



Background

The Public Services (Social Value) Act 2012 was inspired by a recommendation in Social Enterprise UK's 2010 election manifesto and tabled by Chris White MP as a Private Member's Bill. It followed a high profile case where a contract was awarded to a train manufacturer based overseas rather than a company in the UK. All the correct procedures had been followed but not enough importance had been attached to the social value that the contract would bring to the local economy.

The Act requires all Public Services contracts above the OJEU threshold to be subject to appropriate social value criteria. Whilst the Act is only compulsory for this category of contracts it is hoped that Public Sector bodies will use the development of social value criteria in all procurements. The act

does however require these criteria to be relevant to the subject of the contract and proportionate to the value and potential impact that could be achieved.

It requires that contracting authorities should consider not only how to improve the economic, social and environmental, well-being of the area served by them through the procurement, but also how to undertake the process of procurement with a view to securing that improvement and measuring it during the life of the contract

This toolkit comprises an overview of what is required to implement social value procurement, some specific guidance relating to some social value criteria, and case studies.

The Act can be downloaded from: <http://www.legislation.gov.uk/ukpga/2012/3/enacted>

First steps

To use the Social Value Act effectively the procurement processes should reflect the values of your particular organisation. Public Sector bodies should give consideration to aligning corporate policy and corporate values within the procurement strategy. There are three main areas that need to be considered prior to commencing the procurement process to ensure that the requirements of the Act are followed:

- **Economic**
 - Generation of Savings for the Public Purse
 - Boost local economy
 - Innovation
 - Skills training

- **Environmental**
 - Controlled consumption
 - Biodiversity
 - Carbon Reduction
 - Sustainability

- **Social**
 - Equality & Diversity
 - Social Inclusion
 - Fair and Ethical Trade
 - Apprenticeships

It is essential to ensure that any criteria that is used are relevant and proportional to the contract that is being let.

Procurement Process

OJEU

If you are going to use social values within your specification or award criteria you must advise accordingly in your OJEU notice. You may wish to consider using the following statement in your notice,

“Under this *project* the contractor/ supplier is required to participate actively in the economic and social regeneration of the locality of and surrounding the place of delivery for the *project*. Accordingly contract performance conditions may relate in particular to social and environmental considerations”

Pre-Qualification Questionnaire

Social value can be taken into consideration where assessing PQQ submissions, examples of questions that may be used to demonstrate the supplier/contractors ability to conform to the Act are as follows,

Please give examples of your involvement in each of the following;

- generating employment and training opportunities for long termed unemployed people.

CASE STUDY:

In 2012 Chelmsford City Council adopted a new Corporate Plan which included six priorities:

- Attracting investment and delivering infrastructure
- Facilitating suitable housing for local needs
- Providing high quality public spaces
- Promoting a more sustainable environment
- Promoting healthier and more active lives
- Enhancing participation in cultural activities

These priorities are clearly Social Value based and whilst the action plans associated with these involve many other bodies they include significant commitments to improve services and infrastructure. This will lead to a period of significant procurement and the process of aligning the procurement strategy is now under way.

Public Services (Social Value) Act Toolkit (v7)

- providing training opportunities for young people and retaining them after the completion of training.
- promoting supply-chain opportunities to new and small enterprises.
- the development of trade skills in your existing workforce
- equal opportunities in recruitment procedures

What was your exact involvement in each of the above activities?

Which of the examples you have cited have been more successful and which have been less successful and why?

Tender

The specification sets out the detailed requirements for the contract, including the social/community benefits. While the details will vary from contract to contract there are a number of common elements that are included in 'community benefit' specifications. These include:

- some reference to the policy or legal underpinning for the requirements;
- measurable performance indicators either within the specification or in an addendum, relating to:
 - the required outputs, and/or
 - a recruitment process that has to be followed (e.g. for site vacancies);
 - monitoring and performance review requirements; and
- a disclaimer to protect the client from 'claims' relating to any supply-side interventions they make.

As with all other elements of the specification, care will need to be taken in determining what social value requirements are appropriate and deliverable. These need to be drafted into clauses that are unambiguous and provide a 'level playing field' in the tendering process for contractors.

Documenting the Procedure

It is also important that any process used

should be transparent and so it will be very important to document the process used so that bidders can be given feedback, decisions explained clearly, and the process can be shown to be proportionate and relevant to the subject of the contract.

Contract Management

Once a contract has been awarded ensure that you have mechanisms in place to record the achievement of social benefits that you have required in your tender.

Case Study

Example KPI's provided by Greenfields Housing:

The contractor will be expected to consistently meet Greenfields defined Key performance Indicators (KPIs).

Key Performance Indicators (KPI's) will consist of two bandings detailed below:

Band 1 (3 failures within any 3 rolling months will allow Greenfields to terminate the contract) :

1. Customer satisfaction with the works to be maintained at a minimum 85%.
2. Completion of works within the allocated time frame as detailed above
3. RIDDOR related accidents.

Band 2 (6 failures within any 3 rolling months will allow Greenfields to terminate the contract):

1. Dealing with snags within the allocated time frame highlighted above.
2. Failure to wear / show identification
3. Missed appointments
4. Waste recycling to be maintained above 80%
5. Other non RIDDOR related Health and Safety issues i.e. failure to wear appropriate PPE, not complying with risk assessments and/or method statements, etc.
6. Failure to respond to defects after handover in accordance with the service standards highlighted within the Invitation To Tender (ITT).
7. Failure to update the residents of the work itinerary daily

Appendix 1

WORKING WITH ECONOMIC FACTORS

Generation of savings for the Public Purse

Best practice procurement in the public sector allows for a range of award criteria to be used with the procurement process other than just price. However there is constant pressure on the public purse to reduce costs to achieve savings. This can be highlighted within award criteria by placing a greater emphasis on price, but this is often a simplistic measure.

It may be more appropriate to ask suppliers to detail a strategy for cost reduction over the life of the contract, or to propose an innovative solution which would generate more goods or services in each of the contract without increases in price.

EXAMPLE

Greenfields Housing provided an example question used in a recent tender:

Q. Please provide details of your customer care methodology including how you monitor customer satisfaction, ensure continuous improvement, innovation and VFM (value for money)

Employment – Creating Local Jobs

The largest cost of any Service contract is staff. It is therefore important for Public Sector Bodies to include within contracts appropriate requirements for the creation, or protection of local jobs.

The use of the Social Value Act does not over-rule other public sector regulations and therefore care must be taken not to disqualify any business that is not based locally whilst using the act to stress the economic benefits that a contract may bring.

Case Study.

Chelmsford City Council is developing a Horticultural Services Contract for its Parks Service in which a selection of suppliers will be appointed to a framework agreement. The following has been drafted for inclusion in the specification:

The Council is now required by law to have due consideration to how procurement of goods and services can improve the economic, social and environmental well-being of the local area.

The Council considers that this contract might reasonably bring economic value to the local area through the potential employment benefits it might bring to local people and the expenditure those persons and the winning companies might subsequently return to the local economy.

Tenderers are asked to express in percentage terms the number of staff they employ from the Chelmsford City Council area, and the wider Essex County Council area who are likely to be used in the provision of services relating to this contract.

Tenderers are also asked to estimate in percentage terms the economic value arising from the contract that they envisage might reasonably be expected to be returned to the local economy, through things such as:

- Council Tax payments,
- National Non Domestic Rate (NNDR),
- retail expenditure,
- payments to Chelmsford based suppliers.

Skills Training

A contract can include provisions for the number of employment and training opportunities that a contractor must provide, the need to advertise vacancies locally, and the need to target a specific group, like the long-term unemployed (although not defined by locality).

As part of a new initiative to promote employment for local young people, called Challenge 2016, Northamptonshire County Council is requiring contractors to provide apprenticeships for local young people for all projects worth over £2 million. Labour provisions are particularly common in construction where Section 106 (S106) planning obligations have been used by authorities to ensure construction firms employ and train local people.

It might also be possible to link apprenticeships or training schemes with local colleges.

Helping Local Business

Studies have shown that spending on local suppliers has 400% more impact on the local economy than spending on suppliers outside the area.

The use of local suppliers has an immediate economic benefit and is more likely to ensure that further investment is made in the local economy either through the use of local sub-contractors and suppliers, and the reinvestment of wages to local staff in the local economy.

CASE STUDY

Example clause from Greenfields Housing that is a standard clause used in all contracts.

Labour

Greenfields wishes to promote the use of a local workforce.

The successful Contractor is required to provide apprenticeships and/or training opportunities where possible. It is suggested that the Contractor enrolls with Youthbuild UK (YBUK) or similar to assist with this and provide details of how they will achieve apprentice training. In addition the Contractor is to allow Greenfields own apprentice trades to work alongside the Contractors workforce for a total of 1 month per year each. Details of this initiative will be finalised after the Contract has been awarded. The Contractor is required to cover all costs relating to the employment of apprentices, with the exception of the Greenfields directly employed apprentices.

Appendix 2 WORKING WITH ENVIRONMENTAL FACTORS

Quality of Environment

Public sector bodies, especially local councils can give a lead in the development of the local environment.

Important requirements can be included as part of construction and infrastructure projects which enhance the quality of the built environment. These may be limited to architectural design but could also include requirements for projects to enhance the landscape and include requirements for planting, rainwater collection and re-use.

Quality of Environment conditions might equally include issues relating to Carbon Reduction Measures.

Whilst most suppliers are now seeking to detail environmental aims and targets, these may be over-arching policy documents that seek to lay down policy, and it might be appropriate to evaluate these as part of a procurement it could be considered appropriate to include specific carbon reduction measures as part of contractual aims. These might legitimately include specific measures around fleet for example:

- Does the supplier use vehicle tracking and route planning to reduce carbon impact of travel.
- What targets have been specified and how would the benefits be measured.
- Can a target be agreed for the adoption of low carbon vehicles. Again it will be important to be able to set targets that can be monitored.

CASE STUDY

The most recent Office Supplies contract let by the Government Procurement Service attempts to incentivise carbon reduction by using a pricing model of unit price plus service wrap. The unit price does not vary but there is an increasing service wrap cost that is based on the level of response required by the buying organisation. Those buyers that require multiple delivery locations and next day delivery will pay a premium for the service whilst those who opt for single delivery points and weekly planned delivery will be on a much lower service wrap tariff. This demonstrates that incentivising carbon reduction is possible and that price reduction and carbon reduction can be achieved together.

Development of Community Centres and Spaces

Public Sector bodies as significant landowners can do much to enhance the local environment.

This could be a direct consequence of a construction or development contract but also through the inclusion of supplementary aims stated in tender documents.

CASE STUDY

Chelmsford City Council is seeking to re-develop and enhance the public spaces in the city centre, and has included key targets in the project documentation. These include:

These include:

Introduction.

The quality of Chelmsford's busiest streets is critical to the image and economy of the town. Chelmsford's shops and attractions serve communities across the Borough and beyond. Retailers and employers buy into a high quality environment; customers and visitors like attractive, safe and lively places.

Aims

We want a high quality public realm to enhance the experience of Chelmsford and to support economic and cultural life.

This project aims to:

- Draw out the distinctive character of each 'place' along the High Street and complement the historic buildings
- Provide clear connections to all the key retail destinations and the public spaces at Backnang Square, Bond Street, Cathedral Precinct and Central Park
- Repair the connection between High Street and Cathedral
- Intensify pedestrian flows to Moulsham Street
- Install a continuous high quality paved surface

- Make streets that are safe, unobstructed and accessible for all
- Give priority to pedestrians above vehicles throughout
- Create an excellent setting for public life, through event, spectacle and street trading
- Extend the attractiveness of the centre through the evening
- Enable access for buses, deliveries and emergencies
- Introduce a collaborative management culture across public and private sectors

The nature of the works.

The proposed work will involve:

- Removal of existing paving, street furniture, and traffic islands, signs and road lines.
- Complete repaving in high quality materials, new street furniture.
- Tree planting.
- Restriction of general vehicle traffic in Tindal Square and pedestrian priority.
- Revised traffic control giving precedence to pedestrians while easing safe bus, delivery and emergency vehicle movement.
- A way-finding system to give Chelmsford a consistent image, ease route finding and local information for pedestrians, with other direction signs removed.

The above details are just an extract from the documentation produced, and each area of the high street was the subject of a detailed design brief.

Appendix 3

WORKING WITH SOCIAL FACTORS

Social Enterprise Sector

Public Sector bodies have always had the option of reserving a small percentage of contracts for the Social Enterprise Sector. This option is rarely used. This is usually because their support of the sector is not explicitly stated in corporate aims or procurement policy.

The Public Sector may also be instrumental in encouraging the formation of a Social Enterprise locally and can legitimately then reserve a contract for the supply of goods or services from that enterprise.

There is a very useful resource available to help understand the social enterprise sector at www.socialenterprise.org.uk which is the website of an organisation to promote and support the work of social enterprises.

They usefully describe social enterprises and stress they should :

- Have a clear social and/or environmental mission set out in their governing documents
- Generate the majority of their income through trade
- Reinvest the majority of their profits
- Be autonomous of state
- Be majority controlled in the interests of the social mission
- Be accountable and transparent

The number of social enterprises is growing and public sector bodies with clearly stated social values will find it increasingly useful to encourage and support this sector as common aims will clearly be seen to benefit local areas, as defined by the Act.

Supporting Families and Children

Public Sector bodies have direct responsibilities to provide services to local residents including children and vulnerable adults. This means that many contracts will include suppliers having to interact with these clients. It is imperative that public sectors bodies not only exercise their duty of care when letting contracts by requiring the provision of appropriate criminal checks on the staff employed by contractors but also consider how the contracts they let provide excellent services as well as furthering the development of social well-being.

Creating Equality of Access to Services

Public sector bodies provide services to all members of the community that they serve, and yet it has been shown that some sectors of the community do not access services as much as they should.

It would therefore be appropriate in the provision of a service contract to require equalities impact assessments, the regular monitoring of the equality and diversity strands of service users, and include a condition of the tender to detail strategies that would be used to enable an improvement in service take up within the identified hard to reach groups.

CASE STUDY

Thurrock Council is a provider of Social Care Services and is making a careful consideration of how the Public Services (Social Value Act) can add value to the procurement of these services.

As part of the specification development the aims of the procurement are linked to the Council's strategic priorities:

Priority 1: 'Create a great place for learning and opportunity'

Priority 2: 'Encourage and promote job creation and economic prosperity'

Priority 3: 'Build pride, responsibility and respect to create safer communities'

Priority 4: 'Improve Health and Well-Being'

Priority 5: 'Protect and promote our clean and green environment'

These outcomes also form part of future contract monitoring evaluations.

These strategic criteria clearly align with the Social Value criteria detailed in the Toolkit, and it is therefore appropriate to require contractors to:

- create meaningful employment training and employment opportunities for clients,
- employ local people as carers and trainers,
- develop links with local colleges and training establishments.

The Council also recognises that there are local centres of expertise that can assist them in developing tender specifications.

A number of local community forums and Council Officers already have local schemes established that are aimed at improving the local environment, and it could be a reasonable requirement of a social care tender that these schemes are supported by the contractor, as they may reasonably provide opportunities for social care clients to interact with these groups and schemes.

Another social value opportunity recognised by the council is the development of local consortia that might be encouraged to bid for contracts, bringing together smaller pockets of expertise and create opportunity for businesses that might otherwise not be able to compete with larger companies.

A key success factor in the development of a successful Social Care contract is engagement with Officers, Local Groups, and Clients in the development of the contract specification.

CASE STUDY

Standard clause used in all contracts issued by Greenfields Housing Association:

Customer Service Policy for Contractors

It is our aim for us and our Contractors to provide excellent services and access to services to all our residents, whoever they may be and whatever their background and their policy applies to all residents.

It is the responsibility of all staff and Contractors providing services to our residents to make sure that their policy is upheld.

What our residents can expect from Contractors:

1. To be treated with courtesy and respect.
2. To be listened to.
3. To have their confidentiality respected.
4. Clear, accurate, truthful and effective communications.
5. To be offered choices wherever possible.
6. To be consulted about their needs and how these should be met.
7. Efficient and high quality services.
8. To have complaints addressed fairly, promptly and effectively.
9. To have letters, emails and faxes responded to within five working days (excluding complaints).

Workforce Equality and Diversity issues

The public sector is already subject to the requirements of the equality duty in procurement as set out in the Equality Act 2010. This requires all service providers to the public sector to achieve the same equality standards as those required of the public sector. The Social Value Act may also provide an excellent opportunity to include measurable equality and diversity targets within the workforce employed as a result of the contract award.

It may for example be appropriate to require the workforce associated with a contract to reflect the demographic make up of the area covered by the procuring body.

It may be inappropriate to set an absolute standard but the regular monitoring of the workforce and the use of positive action to recruit new employees may be reasonable. This could be facilitated by the public sector body working in partnership with the supplier perhaps by providing sample documentation, and the latest demographic information for the area covered by the contract.

OTHER RESOURCES

The Act: <http://www.legislation.gov.uk/ukpga/2012/3/enacted>

West Midlands Procurement Framework for Jobs and Skills (2010):

<http://www.birmingham.gov.uk/wmpf>

The Can do Toolkit: <http://www.whq.org.uk/docs/i2i/english/aboutDocE21.pdf>

Community Benefits in Public Procurement: A Report Demonstrating the Methodology for Including Targeted Recruitment and Training Clauses in Public Sector Contracts (2008):

<http://www.scotland.gov.uk/Resource/Doc/212427/0056513.pdf>

Community Benefits in Public Procurement Guidance Note:

<http://scotland.gov.uk/Resource/Doc/212259/0056492.pdf>

Scottish Sustainable Procurement Action Plan (Oct 2009):

<http://www.scotland.gov.uk/Resource/Doc/1265/0088520.pdf>

Social Enterprise UK guide written with Anthony Collins Solicitors:

http://www.socialenterprise.org.uk/uploads/files/2012/03/public_services_act_2012_a_brief_guide_web_version_final.pdf

Public Procurement Note: Public Services (Social Value) Act 2012

<http://www.cabinetoffice.gov.uk/resource-library/public-procurement-note-public-services-social-value-act-2012>

CASE STUDY

Example of contractual monitoring scheme: Equality and Diversity monitoring schemes have been developed in the public sector. One scheme set equality targets for suppliers dependent on the size of the workforce employed.

The scheme required the following elements to be included in the suppliers Equality and Diversity policy:

- That equality and diversity principles are applied in all employment situations including recruitment, selection, training, promotion, discipline and dismissal.
- That discrimination, harassment and victimisation are disciplinary offences.
- That a senior person or post is identified within the policy as being responsible for effective implementation.
- That a strategy is in place for communication of the policy
- That the policy is being implemented effectively and those employees involved in dealing with staff issues are receiving training.
- That the policy is reviewed regularly.
- That there is a regular monitoring of the E&D make up of the workforce
- Any under-representation is highlighted by senior management and steps taken to redress that under-representation
- That there is regular reporting and consultation with the workforce about equality and diversity issues.
- That recruitment advertising highlights the company's commitment to equal