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bulletin

Responding to the Public Services (Social Value) Act 2012

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Introduction and context

This Bulletin seeks to identify how local authorities in England are responding to the Public Services (Social Value) Act 2012, particularly in terms of how they are changing their processes, behaviours and cultures in relation to public procurement. It also introduces a framework, developed by CLES, which details how economic, social and environmental benefits can be enabled and maximised at various stages of the procurement cycle.

Over the last five years, CLES has undertaken a series of pieces of research around public procurement and economic development. For CLES, progressive and effective procurement is about relationship development with the potential and actual supply chain, and embedding a culture where procurement is linked to the challenges facing places. Crucial to the debate around enabling and maximising economic, social and environmental benefit through procurement has been the legislation by government of the Public Services (Social Value) Act. This has been applicable since 31st January 2013 and requires certain public authorities to consider at the pre-procurement stage how what is being procured might improve the economic, social and environmental wellbeing of their locality; therefore pushing procurement decision making beyond cost to consider social value.

Our feeling at CLES is that some progressive authorities are organically considering enabling and maximising economic, social and environmental benefit through the procurement process anyway through reflections in service commissioning, procurement strategy, pre-procurement, and delivery phases of the cycle. This means that the Act is not likely to lead to significant changes in the practice of these authorities. However, in authorities with procurement cultures where silo working is the norm and cost is the primary consideration, the law should shape and influence processes and practice. To identify how authorities are responding to the requirements of the Social Value Act further, we issued a survey to a small sample of member authorities. The survey sought to explore the extent to which authorities already considered social value in their procurement decision making process and the extent to which the Act would be changing their behaviour.

Survey findings

Existing practice

We asked authorities to detail whether they already actively took considerations of economic, social and environmental wellbeing and impact into account in their procurement processes: 80% of authorities responding to the survey did. However, consideration of wider benefit was often dependent upon the type of goods and services being procured, as opposed to it being embedded.

Additionally, considerations of wider benefit are more prevalent in capital side procurements, such as construction contracts, than revenue side procurements, such as waste services. Fewer authorities (40%) had active weighting criteria for 'social value' in their decision making processes in addition to the traditional cost and quality split. Of those which did have weighting around social value or sustainability, this formulated between 5% and 10% of the decision, and did not necessarily apply to all procurements.

The emphasis upon considering social value on capital side procurements was further evident in terms of the types of economic, social and environmental benefits procurers were currently looking for in tender submissions: 75% of authorities suggested that providing apprenticeships was a key element of social value; with 50% looking for evidence of use of recycled products. Much less emphasis was placed upon community consultation in service design or the extent to which social enterprise are utilised in supply chains, for example.

Change as a result of the Act

We asked authorities to detail whether they felt the legislation would lead to a change in the way in which they undertook procurement and also whether it would add value to their existing practices. 50% of authorities stated that they would be making changes to their procurement practices as a result of the Act. This will include a more active representation of social value in procurement strategy and a more reflective consideration of economic, social and environmental benefit in tender evaluation. For some authorities, this will come in the form of social value checklists; and for others in assigning weighting around social value. Those authorities who have not made changes believed they were already meeting the requirements of the Act through existing practices.

Despite not all authorities suggesting they would be changing their practices as a result of the Act, the majority stated that the Act would add value to local authority procurement processes generally. Indeed, 83% of authorities stated that it would add value; this was for a variety of reasons, including:

- it would enable them to achieve wider corporate priorities through procurement around tackling worklessness;
- it would give authority to what they were already doing around economic, social and environmental factors in procurement;
- it would focus minds that procurement was not a one off decision, but a process that potentially delivers wider benefits.

The Public Services (Social Value) Act is also seen by authorities as a means of upskilling both procurement and other departmental staff around social value and sustainable procurement. All of the authorities responding to the survey suggested that they would be undertaking training; this linked largely to two themes: ensuring all procurers in the authority were aware of the principles of the Act; and linking procurement activities to wider corporate priorities, particularly the relationship between procurement and economic development.

Measuring social value

We asked authorities to detail how they intended to measure social value, both in terms of their authority and the impact enabled by their supply chain through service delivery. There were two key forms of measurement emerging from authorities. Some suggested that they were already using or planning to use tools such as Social Return on Investment to measure the outcomes achieved beyond delivery; others suggested social value would form part of the indicator set for contract management and monitoring. Authorities also reflected that measurement was dependent upon the type of service or contract being delivered, with some more economically focused than others; meaning that job and growth indicators were more likely to be utilised. Aligned to this emphasis on measuring social value, 40% of authorities suggested that they would provide guidance and support for small business, voluntary and community sector organisations, and social enterprise, around what they would expect them to measure.

A framework for embedding economic, social and environmental benefit

The above analysis has highlighted that the Public Services (Social Value) Act presents the opportunity for local authorities to roll out existing considerations around social value to a wider array of contracts or change the culture of procurement departments to be more reflective of economic, social and environmental considerations. It has also highlighted that authorities will be providing training around social value and seeking to develop weighting for tender decisions.

CLES' research work around procurement has highlighted that there are various activities authorities can undertake to embed and maximise economic, social and environmental benefits at various stages of the procurement process. Indeed, the framework discussed below highlights how such considerations can be embedded in service commissioning, procurement strategy, pre-procurement and delivery. The focus of the framework is not upon protectionism but about detailing what authorities can do to support small and local business to engage in procurement, and how procurement can be utilised to achieve wider corporate, economic and social objectives.

Service commissioning

Local authorities can enable and maximise economic, social and environmental benefit through the procurement process in the commissioning phase. This can include:

Reflecting departmental priorities

The purpose of any procurement process must always be to commission services and goods which are required by service users in a cost efficient way. There are however a string of wider economic, social and environmental benefits which can be achieved through the process in terms of jobs, skills, business development, and reducing the distance travelled by goods. These benefits can often be departmental priorities for teams, such as economic development or adult social care, with the commissioning and design of services an opportunity to feed in such priorities, to ensure that service delivery is not only cost efficient but also cost effective.

Reflecting community need

Authorities can seek to ensure that service design and commissioning is reflective of community need by engaging and consulting communities upon the design of services. This is emerging in the concept of co-production, where authorities and residents design services collaboratively, and where communities have responsibility for small elements of budgets.

Procurement strategy

Local authorities can enable and maximise economic, social and environmental benefit through the procurement process in the strategy phase. This can include:

Developing sustainable and progressive procurement strategies

These set out an authority's priorities and processes in relation to procurement practice. They are a key means by which priorities and criteria relating to economic, social and environmental wellbeing can be embedded, ensuring that departmental objectives and priorities feed into the decision making process for all contracts. They also highlight to suppliers the types of added value authorities are expecting them to demonstrate in their response to tenders.

Online portals and tools

Authorities can develop a range of online activities which raise awareness amongst the local business base, SMEs, and the voluntary and community sector of upcoming tender opportunities. These can include online portals which provide alerts to relevant contract opportunities and a means of uploading tender documents and guides, which explain to small organisations what is expected in the tender process and how to complete pre-qualification questionnaires (PQQs) and invitation to tenders (ITTs).

Packaging contracts

For contracts which are below the Official Journal of the European Union (OJEU) threshold, authorities can consider breaking contracts down into smaller lots to make them more attractive for local and small business. For contracts which form part of a framework agreement, authorities can work with the voluntary and community sector to support the development of consortia.

Reducing bureaucracy

One of the biggest barriers preventing local and particularly small organisations from bidding for contract opportunities is a (often fair) perception that the process is too complex and bureaucratic. Authorities can overcome this in line with European legislation and the standardisation of tender documents advocated by the UK Government by:

- standardising PQQs and ITTs;
- providing sample and case study PQQ completion examples;
- simplifying the requirements of PQQs and ITTs;
- streamlining financial assessment criteria;
- removing PQQ requirements altogether for lower value contracts.

Internal capacity building

The culture of procurement officers has often followed the customs of their local authority, in that the primary consideration in decision making has always been cost and quality. To embed progressive principles, officers in procurement units and across the wider council need to be educated on how wider benefit in economic, social and environmental terms can be achieved, and how they work cross-departmentally. Authorities can therefore provide internally focused training on sustainable and progressive procurement.

Pre-procurement

Local authorities can enable and maximise economic, social and environmental benefit through the procurement process in the pre-procurement phase. This can include:

Targeted market testing

Procurement teams can work with business intelligence officers in economic development and regeneration teams to identify local businesses, particularly SMEs who might be suitable to bid for certain contract opportunities. Targeted market testing could be focused on businesses in specific sectors or based in particular neighbourhoods and wards. Authorities can follow up market testing with targeted capacity building.

Partnership working with business networks

Authorities can make local businesses, particularly SMEs, aware of procurement opportunities through developing relationships with local Chambers of Commerce and Federation of Small Businesses. These organisations can also provide advice and guidance to their members about bidding for procurement opportunities.

Potential supplier engagement

Authorities can engage with potential suppliers before formally putting a service out to tender through holding meetings and events. These enable authorities to detail their specifications in relation to a particular contract and to inform suppliers of what was expected of them in the tendering process, including any requirements around added value or economic, social and environmental benefit. They also provide the opportunity to informally develop suppliers' skills in tendering.

Capacity building

Authorities can provide capacity building support for SMEs and the voluntary and community sector which gives them the knowledge and skills to bid for contract opportunities. This approach is not about 'shoehorning' local organisations into contracts but about local organisational development. Capacity building could focus upon raising awareness of opportunities, the process of completing a PQQ, or getting a voluntary and community sector organisation tender ready. It could also involve one-to-one tendering support.

Apprenticeships, labour and social clauses

Authorities can enable benefit by stipulating in tender documentation the requirement for contractors to add value for communities beyond service delivery. In capital focused projects, this could include a requirement to create apprenticeships for every £1 million spent, or a desire to create jobs for those who are unemployed. In more revenue focused services, it could include wider social benefits such as community work. Such stipulations or clauses form part of the contract management for the service.

Delivery

Local authorities can enable and maximise economic, social and environmental benefit through the procurement process in the delivery stage. This can include:

Cross-departmental and suppliers networks

Authorities can enable benefit and continuously ensure that wider economic, social and environmental benefit is considered in service delivery through setting up cross-departmental and supplier networks. Cross-departmental networks ensure that departmental priorities are continuously considered once a decision has been made to commission a service. In the case of economic development, they can also twin service delivery activities to employment programmes and apprenticeship schemes, and signpost core contractors to local sub-contractors.

Suppliers' networks ensure a continuous relationship between buyer and supplier. Historically, goods and services have gone out to tender and suppliers have gone away and delivered the required service. A suppliers' network enables authorities to voluntarily influence the behaviour of suppliers by informing them of corporate priorities and wider expectations around economic, social and environmental benefit. Suppliers' networks also enable suppliers to challenge the bureaucracy of the procurement process.

Supplier engagement and voluntary arrangements

Whilst economic and social clauses are useful means of delivering upon wider benefit aspirations, particularly in relation to construction contracts, informal relationships and voluntary arrangements between local authorities and suppliers are equally important. Authorities can seek to influence the activities of suppliers by promoting the importance of local economic issues such as: business sustainability; youth unemployment; worklessness; and the skills deficit, with the expectation that the supply chain will voluntarily respond. Responses could include commitments to utilise local business in any sub-contracting (particularly beneficial where a prime contractor might be from outside the locality) or a commitment to create jobs for people from neighbourhoods with high levels of worklessness.

Swift payment

One of the biggest complaints of the supply chain, particularly SMEs, in relation to public procurement and delivering public contracts, is the time it takes for suppliers to get paid. Authorities can address this barrier through the introduction of schemes such as payment cards or through commitments to pay invoices within a certain timeframe (such as 14 days).

Spend analysis and contract monitoring

Authorities can continuously seek to identify the impact their procurement spend brings for their locality through spend analysis and contract monitoring. Through postcode analysis, they can identify the extent to which spend is with suppliers based in or with a branch in their local authority boundary; and spend in particular wards and areas of deprivation.

Through contract monitoring, authorities can identify the extent to which suppliers re-spend in the local economy upon local suppliers and employees of their own; and additionally the extent to which they are adding value to wider local priorities and outcomes.

Final thoughts

The Public Services (Social Value) Act is undoubtedly a useful piece of legislation, in terms of requiring commissioners and procurers to consider social value in procurement. The requirement to consider such social value in pre-procurement should enable wider outcomes to be achieved through procurement, link procurement and economic development professionals in local government, and open up opportunities in procurement for small business, social enterprise and the voluntary and community sector. Our survey of a sample of local authorities suggested that some are already considering social value across the various stages of the procurement cycle; there was however opportunity to widen the scope of such considerations. CLES' framework for enabling and maximising economic, social and environmental benefit through procurement (as discussed above) can support this. We have used it already in some authorities to scope existing practice in relation to progressive procurement, identify gaps, and proffer recommendations for changing process and practice. For information about this, please contact Matthew Jackson on 0161 236 7036 or matthewjackson@cles.org.uk.

Bulletin is one of a series of regular policy reports produced by the Centre for Local Economic Strategies (CLES). CLES is the leading membership organisation in the UK dedicated to economic development, regeneration and local governance. CLES undertakes a range of activities including independent research, events and training, publications and consultancy. CLES also manages the monthly New Start digital magazine, through its new CLES online service, which provides comprehensive analysis and commentary on current policy and good practice.

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