

Item No. 22.	Classification: Open	Date: 8 December 2020	Meeting Name: Cabinet
Report title:		Response to the recommendations of the education and business scrutiny commission report on procurement: accessibility and social value July 2020	
Ward(s) or groups affected:		All	
Cabinet Members:		Councillor Rebecca Lury, Finance & Resources	

FOREWORD - COUNCILLOR REBECCA LURY, CABINET MEMBER FOR FINANCE & RESOURCES

I want to thank Councillor Babudu for the excellent work undertaken by his Commission and look forward to delivering on its recommendations.

Through our response to the Education and Business Scrutiny Commission Report on Procurement: Accessibility and Social Value, we want to give our commitment to taking forward the recommendations from this report.

As you will see in this report, we recognise the hugely important issues raised as part of the scrutiny inquiry, and will be seeking to include in the budget proposals for 2021-22 funding for a dedicated position to support taking the recommendations forward.

In tackling these issues, we want to be able to create a baseline of our current position, identify and understand the gaps that exist, and take forward activity to ensure that those with protected characteristics are better able to participate in procurement opportunities from the council.

RECOMMENDATIONS

1. That cabinet note officers' responses to the education and business scrutiny commission's report on procurement: accessibility and social value dated July 2020.
2. That cabinet note that a request for additional resources to take forward work on making procurement opportunities more accessible to local businesses and community organisations is to be made as part of the council's 2021-22 budget setting process.

BACKGROUND INFORMATION

3. The education and business scrutiny commission undertook an investigation

into the accessibility of procurement opportunities in Southwark to local businesses and community organisations, with a particular emphasis on understanding how accessible these opportunities are to businesses that are led (at director level) by people with protected characteristics that are typically underrepresented in business leadership. The commission also looked at the council's early activity to implement social value provisions of its Fairer Future Procurement Framework.

4. The recommendations of the review were presented to cabinet on 14 July 2020, with a request for the relevant cabinet member to bring back a report to respond to the recommendations provided.

KEY ISSUES FOR CONSIDERATION

5. The commission's report focused on four areas covering the data landscape, accessibility to small businesses, existing social value practice and procurement practice. Its findings highlight the gap that currently exists between where the council is and where it wishes to be in terms of its strategic ambitions; the recommendations provide a welcome steer as to the direction of travel and helpful pointers as to actions needed to make procurement opportunities more accessible to local businesses and community organisations.
6. The council's procurement function comprises several elements including the devolved purchasing and commissioning activity for a wide range of goods, services and works across all departments of the council, a small core procurement advisory function, and a corporate local economy development function. This means that even though some of the recommendations were addressed to specific parts of the council, their cross-cutting nature requires a response from the organisation as a whole if they are to lead to tangible improvements in governance and practice. In addition, many of the areas covered need to be considered in the context of broader priorities and work streams already being undertaken across the council, including on the council's Fairer Future Procurement Framework, Southwark Stands Together, the refreshed council plan and the Economic Renewal Plan.
7. Whilst some recommendations can be addressed relatively easily and speedily, others have significant resourcing implications or are dependent on information which is currently not available; there are also some where further consideration is needed as to definitions and outcomes sought, if attention and effort is to be focused appropriately. All of these will require budgetary provision and/or staffing resources to be identified, in order to be taken forward.
8. Since the work was undertaken by the scrutiny commission prior to its report to cabinet on 14 July 2020, the environment within which the council operates has continued to evolve. The pandemic is clearly of ongoing relevance to any consideration of the council's activities but it is difficult to know with any certainty what its impact will be. In addition, with

the Brexit transition period ending on 31 December 2020, work is also under way to consider what needs to be done to ensure that the council is prepared for the procurement environment from 1 January 2021. Again, however, it is not yet possible to assess the implications.

9. Comments on the recommendations are set out below.

Data

Recommendation 1: The Council should fundamentally improve the data it collects on Council procurement activity and local businesses. As part of this effort, the Council should collect equalities data and local spending data for all eligible procurement activity.

10. Although some information about contracts of £5,000 or more is recorded on the council's contract register, as the commission's report makes clear, the council does not currently hold information on procurement activity and local businesses. Further guidance will be issued by the Procurement Advice Team to remind officers to keep the contract register up-to-date but further consideration is needed of the extension of data collection to ensure that there is clarity as to what is to be collected, its purpose and its use. Work currently under way to refresh the Fairer Future Procurement Framework which includes a commitment to this and the ongoing Southwark Stands Together programme, the Economic Renewal Plan aspirations and the refreshed council plan are also all relevant to this piece of work.
11. The collection of data has significant resource implications in terms of staffing and potentially in terms of changes to IT systems (e.g. the council's financial information and e-procurement systems) and these will be picked up as part of a bid for additional funding which is being made as part of the council's 2021-22 budget setting process.
12. It should be noted that successful implementation of these proposals is dependent on the voluntary provision of information by businesses and work to be undertaken will include consultation and engagement with them.

Accessibility to small businesses

13. Recommendations 2 to 5 need to be considered in light of the ongoing Southwark Stands Together programme, the Economic Renewal Plan aspirations and the refreshed council plan.
14. At its 8 September 2020 meeting, the cabinet agreed to develop a roadmap and action plan to deliver the Southwark Stands Together programme. A further report was considered on 20 October 2020 when the cabinet agreed recommendations which included the development of the council's procurement practices to be more inclusive and exploring how effective business support can be provided.

15. In addition, the council's Economic Renewal Plan, which has been developed to help reduce and mitigate the economic impacts of the COVID-19 crisis, also sets out tasks and actions which aim to enhance business advice and guidance, particularly to local businesses. A review of business support, which considers much of the above, is currently being led by the Local Economy Team.

Recommendation 2: Strengthen local tendering requirements and increase them to EU thresholds

16. This recommendation would require an amendment to the Contract Standing Orders and, as it would amount to a substantive change, would require the approval of council assembly in line with procedures for changes to the constitution. Changes would also need to be made to associated guidance and gateway report templates and staff would need to be made aware of the new requirements. In addition, it would also require clarification of the definition of 'local tendering'. Subject to this, it could however be implemented relatively quickly.

Recommendation 3: Develop a portal with key procurement information and raise awareness of relevant bidding opportunities; and

Recommendation 4: Develop a list of providers that can be readily added to and is accessed as a standard part of relevant procurement processes to raise awareness of relevant bidding opportunities

17. Some procurement information as to potential future procurements to be undertaken is already available through the council's contracts register on the website. As with recommendation 1, developing this further would have significant resource implications, both in respect of the e-procurement system and also for individual service areas. In addition to inclusion within a bid for additional funding, it may be helpful to identify individual services that might be well placed to explore with Children's and Adults Services the options for building on their work to develop a website, as referenced in the commission's report.

Recommendation 5: Offer training for relevant businesses, and facilitate targeted provider forums to aid SME bidding

18. As noted above, the Southwark Stands Together programme and the Economic Renewal Plan aim to explore how effective business support can be provided and set out actions to enhance advice and guidance. The refreshed council plan also includes a commitment to develop a plan of support to assist local BAME-led and women-led enterprises to bid for and secure public sector contracts. There is insufficient capacity to offer training on procurement and securing contracts and it may be that this would therefore need to be procured. Resource implications need further consideration as part of the bid for additional funding.

Social value

Recommendation 6: The Council should be even more ambitious in embedding tailored social value requirements and take a “maximising social value” approach across departments supported by an enhanced central procurement function role. This approach should include: (i) requiring an explicit exemption for eligible tenders to waive the 15% social value requirement (ii) the Council developing model social value clauses covering anticipated future contracts in all Council departments, and (iii) the Council developing simple ways of recognising the types of social contributions made by local micro, small and community businesses

19. The current Fairer Future Procurement Framework requires the consideration of social value in all procurements over £100k and, where applicable, its use as part of the evaluation methodology for the tender award (on a case by case basis, but at least 15% of evaluation). Contract Standing Orders require specific exemption to be sought for non-compliance with usual procedures but the proposal in the report that the council should move towards recognising social value below the current £100,000 threshold would necessitate a substantive amendment to the Contract Standing Orders, approved by council assembly in line with procedures for changes to the constitution. Changes would also need to be made to associated guidance and gateway report templates and staff would need to be made aware of the new requirements. Although it could be implemented relatively quickly, further consideration is needed as to the potential impact on smaller businesses and their ability to meet any requirements without incurring what may be seen as a disproportionate burden.
20. Social value clauses are already included in contract documentation and, where appropriate, specific clauses are drafted. As social value needs to be considered throughout a procurement process, model wording is incorporated into gateway report templates to ensure that due consideration is given in line with the requirements of the Fairer Future Procurement Framework before a procurement is commenced and as tender and specification documents are prepared. However, the key to delivering social value is through effective contract management which can ensure that what has been offered by the contractor becomes a reality. Additional requirements can be explored with the Legal Services Contracts team.
21. The recognition of social value for lower value procurements requires careful consideration of what constitutes social value, if it is not to work in the opposite way from that intended. This needs to include an assessment of internal and external dimensions (e.g. the impact on employees, residents, the environment etc). Further consideration of this will be picked up in the refresh of the Fairer Future Procurement Framework which is scheduled for cabinet in January 2021 and is also relevant to the work to be carried out with SMEs and community

organisations as part of the Southwark Stands Together programme.

Procurement practice

Recommendation 7: The Council should pursue an explicit commitment to building community wealth across the borough through greater local procurement, in conjunction with other locally-embedded organisations, including local spending targets

22. A commitment to community wealth building (CWB) and to building capacity in neighbourhoods has been identified for action in the Economic Renewal Plan and work on the refresh of the Fairer Future Procurement Framework has also taken account of this commitment. The introduction of local spending targets also links closely with work needed to support earlier recommendations, not least because of the lack of data held at present.

Recommendation 8: The Council should share best procurement practice across departments and strengthen the central procurement function to raise the quality of practice across the Council

23. The sharing of best practice is already undertaken through newsletters and drop in advisory sessions, but further consideration will be given as to how this can be enhanced.

Recommendation 9: The Council should use s106 agreements, and work with developers and other large partners in other innovative ways to make more of the external procurement opportunities that exist in Southwark accessible to local SMEs. The Commission recommends better monitoring of developer performance against commitments, and piloting (in the Old Kent Road area) the SLPN model, where the Council uses s106 agreements to get developers to fund local SME procurement support and increase purchasing from local SMEs in their supply chains

24. The council welcomes this recommendation and already works with developers to ensure they are using local businesses. Proposals have been made by the government to replace s106 agreements and CIL contributions with a new Infrastructure Levy in its Planning for the future White Paper. Southwark Council has expressed significant concern that this will place a greater financial burden on local authorities and may mean that they are unable to place obligations on developers. The consultation period closed at the end of October 2020 and the government's response is currently awaited. It is therefore not yet clear what the impact of these proposals might be.
25. The council is committed to strengthening Southwark's local economy and, particularly in light of the impact the pandemic will have on businesses in the borough, will use all tools at its disposal to support them. It will consider the use of s106 funding in this way and balance it with other council priorities including employment and skills targets if it

were to necessitate redirecting s106 support from these areas. The council is planning to review the s106/CIL Supplementary Planning Document (SPD) where this will also be able to be considered.

26. Use of a platform to encourage more local procurement within Southwark from developers and other large businesses and the creation of complementary employment initiatives have resource implications which will need to be addressed as part of the bid for additional funding referred to above.

Resource implications

27. The recommendations made by the scrutiny commission have potential resource implications which have been highlighted in the paragraphs above. 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.

Financial implications

28. As noted above, there are potential resource implications and any budgetary implications arising from these will need to be considered as part of the wider consideration of next steps. Where it is not possible to contain the costs of any action plans arising from this report within existing budgets, they will need to be considered as part of the bid for additional funding to be included in the council's 2021-22 budget setting process.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Education and Business Scrutiny Commission recommendations report to cabinet 14 July 2020	Constitutional Team Southwark Council 160 Tooley Street London SE1 2QH	Paula.thornton@southwark.gov.uk
Link (please copy and paste into your browser): http://moderngov.southwark.gov.uk/documents/s89897/Report%20Procurement%20-%20Accessibility%20and%20Social%20Value%20-%20Report%20of%20the%20Education%20and%20Business%20Scrutiny.pdf		

APPENDICES

No.	Title
None	

AUDIT TRAIL

Cabinet Member	Councillor Rebecca Lury, Finance & Resources	
Lead Officer	Doreen Forrester-Brown, Director of Law and Democracy	
Report Author	Jo Anson, Interim Head of Governance	
Version	Final	
Dated	26 November 2020	
Key Decision?	Yes	
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		26 November 2020