

Item No. 18.	Classification: Open	Date: 19 January 2021	Meeting Name: Cabinet
Report title:		Update on Fairer Future Procurement Framework	
Ward(s) or groups affected:		All	
Cabinet Members:		Councillor Rebecca Lury, Finance & Resources	

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

This report provides an update on work done to date to enhance the council's commitment to social value through its Fairer Future Procurement Framework and also proposes further changes to the Framework to refresh it. These will help ensure that it remains a living document in line with the findings of the education and business scrutiny commission's investigation into the accessibility of procurement opportunities in Southwark to local businesses and community organisations.

The revised Framework seeks to bring together commitments made in the Borough Plan, Southwark Stands Together and the Economic Renewal Plan and also includes updates in respect of Equality, Diversity and Inclusion in the council's procurement processes.

It recognises that further work will need to be undertaken to review how social value is measured and assessed and to consider social value for lower value procurements and its potential impact on smaller businesses.

RECOMMENDATIONS

1. That cabinet approve the refreshed Fairer Future Procurement Framework (FFPF), at appendix 1.
2. That cabinet note the update on actions taken to enhance the council's commitment to social value in procurement.
3. That cabinet agree to delegate the approval of minor and consequential amendments to the FFPF (e.g. new targets following the finalisation of the council's Climate Change Strategy) to the Director of Law and Governance, in consultation with the Cabinet Member for Finance & Resources.

BACKGROUND INFORMATION

4. A review by overview & scrutiny committee of commissioning and procurement in Southwark in 2015 led to the development of the first

Fairer Future Procurement Strategy (FFPS). This aimed to introduce clear processes, including Gateway 0 reports for services over £10m in value, briefings for cabinet members for all procurements over £100k in value and enhanced provisions relating to blacklisting.

5. Following this, the council approved the Council Plan 2018-22 and revised Fairer Future Commitments in November 2018. These changes were reflected in an updated document, the Fairer Future Procurement Framework (FFPF), which incorporated changes to legislation, guidance and policies, made reference to social value, the Construction Charter and the End Violence at Work Charter, and strengthened provisions in relation to workforce issues.
6. The revised Framework was approved by cabinet on 18 June 2019 and cabinet was also asked to note next steps for enhancing the council's commitment to social value in procurement, with a report to be brought back on their implementation and impact.
7. At their meeting in December 2020, cabinet received a report which considered the recommendations made by the education and business scrutiny commission in July 2020 following their investigation into the accessibility of procurement opportunities in Southwark to local businesses and community organisations and their review of the council's early activity to implement social value provisions of its Fairer Future Procurement Framework. This report builds on that and also proposes further changes to ensure this is a living document best supporting the council's needs and aspirations from partner organisations it enters into contracts with.

KEY ISSUES FOR CONSIDERATION

8. As the education and business scrutiny commission noted in their report to cabinet in July 2020, there is currently a gap between where the council is and where it wishes to be in terms of its strategic ambitions in respect of accessibility to small businesses and existing social value practice within the procurement landscape, as well as having the data to measure and report upon these areas. The report back to cabinet in December 2020 recognised that many of the areas identified through the commission's review need to be considered in the context of broader priorities and work streams already being undertaken across the council, including the Fairer Future Procurement Framework and also Southwark Stands Together, the Borough Plan, and the Economic Renewal Plan. Recommendations which are of particular relevance to the work on the refresh of the FFPF have been considered in the paragraphs below.
9. The scrutiny commission recommended that the council should collect equalities data and local spending data. The refreshed FFPF includes a commitment to supporting this aspiration and the ongoing Southwark Stands Together programme, the Economic Renewal Plan aspirations and the refreshed Borough Plan are all relevant to this piece of work. However, the collection of data has significant resource implications (in terms of staffing and potentially changes to IT systems) and its implementation is

dependent on additional funding, a bid for which is being made as part of the council's 2021-22 budget setting process.

10. 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.
11. The scrutiny commission also proposed that the council should commit to build community wealth through greater local procurement and this has also been picked up within the refreshed Framework.
12. The report back to cabinet on the scrutiny commission's review also noted that, in relation to its recommendation that the council should share best procurement practice across departments, this was already in place through newsletters and drop in advisory sessions, but would be considered further.
13. When the FFPF was approved by cabinet in June 2019, a number of next steps were identified. Table 1 below addresses each of these and provides an update on action taken, with issues highlighted for further consideration where relevant, in light of the wider picture set out above.
14. It should also be noted that, although some of the actions below have been addressed relatively easily and speedily, others have resourcing implications. As was explained in the report to cabinet in December 2020, a request for additional resources to take forward this work is being made as part of the council's 2021-22 budget setting process.

Table 1: Update on next steps to be taken following agreement of the FFPF in June 2019

Next step	Update
Publish the FFPF on Southwark's website so this is available as a public document to any external organisation that might wish to work with the council.	Action complete – FFPF is on the council's website as a public document and can be found at: Policy and guidance for procurement
Publish the FFPF on the council's intranet with supporting guidance for council officers, e.g. on the new social value evaluation requirements and incorporate these into existing templates.	Action complete – updates to documents, guidance and templates to support the roll out of the FFPF were made by a cross-council working group. Guidance on the use of the London Living Wage (LLW) / the real UK Living Wage as set by the Living Wage Foundation has been reviewed alongside guidance on monitoring of its application as part of contract management.
Review the social value portal's themes, outcomes	This needs to be considered in light of the scrutiny commission's

Next step	Update
and measures (TOMs) in the light of successful pilots, to ensure that these are prioritised and aligned to the council's fairer future commitments.	recommendation about embedding tailored social value requirements and taking a 'maximising social value' approach across all departments. This report sets out the proposed next steps to ensure that the council can move towards delivering social value in lower value procurements, whilst taking account of the potential impact on smaller businesses and their ability to meet additional requirements.
Review the outcomes of the climate emergency summit in July 2019 and potentially incorporate additional targets and actions.	A draft Climate Change Strategy was approved for consultation by cabinet in July 2020. Once this has been finalised, work to incorporate relevant targets and actions into the FFPF will be undertaken.
Work to understand whether additional training is required.	Action under way – training for officers has been developed, including social value and the achievement of best value, as part of a digital training package available to all staff via MyLearningSource. Further consideration of the development of staff skills in respect of: a) Promoting staff competencies in procurement, commissioning and contract management b) Improving contract management by continuously improving and learning from experience of 'relationship management' and identifying tools, best practice and training as appropriate was deferred pending the proposed restructuring of the procurement advice team and the need to prioritise resources during the pandemic.
Bring the Southwark construction charter back to cabinet for approval in September 2019. Once agreed, it will be incorporated into future construction contracts entered into by the council.	The Southwark construction charter is based on the Unite charter and is on hold pending ongoing consideration by the trade union of revisions: it will be brought back to cabinet once Unite has finalised the wording.
Amend and update guidance for officers on relevant contracts and justifications for the grounds for best value when	Action complete – the obligations set out in the FFPF have been incorporated into the terms and conditions of the council's contracts.

Next step	Update
assessing the payment of the London Living Wage (LLW) or real UK Living Wage (as set by the Living Wage Foundation).	
Undertake further investigation into the work of 'Electronic Watch' which monitors the public procurement of electronic goods and supply chains, with a view to see what more the council needs to do to ensure the rights of all workers in our electronic supply chain are respected and their working conditions are safe and decent	This action was put on hold during the pandemic with prioritisation of resources as this work requires the involvement of the shared IT service. Resources to undertake this work have yet to be identified.
Keep legislative changes and new policies that support and further the aims of the council, such as the mayor's good works standard, under review and incorporate into the FFPF where appropriate.	Action is ongoing and changes made to date are listed in the FFPF's version control section to maintain a full audit trail. Areas for consideration that were identified by the scrutiny commission have been set out in the paragraphs above this table. Other policies that support the aims of the council and have been incorporated into the FFPF where appropriate are the Economic Renewal Plan and the Borough Plan. The paragraphs below set out action taken to include these in the refreshed FFPF.

The refreshed Fairer Future Procurement Framework

15. The refreshed Fairer Future Procurement Framework is attached at appendix 1. The paragraphs above have identified some of the changes made as part of the next steps identified by cabinet in June 2019 and also following the scrutiny commission's review. Further changes made in light of other policy commitments are set out in the paragraphs below.
16. The Economic Renewal Plan includes a work stream (2.19) being led by the Local Economy Team to support Southwark BAME-led and women-led businesses to secure contracts with public sector anchor institutions. One of the key tasks is to develop a plan of support, aligned to the FFPF, to assist these enterprises to bid for and secure public sector contracts. These commitments are also set out in the council's Borough Plan and are reflected in the refreshed FFPF.

17. The Economic Renewal Plan also sets out a work stream (2.20) to encourage all Southwark businesses with more than 50 employees to publish their BAME and gender pay gaps (this is also included in the council's Borough Plan) and notes that as part of the FFPF, the council will request that all contractors with 50+ employees commit to publish their BAME and gender pay gap on contracts greater than £100k and will also develop an engagement plan with Southwark businesses to encourage them to do this. The requirements for the gender and BAME pay gap information that go above and beyond statutory provisions are already within the FFPF.

Review of the FFPF's implementation

18. A review of the impacts of the Fairer Future Procurement Framework (FFPF) was undertaken and the feedback has been:
- Only those companies within London can sign up to the Mayor's Good Work Standard formally via the GLA's online assessment process. Companies outside London signing up to principles of the Mayor's Good Work standards need to confirm their commitment to the council via other means.
 - The impact of Covid-19 has affected the ability of suppliers and council contract managers to focus on or deliver some of the requirements of the FFPF because of:
 - a. extensions to existing contracts, which are not subject to the FFPF as procurement activities have been delayed.
 - b. a focus on delivering the core contract in a Covid-compliant manner
 - c. lack of resourcing capacity to provide management information e.g. gender and BAME pay gap information.
 - d. the inability to deliver some social value commitments in a Covid-compliant manner e.g. career talks at school.
19. There has been a delay to the planned restructure of the Procurement Advice Team and available resource, as well as the challenge with delivering training remotely and with dealing with the pandemic, has meant that some elements of the planned training and contract management guidance in support of the aspirations of the FFPF have yet to be delivered.

Social Value

20. Social Value is defined by the Public Services (Social Value) Act 2012 (PSSVA) as "the additional benefit to the community from a commissioning or procurement process over and above the direct purchasing of goods, services and outcomes".
21. The Act requires considerations at the pre-procurement stage of how the procurement might "improve the economic, social and environmental well-being of the relevant area" via the procurement process.
22. The council's approach goes further than the requirements of the Act,

which covers only services contracts over £189k in value. The FFPF confirmed that social value should be considered for inclusion in all contracts (goods, works and services) over £100k.

23. In recognition of the significant impact that the council's spend can have on its residents and local area, the FFPF states that all tenders, over £100k in value should include social value criteria equivalent to at least 15% of the tender evaluation scores. Full details of the evaluation criteria and the assessment of social value should be set out in the gateway 1 report as this has to be assessed on a case-by-case basis.
24. The ideal area for social value is to be a win/win: of benefit to the council / borough but practicable for a supplier to offer. This may be offering apprenticeships, work placements or career talks at schools. Equally it can also cover elements around efforts towards meeting the council's environmental targets e.g. carbon reduction targets (aiming for a carbon neutral borough by recycling / use of sustainable materials / reduction in use of single use plastics).

Social Value Portal

25. The council has invested in the Social Value Portal (SVP). The system provides a way for organisations to place social value bids as part of a tender process. These social value bids are evaluated by the SVP as part of the tender evaluation and the portal allows a clear record of the commitment that will form part of the contract if the bid is successful. Once in contract, suppliers will use the portal to record and reflect their delivery against these commitments as part of on-going contract management and monitoring.
26. Social Value Portal (SVP) have developed a nationally available model that can be used to set and record social value Themes, Outcomes and Measures (TOMs). The TOMs framework establishes a way in which social value can be given a quantifiable value, with measures e.g. apprenticeships or work placements, that are from the public sector Green Book (budget figures) and provide a measure of societal benefit rather than to the individual council.
27. The benefits of using this model include the provision of a quantitative means of comparison between different types of social value. The use of the national TOMs also allows for comparison and benchmarking across the council and with other public sector contracting authorities.
28. The SVP operates as an online tool for suppliers to input their bid for the social value outcomes to be delivered if they are successful, as part of a tender process.
29. If it proves difficult to deliver the social value as envisaged, the TOMs framework also has remedies within contracts that initially look for suppliers to propose alternative social value options (of similar value) that

they are able to deliver during the contract.

SVP Pilots

30. Four pilot projects were selected to use the SVP as part of the procurement exercise. During the pilots, the evaluation percentage allocated to social value was split into 50% to the cost of the social value to be delivered (against the green book values) and 50% to the quantitative submission about how these social value elements would be delivered. As noted, support from the SVP team in evaluation of the SV bids and any clarifications was given.
31. There is no cost to suppliers for using the portal as part of the tender process but the winning bidder must pay a cost that is equivalent to 0.2% of the annual contract cost, with a minimum of £500 and a maximum of £5k per annum. The winning bidders are then given access to the portal during the life of the contract to upload evidence of the social value that they have delivered. The contract managers are given updates from the portal in line with agreed timelines for contract management meetings (usually quarterly) which confirm whether the social value commitments are being delivered.
32. The tenders selected to be part of the SVP pilot were:

Service Area	Contract	Total Contract Value	Duration (max)	% Social Value Evaluation Criteria	Start Date
1. Children's and Adults Services	Community Hubs for Older People and Carers	£400,000	5 years	15%	05/05/2020
2a. Environment and Leisure	Highways Works - Maintenance	£15.9m	5 years 9 months	10%	01/07/2020
2b. Environment and Leisure	Highways Works – Projects	£55.4m	5 years 9 months	10%	01/07/2020
3. Environment and Leisure	Parking Enforcement	£37.5m	10 years	10%	01/06/2020
4. Environment and Leisure	Air Quality Monitoring Stations (AQMS)	£343,500	5 years	10%	01/04/2020

SVP Pilot Outcomes

33. In financial terms, the social value commitments achieved for these tenders, following the procurement processes were:

Contract	Annual Contract Value	Social Value commitment	Social Value Commitment p.a.
1.Community Hubs for Older People and Carers	£80,000	£4,523,903	£904,780
2a.Highways Works - Maintenance	£2,765,217	£4,742,374	£824,760
2b.Highways Works – Projects	£9,634,782	£982,103	£980,759
3.Parking Enforcement	£3,750,000	£5,084,931	£508,493.10
4.Air Quality Monitoring Stations (AQMS)		£5,443	£1,088

34. Specific examples of the social value commitments made via the Social Value Portal include commitments to local employment as part of the contract, apprenticeships, training opportunities and meaningful work placements. The hub saw staff supporting service users to volunteer or be involved in skills swaps. Both highways contracts included training, and work placements, as well as support for local supply chains and spend with SMEs. The Air Quality Monitoring included reductions to carbon emissions, and the parking contract saw support for initiatives to tackle homelessness and advice to local SMEs.

Findings of the pilots

35. From the pilots, a number of lessons have been learnt:
- Not having social value evaluation criteria that mandate the exclusion of bidders linked to minimum scoring in this section (as is often used in quality criteria)
 - That it may be difficult to use the SVP for some social service contracts of the Community Hubs, given the nature of the contract to be delivered, i.e. community engagement and the creation of social value
 - Some services or goods contracts, with little presence within Southwark (such as the AQMS) or which have little profit within their delivery versus contract value (such as the agency staff contract) have little social value to offer to justify the use of the SVP
 - Larger contracts with defined spend are most suited to this model being used
 - Framework agreements with undefined contract values, necessitate using a nominal value during the tender process, meaning a lag in matching actual spend to SV commitments.
 - The delivery of SV is not linear: contract performance at the start is usually prioritised, with SV being focused upon as the contract progresses.
36. In light of the above, it is suggested that guidance is issued to require that the use of the SVP is considered for contracts for goods and services over £4m and works contracts £15m as part of the procurement process.

37. The TOMs and its measurement framework for social value can be used independently from the portal and is, at present being used for appropriate contracts over the Public Contract Regulations thresholds. It is now suggested that this model's use is extended, to include all appropriate contracts over £100k.
38. However, as noted, a check on the nature of the contract needs to be undertaken and any variation from these amendments should be noted in gateway one report.

Next Steps

39. 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.
40. As noted above, changes to legislation and new or amended policies, have been and will continue to be, reviewed and incorporated where relevant into the FFPF.

Equalities and Community Impact Analysis

41. The public sector equality duty (PSED) requires the council to give due consideration to the needs of different protected characteristics in relation to the three parts of the duty:
 - a) Eliminating discrimination, harassment and victimisation.
 - b) Advancing equality of opportunity, including finding out about and meeting diverse needs of our local communities, addressing disadvantage and barriers to equal access; enabling all voices to be heard in our engagement and consultation undertaken; increasing the participation of underrepresented groups.
 - c) Fostering good community relations; promoting good relations; to be a borough where all feel welcome, included, valued, safe and respected.
42. The PSED is now also further reinforced in the two additional Fairer Future for All values: that the council will:
 - a) Always work to make Southwark more equal and just
 - b) Stand against all forms of discrimination and racism.
43. The revised FFPF has been amended to include commitments in the Borough Plan, Economic Renewal Plan and Southwark Stands Together:
 - An equality impact and needs analysis (EINA) must inform all commissioning and procurement. All Gateway 0 strategic assessments and Gateway 1 reports must show that all relevant equality issues and obligations are taken into account and planned throughout both the

procurement process and in the delivery of those functions on behalf of the council.

- Current Council documents, including the Approach to Equality and Procurement will be revised in early 2021. The Southwark Framework for Equality will replace the current Approach to Equality. One key element will be commissioning, procurement and equalities. Revised guidance will also be produced in 2021 to help with its implementation.

44. The public sector equality duty (PSED) is a continuing duty, equality considerations must be considered at each stage of the commissioning and procurement cycle.

Resource implications

45. There are potential resource implications 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.

46. The resources to support the procurement processes include the Procurement Advice Team and Legal Contracts teams, as well as all departments undertaking procurement activities.

Financial implications

47. 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
Report to cabinet 18 June 2019: Link: (please copy and paste into browser) http://moderngov.southwark.gov.uk/documents/s83220/Report%20Fairer%20Future%20Procurement%20Strategy.pdf	Constitutional Team Southwark Council 160 Tooley Street London SE1 2QH	Paula Thornton 020 7525 7055

APPENDICES

No.	Title
Appendix 1	FFPF (refresh)

AUDIT TRAIL

Cabinet Member	Councillor Rebecca Lury, Finance & Resources	
Lead Officer	Doreen Forrester-Brown, Director of Law and Governance	
Report Author	Elaine McLester, Head of Procurement	
Version	Final	
Dated	11 January 2021	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Law and Governance	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	11 January 2021	