainable Procurement Code of Practice