

Item No. 11.	Classification: Open	Date: 4 February 2020	Meeting Name: Cabinet
Report title:		Update to the Fairer Future Procurement Framework and the Unite Construction Charter	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Leo Pollak, Social Regeneration, Great Estates and New Council Homes	

FOREWORD - COUNCILLOR LEO POLLAK, CABINET MEMBER FOR SOCIAL REGENERATION, GREAT ESTATES AND NEW COUNCIL HOMES

The construction industry, with its complex supply chains and peaks and troughs of activity, has long been scene to casualised labour and exploitative practices. Southwark council, as a significant procurer of building services for its schools and council house building and other projects takes very seriously the need to ensure the safety of our construction sites, ethical employment practices for construction workers and a skills development ecosystem that provides clear for our residents to find work good work on local building sites.

The construction charter produced by Unite the Union codifies a number of practices Southwark already requires of in-house and procured builders while also shining a light on the forced into self-employed contracts or onto unscrupulous payroll companies. These practices deprive construction workers of the basic benefits of PAYE contracts - ensuring all operatives on site are above-board paying taxes, in possession of accredited trades cards, and entitled to basic employment rights such as holiday pay, sick pay and parental leave.

The council's Fairer Future Procurement principles already prohibits the use of harmful zero hour and short contracts we will be requiring contractors to commit to their core workforce being paid through PAYE contracts, and requiring and transition plans.

Among the construction charter requirements Southwark already carries out the following:

- Requiring contractors and their suppliers to pay all trades a minimum **London Living Wage** on our sites
- Operates a **Considerate constructors scheme** to mitigate and manage the impact of construction activity on people living and working around a site
- We **Blacklist the blacklisters** requiring any contractor involved in our council homes delivery to 'own up clean and pay up' for historic victims of blacklisting of construction workers
- The nationally-leading **Southwark Construction Skills Centre** on Heygate St that since its opening in 2016 has supported over 1200 Southwark residents into training, created over 250 apprenticeships, engaged over 1500 school children on the local building opportunities
- Contractors supporting a **new apprenticeship for every £1 million value** of the contract
- **Health and safety practices** following full implementation of the Construction and Design Management regulation, including a full induction training and inspection

regime with named officers and routes to recourse covering: Welfare arrangements, Risks to health, Safety and welfare, Emergency procedures, Fire plan and fire fighting arrangements, Hot works procedure, Signing in procedure, Permit to work systems, Accident reporting, Controlled work areas, Security arrangements, Vehicle movement and control and so on

- Requirement for the use **Sustainable construction materials** according the BES 6001. The emerging *construction company* brief includes a pathway to operating a carbon neutral supply chain and product by 2030
- The Southwark Building Services strategy to maximise services being directly delivered by council employees on PAYE contracts, for that less than 10% of work delivered by sub-contractors, **and to require special permissions for any third party delivery of sub-contracted services.**

While other Unite construction charter adoptions elsewhere in the country appear to have been adopted partially, caveated with exemptions, or conditions on their implementation, our endorsement is intended to be far more practical, with clear methods for monitoring practices on each site, reviewing progress after a year, and incorporation into the council's brief for setting up a construction company.

As Southwark's new homes programme begins a major expansion, with several dozen new projects recently incorporated for delivering new council homes, now is an opportune moment to codify the council's commitments to the highest health and safety standards, most effective skills promotion initiatives and to embed the most ethical employment practices for construction workers.

RECOMMENDATIONS

That Cabinet:

1. Agrees to give its support to the Unite Construction Charter (Appendix 1).
2. Notes that adherence to the charter is intended, to ensure that the core workforce of the supply chain contractors have contracts of employment and are paid on PAYE.
3. Notes that Southwark council operates in accord with its Fairer Future Procurement Framework that sets out an ethical approach to all procurement including contracts with construction companies and is also committed to following the requirements of the Mayor of London Good Work Standard.
4. Agrees to bring this back for review in December 2020.

BACKGROUND INFORMATION

5. In 2015, overview & scrutiny committee undertook a review of Commissioning and Procurement in Southwark. The first Fairer Future Procurement Strategy (FFPS) was developed in response to those recommendations which included:
 - a. Introducing clear processes for procurements in Southwark
 - b. The introduction of Gateway 0 reports for services over £10m in value
 - c. Briefings for Cabinet members for all procurements over £100k in value
 - d. Enhancing the provisions relating to blacklisting.
6. In November 2018 the council approved the Council Plan 2018-2022, together with the revised Fairer Future Commitments. The updated document reflects these

changes and is now included in the Fairer Future Procurement Framework (FFPF). The FFPF is attached at Appendix 1 and has been revised to:

- Reflect the changes in the Council Plan 2018-2020
 - Include changes to legislation, guidance and policies
 - Include reference to social value and the Construction Charter
 - Strengthen provisions in relation to workforce issues
 - Refer to the End Violence at Work Charter.
7. The changes made to the Fairer Future Procurement Framework (FFPF) has moved the document from being an inward facing document, providing guidance to our staff, to an outward facing document to our contractors and external organisations, setting clear expectations of the values expected from those who are interested in delivering services on behalf of the council.

KEY ISSUES FOR CONSIDERATION

Update to the Fairer Future Procurement Framework

8. The Fairer Future Procurement Framework (FFPF) was approved by cabinet on 18 June 2019.
9. This sets out the framework within which the Council will deliver goods, services and works over £100,000 in value, with partner external organisations and contractors, to residents and businesses in Southwark. The framework aims to assist in delivering value for money in the procurement process, while ensuring openness transparency and good governance.
10. The FFPF incorporates the key motions and policies that can have an impact on the procurement and delivery of council priorities by our partner external organisations, including gender and BAME pay gap, The Mayor's Good Work Standard, End Violence at Work Charter and the Construction Charter.
11. The FFPF has been published on the council's website. A letter explaining the framework and support for Unison's End Violence at Work charter has been sent to contract managers to communicate this to current suppliers. The information can be found on the website at:
- <https://www.southwark.gov.uk/business/procurement/policy-and-guidance-for-procurement>
12. The FFPF has been published on the council's intranet with supporting guidance and advice for council officers to embed this in the work and procurement that the council carries out.
13. A cross-council project group was in place to support the roll out of the FFPF and key messages about the changes contained in the framework has been cascaded to commissioners and contract managers, including but not limited to the modern slavery commitments, reporting and information on the gender pay gap, payments of LLW and no harmful or zero-hours or short contracts and how these will be checked during the procurement process and reported upon by contract managers.

Backing for the Unite Construction Charter

14. Officers of the council have held several meetings with Unite officials to discuss giving the council's backing for its charter.
15. Both sides agree that there are unwanted and unacceptable practices in the construction industry and that the Unite charter provides a principled approach to protecting workers.
16. The council agrees that, in accordance with legislative requirements, everyone directly employed in the construction industry should be paid on PAYE in full compliance with all applicable HMRC regulations.
17. The council is committed to working with its construction contractors to eliminate fake or bogus 'self-employment' and to encourage fair working practices including payment and taxation through PAYE, and employment rights, including sick, holiday and redundancy pay (where appropriate).
18. The council also agrees that, in line with its values and existing practice, that there must be rigorous implementation of health and safety in line with all applicable laws and accepted minimum standards.
19. Unite and the council will look for opportunities to cooperate in improving the skills of the construction workforce and the council will continue to require construction industry contractors to provide appropriate apprenticeships as part of contracts with the council as appropriate.
20. The purpose of the Unite Construction Charter is to make the construction industry a fairer and safer place where workers rights are protected and unions are allowed and encouraged to play an active role and that this can better be achieved by having a motivated, well-trained, committed and safe workforce.
21. In short, the Unite charter is seeking to make a difference for the better in the construction industry and this is supported by the council.

Next Steps

22. If approved, the FFPF will be updated with details of the Unite Construction Charter and a new version published.

Policy implications

23. The FFPF reflects and provides support for how some of the council's policies will be implemented where they affect procurement and commissioning of contracts. This report outlines how that implementation is progressing.
24. The support for the Unite charter enhances the council's support for a fairer future by encouraging our contractors to adopt fair working practices.
25. A review of the impact of the FFPF will be undertaken and reported to Cabinet in December 2020. The review will explore the implementation and impact of the FFPF and make any recommendations for any amendments.

Community impact statement

26. The FFPF sets out the consideration that the council will have in future procurement processes, to ensure that the maximum possible benefit and impact of the procurement and resulting contract will be leveraged for local residents and the community. The framework aims to have a significant positive impact but will be assessed on a case by case basis for each procurement process. The provisions within the FFPF, particularly around social value, are designed to encourage and support the integration and early consideration of factors through procurement activities that will provide benefits to local people and communities.
27. The support of the Unite charter will aim to improve direct employment status, health and safety, standard of work, apprenticeship training and the implementation of appropriate nationally agreed terms and conditions of employment providing benefits to workers, local people and communities.

Resource implications

28. The FFPF strategy sets out how procurement processes will integrate council policy and best practice and support the delivery of the council's fairer future commitments. It is intended to have a positive impact on improving the outcomes and delivery of value for money from spend with external providers.
29. The procurement advice team will continue to support the development of procurement strategies and processes, as well as providing guidance, templates and training where appropriate to support the FFPF.

Legal implications

30. Please see the supplementary advice from the director of law and democracy.

Financial implications

31. The FFPF and agreement of this report does not have any immediate financial consequences. Any procurement or in-house provision conducted under the FFPF and in support of the Unite Charter must be achieved within the council's agreed budget.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Finance and Governance, Head of Procurement, and Director of Law and Democracy

32. The strategic director of finance and governance notes the recommendations of this report for the approval of Unite Construction Charter and updates to the FFPF that will include the council's commitment to ethical procurement consideration of social value considerations throughout the procurement process.
33. The changes to the framework through which council procurement activity is undertaken is not expected to have an immediate impact on budget or spending requirements. Procurement or in house delivery carried out in accordance with the FFPF is to be achieved within existing council budgetary allocations.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Fairer Future Procurement Strategy	Procurement, Finance and Governance	Elaine McLester, Head of Procurement 0207 525 7733
Link: http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&MId=6413&Ver=4		
Overview & Scrutiny Committee Agenda 19 January 2015	Scrutiny Team 160 Tooley Street London SE1 2QH	Everton Roberts 020 7525 7221
Link: http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=308&MId=4900&Ver=4		
Cabinet Agenda 21 July 2015	Constitutional Team Southwark Council 160 Tooley Street London SE1P 5LX	Paula Thornton 020 7525 4395
Link: http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&MId=5138&Ver=4		

APPENDICES

No.	Title
Appendix 1	Unite Construction Charter

AUDIT TRAIL

Cabinet Member	Councillor Leo Pollak, Social Regeneration, Great Estates and New Council Homes	
Lead Officer	Michael Scorer, Strategic Director of Housing and Modernisation	
Report Author	Stuart Davis, Director of New Homes	
Version	Final	
Dated	23 January 2020	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	23 January 2020	