**Community Benefits in Contracts**

Process and Guidance document

March 2019

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Introduction

***"The first question that we should ask when developing any contract specification should be: Can we include a community benefit clause?"***

 *John Swinney, Cabinet Secretary for Finance and Sustainable Growth, March 2010*

1.1 Since 2008 Community Benefits clauses within Scotland have been a key component of public procurement policy and practice.[[1]](#footnote-1)

To embed best practice and drive public bodies to consider Community Benefit clauses in procurement, The Procurement Reform (Scotland) Act 2014 established a national legislative framework for sustainable public procurement that supports Scotland`s economic growth through improved procurement practice[[2]](#footnote-2). The act requires public bodies including South Ayrshire Council to consider how their procurement activity can improve the economic, social and environmental wellbeing of the authority`s areas.

1.2 The Council is committed to maximising Community Benefits from its procurement activities. The use of Community Benefits clauses contributes to South Ayrshire Council`s Procurement Strategy Key Objectives, in particular Key Objective 4: **“Fulfilment of Sustainable Duties”**.

Within this objective it’s the Council’s ambition to **“develop established methods of evaluation and recording of Community Benefits in the execution of individual contracts”**. The Community Benefits Process and Guidance document shall assist the Council in delivering this ambition by meeting the following objectives:

* To further promote and consider the inclusion of Community Benefits clauses in all relevant procurement activity;
* Establish a standardised Community Benefit clause and quality (technical) question to be included within tenders;
* Establish a standardised process to monitor Community Benefits delivered by Suppliers throughout the contract lifetime;
* Establish a standardised process to report and promote Community Benefits delivered by Suppliers throughout the contract lifetime;
* Maximise outcomes through the use of Voluntary Community Benefits; and
* Maximise outcomes by developing Supplier knowledge and understanding of Community Benefits.

Definition

2.1 Community Benefits clauses are contractual clauses than can be legally included in public procurement projects[[3]](#footnote-3) and provides a method of including social, economic and environmental matters in all Council contracts. Such social, economic and environmental benefits are hereinafter referred to as **“Community Benefits”.**

Community Benefits deliver wider benefits in addition to the main purpose of the contract and provide a means of achieving sustainability. Areas of Community Benefits that a Supplier can deliver include, but not restricted to, are detailed on the points below:

* Improving education and skills (e.g. creation of apprenticeships);
* Improving local employability (e.g. creation of new jobs);
* Work experience placements/programmes;
* Delivering training and development;
* Enhancing and improving local community and environmental projects;
* Sponsorship and charity work; and
* Supported Business, third sector and voluntary initiatives.

2.2 Community Benefits can be incorporated in procurement activity in the following ways:

 **Contractual Community Benefits:**

Contractual Community Benefits form part of the contract with appropriate contractual conditions. Suppliers have a contractual obligation to deliver these commitments. Contractual Community Benefits can be incorporated in the following ways:

**Evaluated:** Community Benefits included as contractual obligations are evaluated as part of the tender process. A weighted quality (technical) question is included within the evaluation criteria of a tender, Suppliers are evaluated based on their response to the weighted Community Benefits question.

**Mandatory:** Specific Community Benefit requirements will be stipulated as a mandatory requirement within the tender documents (Statement of Requirement/ Terms and Conditions). Examples can include: advertising sub-contracting opportunities, targets recruitment and targeted training requirements.

**Voluntary Community Benefits:**

Voluntary Community Benefits may be encouraged by the Council for a particular contract or procurement project. Voluntary Community Benefits will not form part of the evaluation or indeed place a contractual obligation on the Supplier; however those which are offered and accepted by the Council will be reported and monitored to ensure fulfilment.

Background

3.1 The main drivers of the Community Benefits Process and Guidance document are to support recent changes in procurement legislation, regulation and statutory requirements both at a national and local level, this includes the following:

* Procurement Reform (Scotland) Act 2014;
* Sustainable Procurement Duty;
* Scottish Government Sustainable Procurement Action Plan;
* Local Government Scotland Act 2003; and
* South Ayrshire Council`s Procurement Strategy (March 2018).

3.2 The Council adopted the use of Community Benefits for procurement projects considered relevant which were over £50,000.00 for goods and services contracts and over £4,000,000.00 for works contracts.

The Council now requires a Process and Guidance document and a methodology to ensure Community Benefits can be achieved in all contracts over £50,000.00 for goods and services and over £4,000,000.00 for works. Furthermore the Council will monitor and report on Community Benefits delivered by contracted Suppliers.

3.3 A key driver of the Community Benefit Process and Guidance document is to establish and promote methods of evaluation and recording of Community Benefits in the execution of individual contracts in line with Key Objective 4 of South Ayrshire Council`s Procurement Strategy – “Fulfilment of Sustainable Duties”.

Approach

4.1 To support delivery of the Community Benefit Process and Guidance document, the Council shall implement consistent and transparent processes and governance. An outline of this process is detailed on the diagram below.

4.2 The Council shall focus on the following areas when collecting and reporting on Community Benefits:

* Improving education and skills providing apprenticeships to those in education;
* Improving local employability providing new jobs (recruitment of long-term unemployed, disadvantaged or young people)
* Providing work experience placements to those in education
* Improving education and skills providing training;
* Enhancing and improving local community projects providing opportunities for involving local community organisations/social enterprises/SME`s; and
* Other applicable Community Benefits.

Process

5.1 The Council is committed to maximising both the contractual and voluntary Community Benefits from its procurement activities. The Council will adhere to all statutory guidance and legislation on the use of Community Benefits, ensuring all regulated procurements include Community Benefits clauses.

 The Council is committed to maximise Community Benefits in respect of contracts with an estimated value of:

5.2 The Council is committed to work with Scottish Procurement and Scotland Excel to incorporate Community Benefits in national framework agreements utilised by the Council.

5.3 The aim of achieving contractual Community Benefits as part of the Council`s tendering process shall be made clear within the Contract Notice published on Public Contract Scotland and within the tender documentation that the contract may include provisions to achieve Community Benefits. **The Council’s Community Benefits clause, quality (technical) question and template that tenderers will be required to complete, if applicable to their contract, can be located in Appendix 1.**

The principal of transparency and non-discrimination is crucial to ensure that contractual Community Benefits are legally incorporated into the tendering process. The inclusion of Community Benefits shall not directly or indirectly disadvantage or discriminate against bidders out with South Ayrshire Council or individuals/groups covered under the protected characteristics of the Equality Act 2010.

5.4 The aim of achieving voluntary Community Benefits will form part of the Council’s Contract and Supplier Management (CSM) Process. To maximise voluntary Community Benefit outcomes the Council’s CSM Team shall incorporate discussions in relation to Community Benefits within their standard processes and CSM documents/templates.

5.5 The Council is committed to working with contracted Suppliers to ensure contractual and voluntary Community Benefits are delivered, recorded and shared across the Council. This includes providing a [link](https://www.south-ayrshire.gov.uk/procurement/community-groups.aspx) to our “Community Groups Seeking Support” web page to our Suppliers.

Monitoring and Reporting

**“Community Benefit” Update Form**

6.1 On a bi-annual basis the Contract and Supplier Management (CSM) Team shall email a Community Benefit Update Form to all contracted Suppliers to allow them to provide an update on contractual and voluntary Community Benefits.

**Sustainable Procurement/Community Benefits Register**

6.2 The updates from the “Community Benefit” Update Form shall be used to populate the Council’s Community Benefit Register to record all contractual and voluntary Community Benefits pledged and delivered to South Ayrshire Council.

 The Community Benefits Register will be kept and maintained by CSM, and updated bi-annually once the Community Benefit Update Forms have been processed.

**Community Benefits Key Performance Indicator (KPI)**

6.3 Supplier performance is monitored using South Ayrshire Council’s Standard Key Performance Indicators (KPI`s) (see **Appendix 2)**. This includes a Key Performance Indicator in relation to Community Benefits which assesses the Supplier’s contribution either contractually or voluntary towards Community Benefits.

 The Community Benefit KPI shall be reviewed on an annual, bi-annual or on a quarterly basis depending on the overall risk level of the Contract.

**Community Benefits and Pro-Active Contract & Supplier Management**

6.4 The Council’s Contract and Supplier Management (CSM) team shall oversee and support the delivery of the Community Benefit process, with assistance from the Community Engagement Team.

Contacts and Further Support

7.1 The table below provides the key contacts that can assist Suppliers in delivering their Community Benefits:

|  |  |
| --- | --- |
| Role | Contact Details  |
| Procurement Manager | Zoe.Fance@south-ayrshire.gov.uk  |
| Contract and Supplier Management Team | CSM@south-ayrshire.gov.uk  |
| Community Engagement | Marion.Young@south-ayrshire.gov.uk |
| Educational Talks | Gavin.Pitt@south-ayrshire.gov.uk |
| Employability & Skills | Employability.Skills@south-ayrshire.gov.uk  |

Examples of Community Benefits

8.1 Procurement Professionals and Suppliers should consider the following example areas of Community Benefits:

* + **Targeted Recruitment and Training** - offering individuals and young people training, apprenticeships, jobs and work experience as part of a contract;
	+ **Supply Chain Initiatives -** offering Small and Medium Enterprises and Voluntary Sector organisations opportunities to provide goods and/or services as part of a contract.
	+ **Social Enterprise -** where a local social enterprise can either be established to service a contract, or an existing social enterprise be supported to deliver on part of a contract.
	+ **Community Consultation -** giving the local community an opportunity to express an opinion and possibly influence the design and delivery of a project or service in an area.
	+ **Young Person Engagement -** giving young people in the area an opportunity to engage in a project. The engagement can range from young people learning about a project to giving them the opportunity to shape and influence a project thus giving them more say in and connection to the future of their area.
	+ **Educational Support** - giving school children an opportunity to learn about a project by providing educational presentations or arranging school visits.
	+ **Community Endowment Fund/Development Trust** - where a financial sum may be made available to implement projects that the community considers to be a priority. This often ensures ownership, participation and support at a very local level.
	+ **Public Art Projects** - a tangible project that a community can focus on and be involved in either as a standalone activity or part of a wider regeneration initiative.
	+ **Local Events -** local ownership of a project or service.
	+ **Physical Infrastructure -** often delivered by the private sector as part of a Section 75 agreement in relation to a planning consent. Examples would be infrastructure required to enable a new development to be implemented for example roads and footpath/cycleway improvements, schools and libraries and play areas and open space.
	+ **Local Sponsorship -** private companies are often asked to sponsor organisations local to the area in which they are developing/delivering a service.
	+ **Mentoring -** private sector Suppliers can offer support, normally as part of their Corporate Responsibility activity, where they can offer support and guidance to local organisations and individuals.

Appendices

**Appendix 1: Community Benefits Tender Process Documents**

* **Community Benefit Clause used in Tender Documentation**

It has become clear that there is scope within the EU legal framework which applies to public contracts, to use contracts to deliver wider social benefits such as:

a) Targeted recruitment and training (providing employment and training opportunities/Apprenticeships)

b) SME and social enterprise development

c) Community engagement

There is also a link below to the South Ayrshire Council Webpage, with a list of local projects, which you may find useful for any Community Benefits you wish to undertake:

https://www.south-ayrshire.gov.uk/procurement/community-groups.aspx

[Note: Include the following paragraph if asking a scored “Technical Envelope” question on Community Benefits – delete note before issue]

Under question [xx] of the Technical Envelope, Tenderers are requested to provide an outline of all Community Benefits that can be offered in relation to this Contract. Please note any Community Benefits stated shall be monitored to ensure delivery as part of a Key Performance Indicator as stated in section [xx] above.

* **Template to Complete Community Benefit Weighted Quality (Technical) Question used in Tender Documentation**
* **Community Benefit Weighted Quality (Technical) Question used in Tender Documentation**

Tenderers should detail and demonstrate their organisations’ commitment to providing Community Benefits within South Ayrshire with specific reference to this contract.

Tenderers should consider the following Community Benefit categories and, where possible, allocate the benefit intended to be offered during the contract period against these categories;

• Improving Education and Skills (e.g. creation of apprenticeships or delivering presentations in schools)

• Improving Local Employability (e.g. creation of new jobs, recruitment of long-term unemployed, disadvantaged or young people)

• Work Experience Placements/Programmes (e.g. providing work experience placements to those in education)

• Delivering Training and Development in the Community (e.g. mentoring - private sector suppliers can offer support, normally as part of their CSR activity, where they can offer support and guidance to local organisations and individuals)

• Enhancing & Improving Local Community and Environmental Projects (e.g. providing volunteers or donations)

• Sponsorship and Charity Work

• Supported Business, Third Sector and Voluntary Initiatives (e.g. offering Small and Medium Enterprises and Voluntary Sector organisations opportunities to provide goods and/or services as part of a contract)

• Other

Tenderers should focus on what their organisation can deliver throughout the duration of this contract against the Community Benefit categories listed above and submissions will be evaluated accordingly.

Community Benefits delivered in the past or through previous projects cannot be evaluated as part of this submission and, as such, submissions which focus on historic Community Benefits will receive zero marks.

If further information is required, tenderers can refer to South Ayrshire Council's Community Benefits web page.

<https://www.south-ayrshire.gov.uk/procurement/community-benefits.aspx>

This includes a list of local projects, which you may find useful for any Community Benefits you wish to propose. Any questions should be directed through the PCS-T messaging service.

Please download, complete and attach the file titled "Community Benefits Table (Insert Tenderer Name)". This can be found on the left to this question if you click on the paper clip item.

Please submit your response using the attachment provided.

**Appendix 2: South Ayrshire Council`s Standard Key Performance Indicators (KPI)**



1. Scottish Government (2008) Community Benefits in Public Procurement, Edinburgh [↑](#footnote-ref-1)
2. Scottish Procurement Policy Note (SPPN 6/ November 2014) [↑](#footnote-ref-2)
3. Scottish Government (2008) Community Benefits in Public Procurement, Edinburgh [↑](#footnote-ref-3)