

HUNTINGDONSHIRE DISTRICT COUNCIL

<b>Title/Subject Matter:</b>	Increasing Social Value in Contracts
<b>Meeting/Date:</b>	Overview and Scrutiny Panel (Customers and Partnerships) – 7th February 2019  Cabinet – 14th February 2019
<b>Executive Portfolio:</b>	Executive Councillor for Resources
<b>Report by:</b>	Procurement Manager
<b>Ward(s) affected:</b>	All Wards

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**Executive Summary:**

The Social Value Act 2012 (SVA) requires public bodies to consider the inclusion of Social Value (SV) deliverables in competitions for services above the EU threshold (£181k). SV deliverables, such as employment, community or environment benefits have to be delivered within the District and have to be relevant to the subject of the contract.

Since the introduction of the SVA, we have complied by including SV questions in relevant competitions but limited marks and very poor responses from contractors has seen little benefit offered or delivered to the District. This report proposes the adoption of a SV policy and considers how greater SV benefits can be delivered.

Top-tier Authorities have engaged with SV reflecting their greater spend on services, and some have extended the scope below the EU threshold. The dearth of District examples reflects both the limited spend on relevant services and that the SVA does not mandate the inclusion of SV deliverables; rather the SVA merely requires public bodies to *consider* their inclusion.

The proposed SV policy is aligned to Corporate Plan objectives and advocates providing support and training to small and local firms, who are best placed to deliver benefits within the District, through the local businesses organisations. Upgrading SV skills and, in the process, their understanding of public procurement, should make small and local firms more competitive, not just for Council business but also in the wider public sector market.

In addition to mandating marks for SV and extending the scope to all tenders (greater than £100k) for works and services, the relevance and credibility of SV could also be strengthened through publicising Council policy.

There is a small theoretical risk that increased SV marks could increase cost or be at the expense of other quality features (specification, performance, delivery, etc). Competition results will be monitored and reported if any evidence emerges.

**Recommendations:**

To drive increased delivery of SV through procurement, it is recommended that:

- SV questions are mandated in all tenders (greater than £100k) in contracts for works and services.
- a maximum percentage of 5% is allocated to SV.
- a programme is developed to engage with and support small and local businesses in contributing to SV and building public procurement knowledge.
- the SV framework (Appendix 1) is adopted as the basis of delivering SV through procurement.
- the results of competitions to be monitored and any indications of increased prices to be report to SLT.
- a review of the impact of the changes to SV policy is undertaken after a year.

## 1 PURPOSE OF THE REPORT

1.1 To explain:

- the measures required to improve Social Value (SV) delivered by suppliers through procurement processes.
- the steps necessary to raise the understanding and response to SV from suppliers; small and local businesses in particular.

## 2 BACKGROUND

2.1 **Regulations.** The Local Government Act 1988 prohibits non-commercial considerations in procurement. The Social Value Act 2012 (SVA) modified the Local Government Act 1988 by requiring public bodies to consider SV in the letting of contracts for services above the EU threshold (£181k). The statutory duty simply requires us to consider SV as part of the commissioning or procurement process. However, the SV has to be directly relevant to the subject matter of the contract, and delivery within the authority's area.

2.2 **Meaning.** A wide range of community or environmental benefits have been ascribed to SV partly due to the absence of a legal or formal definition. Typical measures include creating opportunities for the long-term unemployed or other disadvantaged groups, apprenticeships and training, support to SMEs and charities and energy or CO<sub>2</sub> reduction measures.

2.3 **Past Performance.** Over the last 5 years SV questions have been included in appropriate tenders but usually given low weighting compared with whole life costs and quality. Often fewer than 1 in 10 of the tenders received scored any marks for SV; larger joint contracts with our partner authorities have had similar results. Whilst larger companies generally understood the requirements of the SVA and produced professionally written tenders, they struggled to provide SV delivery in the local area and therefore, usually scored poorly. Local firms and small businesses often provided very poor answers and not infrequently ignored the question altogether. This may reflect their poor understanding of public procurement rules in general and the SVA in particular.

## 3 ANALYSIS

3.1 The duty under the Act is simply to consider the inclusion of SV within the tender requirements. The Council complies and we set tailored questions according to the subject matter of the contract. We record the fact that SV has been considered/included and the subject is incorporated into procurement training.

3.2 Although the outcome of our previous competitions has been undisturbed given the modest marks for SV, the tenders received have demonstrated a divergence in SV knowledge between larger enterprises, often national firms and smaller enterprises, typically local firms:

- Larger enterprises typically:
  - produce evidence of their SV credentials, usually based on their Corporate Social Responsibility programmes.

- include a wide range of measures, albeit predominately volunteering, charity and environmental.
  - can rarely show any benefit delivered within the District
  - schedule the contract into their existing forward work plan, meaning they are less likely to need to engage additional staff, etc.
  - are better resourced to provide SV.
  - smaller enterprises typically:
    - display a very limited understanding of SV (and public procurement generally).
    - regard SV as an additional hurdle.
- 3.3 For different reasons both groups often scored very few marks and offered virtually no tangible SV benefit beyond activities that would have been undertaken in the normal course of the contract (eg: taking on local staff). To advance SV:
- Small enterprises need to appreciate the relevance of SV in competing for contracts and overcome any lack of understanding. Providing support and training to small and local firms through the local businesses organisations should increase engagement with SV. Our modest contract spend is likely to have the greatest sway with small enterprises.
  - The relevance and credibility of the Council's SV policy has to be strengthened through publicity in order to influence large organisations.
- 3.4 The delivery of social value rests with the successful bidder and to win the bidder has to present a strong tender as well as a meaningful SV contribution. Therefore, small and local firms need to be equipped with knowledge of public procurement. Improved skills should enhance the competitiveness of small and local firms in all public procurement competitions, not just for the Council's requirements. Proposed measures to improve SV delivery are at Appendix 2.

## **Financial Implications**

- 3.5 There are potential financial implications to increased weightings for SV:
- There is a very small non-cash resource cost (staff time) in incorporating SV questions and the evaluation of tenders, which is already absorbed into business as usual.
  - Commentary from top-tier authorities is that SV does not translate into increased costs. Any actual impact on cost would be difficult to detect as contractors' pricing calculations are invariably opaque. However, in instances where competition is weak and if the supplier has to commit additional resource, then price increases are not inconceivable.
- 3.6 There is a theoretical risk that greater SV weighting could increase prices or be at the expense of the specification. The table 1, below, demonstrates a worst case scenario for 3 different SV weightings (2.5%, 5% and 10%) and is based on a contract value of £100k (our current tender threshold). The scenario shows where the lowest cost bid scores zero marks for SV and a more expensive bid scores full marks for SV, the model shows the potential SV price

premium; eg: if Price / Quality Marks are 60/40 and SV is 10% of the quality marks available, then a tender could be £16,666 more expensive and still win the competition.

		Price / Quality Marks	
		60/40	40/60
<b>Social Value Marks (included within the overall quality marks)</b>	2.5 %	£4,167	£6,250
	5.0 %	£8,333	£12,500
	10.0 %	£16,667	£25,000

Table 1. Potential Price Premium

This is a set of theoretical scenarios showing the worst case and it assumes that the remaining quality marks are otherwise matched between the two tenders.

- 3.7 Advice was sought from EELGA and although there are a number of District Authorities in this region with published SV policies but there does not appear to be an exemplar in the region. A number of top-tier authorities however, are actively engaged with some choosing to set a fixed percentage (e.g. Manchester City Council - 20%) for all services contracts.

#### 4. LINK TO THE CORPORATE PLAN, STRATEGIC PRIORITIES AND / OR CORPORATE OBJECTIVES

- 4.1 Improving SV through contracts has the potential to contribute to the Corporate Plan in:

- “Delivering a flexible and skilled local workforce” through apprenticeships, recruitment and work experience for the local community.
- “Developing stronger and more resilient communities to enable people to help themselves” for example by contributing hours of business support and advice to community and voluntary organisations
- “Creating, protecting and enhancing our safe and clean built and green environment” in reducing overall energy consumption / water consumption and the amount of waste generated.
- “Accelerating business growth and investment” by running practical workshops with local business organisations and increasing spending with the local supply chain.

- 4.2 Limited delivery of SV benefits thus far has been noted in a report (Progress on issues arising from the 2017/18 Annual Governance Statement) to the Corporate Governance Committee - 23 January 2019.

## **5 LEGAL IMPLICATIONS**

5.1 The SVA sets a very low bar merely requiring public bodies to consider and SV in competitions for services above the EU and record the fact. We comply. Expansion beyond this narrow definition relies on our Best Value duty provided that the SV obligations are:

- Appropriately linked to the subject matter of the procurement
- Proportionate to the requirements of the procurement
- Consistent with value for money
- Consistent with the EU principle of equal access for all EU suppliers.

5.2 A number of authorities (Greater Manchester Combined Authorities, Suffolk, Surrey, East Sussex, etc) have already set their SV threshold at £100k – their tender threshold.

## **6 RESOURCE IMPLICATIONS**

6.1 There are no resource implications to maintaining the current policy. SV data gathering and engagement with local businesses will require additional work for both the creditors team and procurement, but this would be absorbed within the existing establishment.

## **7. REASONS FOR THE RECOMMENDED DECISIONS**

7.1 Although the SVA has been in place since 2012 limited appreciation of its requirements exists outside large firms already engaged with the Corporate Social Responsibility agenda. Growing the delivery of SV benefits in the District would mean increasing the participation of small and local businesses.

7.2 A compliance based approach has meant the application of the SVA has been restricted to the few instances of relevant contracts. SV benefits have been limited to activities associated with the normal delivery of the contract. The measurement of SV benefits will be needed to ensure delivery throughout the life of the contract. Improving the available information can be addressed through a series of measures to contact suppliers at points in the procurement process.

7.3 Best placed to deliver SV benefits, small and local businesses need to be aware of the increased importance (and weighting) attached to SV by the Council and be furnished with the knowledge and skills to contribute. Building procurement skills in conjunction with SV should improve the competitiveness of small and local firms in all public procurement competitions and provide opportunity beyond the scope of the Council's spend. Engagement through the local branches of business organisations appears the most practical and direct route in starting that education process.

- 7.4 Although a remote risk of including SV in competition weighting is increased costs the results of competitions will be monitored and any indications of higher prices will be reported to SLT. A review of the impact of the changes to SV policy will be undertaken after a year.

## **CONTACT OFFICER**

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### Appendices:

1. Draft Social Value policy and Framework
2. Proposed Measures
3. Local Spend