

<b>Item No.</b> 15.	<b>Classification:</b> Open	<b>Date:</b> 13 September 2022	<b>Meeting Name:</b> Cabinet
<b>Report title:</b>		Response to the Report of the Education and Local Economy Scrutiny Commission: Procurement, Accessibility and Social Value	
<b>Ward(s) or groups affected:</b>		All	
<b>Cabinet Member:</b>		Councillor Stephanie Cryan, Finance, Democracy and Digital	

## **FOREWORD: COUNCILLOR STEPHANIE CRYAN, CABINET MEMBER FOR FINANCE, DEMOCRACY AND DIGITAL**

Southwark wants to keep more wealth within our communities. We're working hard so the council and other big institutions in Southwark buy more goods and services from local businesses, cooperatives, social enterprises and charities, including Black, Asian, ethnic minority and women led-businesses and third sector organisations too.

We also know that these are challenging economic times for all of us, and we understand those challenges are likely to get more acute in the coming months. The Council has already set out its initial plans for how we support our communities through the Cost of Living Crisis and we know our response needs to be both short and long term. Buying locally means putting more into our local economy which over time helps generate local employment including apprenticeships which therefore means more spend stays in our town centres and neighbourhoods making our local places thriving and sustainable places to live in the long term. There are also benefits to the climate in keeping things local, including less travel and less emissions.

I would like to thank the Education and Local Economy Scrutiny Commission for the work they have carried out in looking at how we can get the best from procurement, accessibility and social value and welcome their recommendations. Together with the officer team across all services and partners across the borough we will consider the recommendations as part of our work in developing a new economic strategy and our local procurement policy including a new social value framework. This work will also take account of national changes anticipated early next year in legislation governing public sector procurement.

The work and future reporting will be incorporated in our Council Delivery Plan to 2026, which is our council wide plan for what we will deliver with and for our residents. It will also help feed into Southwark 2030 and our long term vision for the future of Southwark. I look forward, with the cabinet, to presenting further

reports on how we further generate local wealth and enhance social value in all we do, especially for those who need our support the most.

## **RECOMMENDATIONS**

1. That Cabinet note and agree the response to the recommendations to the Education and Local Economy Scrutiny Commission's report on procurement, accessibility and social value dated 14 June 2022.

## **BACKGROUND INFORMATION**

2. In February 2022 the Education and Local Economy Scrutiny Commission received an update on scrutiny recommendations to Cabinet made in 2020-2021 council year from the Director of Law and Governance on procurement: accessibility and social value. The update also included an overview of the Fairer Future Procurement Framework.
3. As part of this discussion, the Commission sought further information on contract monitoring, staff recruitment in procurement, challenges of the Social Value Act, apprenticeships and corporate reporting. The commission then agreed a further set of recommendations as set out in a report to cabinet. These recommendations are set out in paragraphs four to six below.
4. **Recommendation 1** - The Commission notes continued challenges in centrally understanding adherence to and performance against our Fairer Future Procurement Framework. The Commission recommends that the Council maintains its commitment to recruiting additional staff in the procurement team who can help address the known issues with tracking performance against, and implementation of the Fairer Future Procurement Framework. The Commission supports exploring further non-pecuniary routes to attracting new staff in this area and notes that as Test and Trace activity winds down there may be less demand elsewhere for staff with the requisite skills to deliver this role.
5. **Recommendation 2** - The Commission recommends Paragraph 55 (sic) of the Fairer Futures Procurement Framework is updated to reflect that:
  - A blanket target of 1 apprentice per £1 million in contract value will in many cases not be sufficiently ambitious.
  - Provide specific, more ambitious targets in areas where more apprenticeships can be supported per unit of contract value.
6. **Recommendation 3** - The commission recommends that the council revisit the percentages allocated to social value and consider raising them in the face of an existential threat of the pandemic to many local businesses and the declared climate emergency.
7. The recommendations of the review were presented to cabinet on 14 June

2022, with a request for the relevant cabinet member to bring back a report to respond to the recommendations provided.

## **KEY ISSUES FOR CONSIDERATION**

8. The Commission's report contained three recommendations that it argued will enhance the delivery and reporting of outcomes as part of the council's Fairer Futures Procurement Framework.

### **Recommendation 1 – monitoring the Fairer Future Procurement Framework**

9. *“The Commission notes continued challenges in centrally understanding adherence to and performance against our Fairer Future Procurement Framework. The Commission recommends that the Council maintains its commitment to recruiting additional staff in the procurement team who can help address the known issues with tracking performance against, and implementation of the Fairer Future Procurement Framework. The Commission supports exploring further non-pecuniary routes to attracting new staff in this area and notes that as Test and Trace activity winds down there may be less demand elsewhere for staff with the requisite skills to deliver this role.”*
10. The Procurement Advice Team at Southwark Council is a small central advisory function, supporting the council's developed Procurement structure with advice and guidance. The procurement function is devolved to departments and strategic directors therefore the responsibility for carrying out procurement and contract management activities, sits with each service area, many of which have procurement or contract teams.
11. A restructure of the Procurement Team was undertaken following the change of reporting lines to Law and Governance within Finance and Governance in November 2020 with the aim of delivering a team comprised of experienced, skilled and resilient staffing structure to support the council.
12. A recruitment process was undertaken in April 2021, that was only successful in appointing the junior member of the team (one of the five vacancies), in part due to uncertainty around the pandemic and working practices such as hybrid working, as well as issues with alternative sources of employment offering substantially over the salary levels being offered by the Council.
13. The main functions of the team are:
  - Providing strategic procurement advice on major themes, regulations and projects
  - Attendance at Departmental Contract Review Boards and Corporate Contract Review Board
  - Developing and maintaining procurement templates, documents, guidance and training including a Contract Management Toolkit

- Providing procurement concurrents for Gateway Reports
  - Updating and maintaining Council policy and processes such as the Fairer Future Procurement Framework and Contract Standing Orders
  - Training for and maintenance of the eProcurement system
  - Maintenance of access to the Approved List
  - Maintenance of the Social Value Portal system for larger tenders
  - Provision of credit checks if required
14. The Procurement Team comprises four members of staff. These being a Head of Procurement, two Specialist Procurement Advisors and one assistant Procurement and Contract Officer. The overall size of the team was reduced by two full time equivalent post as part of budget reductions in the financial year 2021/22.
15. Within the devolved structure of procurement in Southwark, contracts and contract management are the responsibility of each department. Each Strategic Director (as set out in Contract Standing Orders) is responsible for contract monitoring and performance, as well as tracking the performance of the fairer future procurement framework. The Procurement Advice Team does not monitor the procurement framework centrally.
16. Officers will undertake a review of systems to further enable Contract Managers to the report on contract management and monitoring, including Social Value and the obligations of the fairer future procurement framework. This will include consideration of any costs.

## **Recommendation 2 - Apprenticeships**

17. *The Commission recommends Paragraph 55 (sic) of the Fairer Futures Procurement Framework is updated to reflect that:*
- *A blanket target of 1 apprentice per £1 million in contract value will in many cases not be sufficiently ambitious.*
  - *Provide specific, more ambitious targets in areas where more apprenticeships can be supported per unit of contract value.*
18. The Commission's report on procurement and social value states that on apprenticeships, it is important that the council look to be more ambitious and increase its target to more than 1 apprentice per £1 million in contract value. The report argues that while this might not be possible in some cases where contracts are for six months, more needs to be done for the benefit of young people in Southwark by working with local merchants and businesses to maximise the social value of contracts.
19. The current Fairer Futures Procurement Framework at paragraphs 62-63 states that, for all contracts over £1m in value the expectation will be that where practical at least one apprenticeship will be provided per £1m of contract value. These are aims. When it is not possible to achieve the aims this should be noted in the Gateway 1 report and, in any event, other social

value options should be considered.

20. The policy goes on to state that all apprenticeships should be of high quality and include an ambition for good quality employment and training provision, and the expectation that the apprentice is fairly paid, preferably at London Living Wage.
21. The council also has a robust section 106 policy when securing apprenticeship opportunities through development. This is set out in the council's Section 106 (S106) Supplementary Planning Document (SPD).
22. The SPD states that one new apprenticeship start (or in-work NVQ) should be secured for every 2000square metre of development.
23. Where the target number of sustained jobs, short courses or apprenticeships cannot be provided, a contribution will be sought to be used by Southwark Council to provide equivalent opportunities in the local area to residents based on the following formula:
  - Shortfall against target number of apprenticeship starts x £1,500 (which is the approximate cost of a typical construction sector Level 2 qualification).
24. Through this approach, the council has secured 548 apprenticeship since 2014. However, there is limited correlation between our S106 approach and that set out in our FFPF. As part of an imminent review of the council's suite of Supplementary Planning Documents (SPD), we will take the opportunity to ensure closer alignment between our S106 SPD and broader approach to social value.
25. A high-level assessment of central London borough social value policies has shown that where a specific policy on securing apprenticeships is referenced, Southwark's approach is congruous with other London boroughs.
26. For example, the London Borough of Hackney's policy states that one apprenticeship for every £1million spend should be secured where the workforce delivering the contract is significant. Westminster take a similar approach.
27. Other boroughs adopt a more flexible approach. Tower Hamlets for example, has no authoritative list of what the benefits should be secured but allows flexibility when selecting what benefits can be included in the tender process. When selecting these benefits, officers are required to keep in mind the value of the commissioned contract.
28. There are benefits and challenges with different approaches. As identified in the report by the Education and Local Economy Scrutiny Commission, a simplified policy of the number of apprentices per the value of contract as we have currently may not be sufficient to reflect the broad range of goods

and services procured by the council. Conversely, too much flexibility with limited guidance of expected outcomes may result in a sub-standard number of apprenticeships secured through procurement.

29. Reaching an appropriate balance between maximising impact and outcomes while ensuring deliverability of apprenticeships is key. As such, officers as a next step response will review our policy in relation to securing apprenticeships relative to contract size procured. This review will be set within a broader approach to developing local Community Wealth Building and our economic strategy for ensuring we deliver an economy that works for all, review of our Section 106 SPD and forthcoming changes to procurement legislation through the Procurement Act. This will be a cross-council piece of work involving all council departments led by the Director of Strategy and Economy and Director of Law and Governance.
30. This work will be incorporated into the proposed Council Delivery Plan (elsewhere on this agenda), particularly with regards commitments to keep more wealth within our community. A further report will be presented to Cabinet in the final quarter of 2022/23.

### **Recommendation 3 – social value**

31. *The commission recommends that the council revisit the percentages allocated to social value and consider raising them in the face of an existential threat of the pandemic to many local businesses and the declared climate emergency.*
32. The fairer future procurement framework requires that: “For all contracts over £100k in value, this should consider the inclusion of social value and where applicable, use this as part of the evaluation methodology for the tender award. Evaluation criteria should be assessed on a case-by-case basis and the weightings should therefore reflect the relative importance of the social value element to the subject matter of the contract and should be proportional to this. It is however advised that this element be allocated at least 15% of the available evaluation marks.”
33. The procurement strategy (gateway one) reports for all contracts over £100k in value must set out the appropriate level of the evaluation criteria to be assigned to quality, cost and social value. The approval of the reports is made in line with the arrangements as set out within Contract Standing Orders (CSOs) by Chief Officer, Individual Decision Maker or Cabinet:

<https://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=425&MIId=7427&Ver=4>

34. There are new Procurement Regulations (the Procurement Act) that are due to come into effect in 2023 that is being proposed to amend the way in which non-commercial elements can be taken into consideration and evaluated in tenders. At present, the council is restricted from taking into account non-commercial considerations when entering into

contracts/making decisions regarding procurements (section 17 of the Local Government Act 1988). The Public Services (Social Value) Act did amend section 17 to enable non-commercial matters to be considered to the extent that the council considers it necessary or expedient to facilitate compliance with the Social Value.

35. There are many non-commercial elements, including the consideration of the Fairer Future Procurement Framework, the gender pay gap as well as modern slavery and Climate Change and the support of local businesses that can all play a role in procurement and those organisations that we enter into contract with. Not all of these however need be explicitly part of the evaluation process. Instead these can be compliance requirements with processes such as an obligation to work with the council's adopted carbon measuring process to allow this part of their contract deliverables to be measured and baselined and reduced during the contract performance in line with the requirements of the Climate Change Strategy.
36. Evaluation criteria themselves allow a differentiation between the offers that are made to the council to deliver contracts for goods, works and services with their quality, cost and wider social value benefits that can be offered.
37. In the report to Cabinet in January 2021 on the Fairer Future Procurement Framework (FFPF), it was recommended that Social Value Policy was needed for Southwark Council that reflected the council's commitment in this area, including but not limited to procurement and contracts: "Given the nature of the current economic climate and impact of Covid-19 on businesses and the move to support greater local and small business support, a further review should be undertaken of the way in which social value (both what and how) is measured and assessed in procurement activities. This needs to include consideration of social value for lower value procurements, whilst taking account of the potential impact on smaller businesses and their ability to meet additional requirements."
38. Officers will review our work on social value as part of the wider package of work that includes developing our approach to local Community Wealth Building and our economic strategy to ensure we deliver an economy that works for all, a review of our Section 106 SPD and forthcoming changes to procurement legislation through the Procurement Act. This will be a cross-council piece of work involving all council departments led by the Director of Strategy and Economy and Director of Law and Governance. It will be incorporated into the proposed Council Delivery Plan (elsewhere on this agenda), particularly with regards commitments to keep more wealth within our community. A further report will be presented to Cabinet in the final quarter of 2022/23.

### **Policy framework implications**

39. Southwark Council's Fairer Future Procurement Framework (FFPF) sets out how the council will use its procurement to support the delivery of the Borough Plan and Fairer Future Commitments and the processes and

practices that are needed to do this. The council expects all of its procurement activity to be undertaken to the highest ethical, sustainable and responsible standards and within a robust and transparent governance framework.

40. If agreed by cabinet, the Education and Local Economy Scrutiny Commission's recommendations on procurement will result in a review of social value policy, informed by our approach to developing local community wealth building that will necessitate an update or rewrite of the current version of the FFPF. The full extent of these impacts will be set out in future reports to cabinet.

### **Community, equalities (including socio-economic) and health impacts**

#### **Community impact statement**

41. If agreed by cabinet, the Education and Local Economy Scrutiny Commission's recommendations on procurement will result in a review of social value policy that will require an assessment of community impacts. The full extent of these impacts will be set out when reporting back to cabinet.

#### **Equalities (including socio-economic) impact statement**

42. If agreed by cabinet, the Education and Local Economy Scrutiny Commission's recommendations on procurement will result in a review of social value policy that will require an assessment of equalities impacts. The full extent of these impacts will be set out when reporting back to cabinet.

#### **Health impact statement**

43. If agreed by cabinet, the Education and Local Economy Scrutiny Commission's recommendations on procurement will result in a review of social value policy that will require an assessment of health impacts. The full extent of these impacts will be set out when reporting back to cabinet.

### **Climate change implications**

44. If agreed by cabinet, the Education and Local Economy Scrutiny Commission's recommendations on procurement will result in a review of social value policy that will require an assessment of climate change impacts and opportunities. The full extent of these impacts will be set out when reporting back to cabinet.

### **Resource implications**

45. There are no immediate resource and financial implications arising from this report.

46. However, the recommendations made by the Education and Local Economy Scrutiny Commission have potential resource implications, especially where leading to policy review, change and renewal. It is not possible at this stage to quantify these but the agreement of actions to be taken will need to be subject to consideration of any associated staffing, IT or other resource requirements. Future resourcing decisions will be considered as part of the council's normal budget setting process.
47. The financial implications and funding requirements of actions agreed will be addressed in further reports at the point at which decisions on them are taken.

**Legal implications**

48. The recommendations made by the Education and Local Economy Scrutiny Commission have potential implications in relation to the forthcoming Procurement Bill currently before Parliament. It is not possible at this stage to quantify these but a fuller appraisal will be set out when reporting back to cabinet.

**SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

**Strategic Director of Finance and Governance (CE22/031)**

49. This report is requesting the Cabinet to note and agree the response to the recommendations to the Education and Local Economy Scrutiny Commission's report on procurement, accessibility and social value dated 14 June 2022.
50. The strategic director of finance and governance notes that there are no immediate financial implications arising from this report and notes the comments in resource implications on the future resourcing.
51. Staffing and any other costs connected with this report to be contained within existing departmental revenue budgets.

**BACKGROUND DOCUMENTS**

Background Document	Held by and Contact
Report of the Education and Local Economy Scrutiny Commission: Procurement Accessibility and Social Value	Southwark Council Everton Roberts everton.roberts@southwark.gov.uk
<p><b>Link (please copy and paste into browser):</b>  <a href="https://moderngov.southwark.gov.uk/documents/s107253/Report%20Scrutiny%20report%20Procurement%20Accessibility%20and%20Social%20Value.pdf">https://moderngov.southwark.gov.uk/documents/s107253/Report%20Scrutiny%20report%20Procurement%20Accessibility%20and%20Social%20Value.pdf</a></p>	

## APPENDICES

No.	Title
None	

## AUDIT TRAIL

<b>Cabinet Member</b>	Councillor Stephanie Cryan, Finance, Democracy and Digital	
<b>Lead Officer</b>	Doreen Forrester-Brown, Director of Law and Governance Stephen Gaskell, Director of Strategy and Economy	
<b>Report Author</b>	Stephen Gaskell, Director of Strategy and Economy	
<b>Version</b>	Final	
<b>Dated</b>	1 September 2022	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>		1 September 2022