



Sustainable  
Procurement  
Strategy:  
2018-22

## CONTENTS:

- 1) Foreword
- 2) Introduction
- 3) Executive Summary
- 4) National context
- 5) Local and organisational context
- 6) Our vision, principles and outcomes
- 7) Delivering the strategy
- 8) Conclusion

Appendix 1: Council delivery against national reports

Appendix 2: Social Value toolkit

Appendix 3: Development Plan:

## 1. Foreword

The Council has implemented a strategic approach to procurement for a number of years. This current version of the strategy sets out the ambition for the Council's procurement activity to positively impact on our economy and the people of Cumbria.

As a result of uncertainties in the current economic climate and the challenges such brings, effective procurement in local government has never been more important.

Procurement has a pivotal role in ensuring the Council delivers high quality services and wider social economic benefits, by working in partnership and collaboration with commissioners and providers, and the wider public sector generally.

The aims of the strategy are three-fold:

First, to support the Council's long-term financial sustainability and drive efficiencies by ensuring all procurement activities are efficient; effective; transparent, legally compliant and equitable, thereby delivering value for money and commercial benefits.

Second, to support local economic growth whilst responding to commissioning requirements, encouraging and supporting local organisations to bid, win and deliver Council contracts where possible.

Third, to optimise the social value opportunities through contracting arrangements where appropriate and proportionate to do so, delivering wider socio, economic and environmental benefits to the people and communities of Cumbria.

In developing this Strategy we have listened to our key suppliers, the third sector, customers of the procurement service across the Council and I am confident that it takes account of the local picture, whilst considering the national context and best practice and policy.

The strategy sets out our commitment to introduce our ethical contracting charter which will set out the aspirations, standards and the behaviours we expect from others who we do business with.

I would like to take this opportunity to thank all those involved in the development of this Strategy and look forward to working with you in its implementation – to deliver the best services possible within the available resources.

Cllr Ian Stewart

Deputy Leader of the Council and Cabinet Member for Commissioning and Procurement

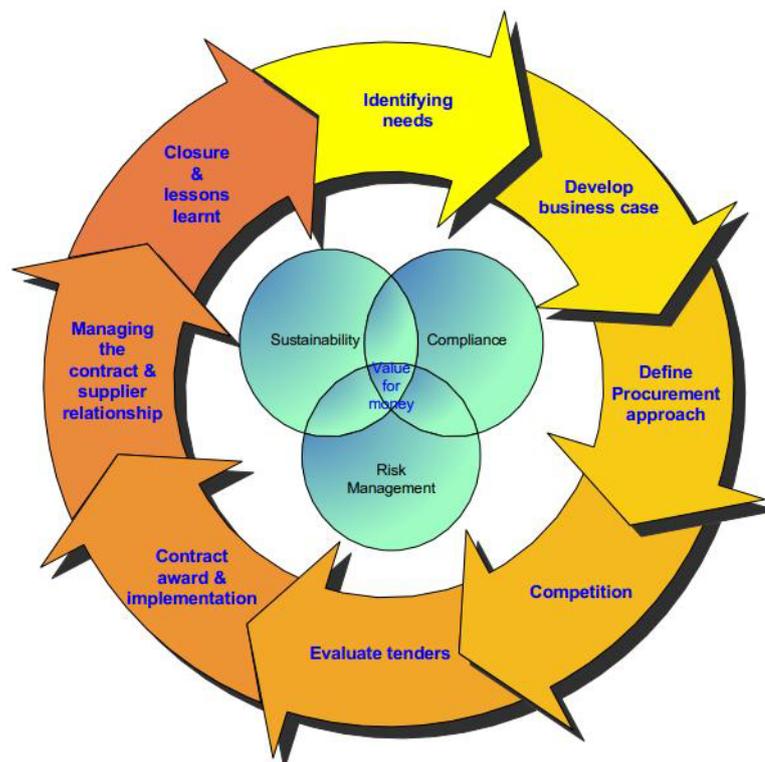
## 2. Introduction (what do we mean by Procurement?)

In order to deliver our priorities and statutory responsibilities, the Council currently procures goods, works and services with a value in the region of £520million (2016/17). As one of the largest buyers within Cumbria, the Council is aware of the impact its spending patterns and commissioning decisions have on the lives of many who live or work in the County.

The Council's framework for Procurement includes the Sustainable Procurement Strategy, the Contract Procedure Rules and public procurement legislation.

*Procurement is the business management function that ensures identification, sourcing, access and management of the external resources that an organisation needs or may need to fulfil its strategic objectives.* (Chartered Institute of Purchasing and Supply (CIPS) 2013). The steps in the procurement cycle are set out below:

### The procurement cycle



The proposed Sustainable Procurement Strategy builds upon the previous Strategy (2014-2018) and sets out the Council's vision for procurement, its aims, outcomes and action plan for its delivery. A summary of some key achievements of the current Procurement Strategy (2014-18) is set out over the page.

Through the delivery of its 2014-18 strategy the Council was able to:

- Deliver greater value for money through clearer lines of accountability between commissioning and procurement activities; developing a category manager/internal business partner approach; and introduced a new early payment scheme initiative which delivers over £400,000 income per annum;
- Strengthen and develop procurement processes, contract management and the Council's capacity to deliver on its procurement agenda;
- Develop better links with the wider supply base which has resulted in greater value for money in what the Council buys;
- Strengthened the Council's relationship with the Third Sector and Small and Medium Enterprises (SME's), for example, over 2,000 people are employed on part/full-time basis to work on transport contracts in Cumbria; eight apprenticeships created specifically relating to Capital Schemes; approximately 35% spend with local SME's (60% with SME's nationally); over 64% spend in Cumbria generally; over £4m. spend annually on food contracts, 90% of the fresh meat sourced is produced in Cumbria; 100% of school milk supplied and delivered by local farms and the Council spends 9% of its addressable spend with 90 Third Sector organisations;
- Corporately, through two service reviews, has delivered over £1.5m revenue savings in staffing costs in a centralised team.

## Social Value 2016/2017

# 2000+

local people are employed on a part time/full time basis, to work on transport contracts



## Employment

21 jobs created, specifically relating to the Capital Schemes framework

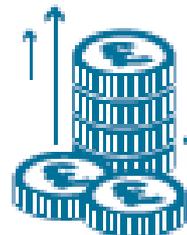
## Training

8 apprenticeships created specifically relating to the Capital Schemes framework



## Financial

In the 2016/17 project to build Cumbria House, 30% of the total £10,000,000 budget was spent with local businesses



Approximately 35% spend with SME's (nationally Central Gov't ambition is 33.3%)



Approximately 50% spend in Cumbria generally



Businesses signed up to Early Payment scheme for contractors since Summer 2014



Spend Analysis: Local SME's spend approximately £135,000,000 SME spend nationally approximately £250,000,000



'Open Procedure' tenders on The Chest (web portal): Approximately 75% have been awarded to Cumbria Businesses

Over £4,000,000 is spent annually on food contracts: 90% of the fresh meat sourced is produced in Cumbria



Free school milk scheme: 100% supplied and delivered by local farms

## Supply Chain

9/10

contracts awarded via The Chest (Web portal) have at least one **Social Value clause** included

90

Spend with **Third Sector: 90** organisations (5% of total 'addressable' spend)

In excess of **9600** passengers travel each day within Cumbria: All contracted to local SME's (or from local depots within Cumbria) – Spend in the region of **£23,000,000** per annum for Home to School Transport and Transport for Special Educational Needs



### National Procurement Strategy 2017:

(Recent national diagnostic benchmarking exercise by the Local Government Association): Cumbria achieved an overall score of **4.4** (where 4 equals 'good' and 5 equals 'exceptional')

The Diagnostic exercise involved areas such as social value; access for SME's; supplier engagement and; economic growth using flexibilities under the EU Directives and category management etc.

## Performance

Approximately **59%** of spend is with National SME's

### 3. Executive Summary

The Sustainable Procurement Strategy (2018-22) sets out the Council's vision for procurement, the outcomes it will secure and a plan for delivery. The Strategy is set within the context of the Council Plan (2018-22) which states that our vision is to be:

***'A Council that works with residents, businesses, communities and other organisations to deliver the best services possible within the available resources'***.

The outcomes describe what we want to achieve for the people of Cumbria, and these provide a clear focus for everything we do:

- People in Cumbria are healthy and safe
- People in Cumbria are well connected and thriving
- The economy is growing and benefits everyone

The Council will achieve this vision by putting customers at the heart of everything we do; supporting communities to thrive; focusing on the most vulnerable and managing demand.

The Council's Sustainable Procurement Strategy (2018-22) builds upon the previous strategy (2014-18) which has been significantly delivered. It reflects both local and national policies and priorities and takes into account feedback from Elected Members, the third sector, key suppliers, and customers. It describes the

ambition for sustainable procurement and the role procurement will play in achieving the Council's vision and outcomes for the people of Cumbria, supporting our new ways of working and the priorities and focus for activities over the next four years.

The Strategy aims to:

- **Support the Council's long-term financial sustainability and drive efficiencies**
- **Support local economic growth whilst responding to commissioning requirements**
- **Optimise the opportunities for delivering 'social value' opportunities through procurement**

The outcomes from the Sustainable Procurement Strategy (2018-22) are as follows:

- **Value for money is achieved** for the Council and the people of Cumbria – procurement drives efficiencies and results in cost effective purchasing decisions within available resources;
- **Council Plan outcomes and activities are delivered** from procured goods and services meeting the commissioning needs of services users;
- **Local economic growth is supported** – local organisations are supported to bid, win and deliver Council contracts where possible;
- **The impact and value from our contract expenditure is maximised** – opportunities will be taken to incorporate socio, economic and environmental benefit clauses into contracts, wherever relevant and proportionate to do so, and reflected in the development and implementation of an ethical contracting charter;
- **The Council's commitment to the Living Wage is demonstrated** – the encouragement of providers to pay the Living Wage Foundation's Living Wage to their staff in delivering services to, and for the Council;
- **The Council encourages and supports the operation of effective markets** - the Council will use its purchasing power and relationships to help optimise competition and performance, seeking to mitigate risks of market failure and put in place simple, robust and legally compliant contract procedures.

The refreshed Strategy is set against a background of uncertainty and change. For procurement activities, this impact of in Brexit and the legislative framework provided through the EU Procurement Directives will become clearer over the life of the Strategy.

Pressure upon local government budgets continues. The Council has made extensive savings amounting to £214million over the period 2011-2018 from its day-day revenue expenditure and The Council estimates that it will need to save another approx. £70 million by 2022.

Demand for services continues too, particularly in relation to services to the most vulnerable adults and children. In addition, Cumbria faces particular challenges in relation to the maintenance and updating of highways and built infrastructure in a county the size of Cumbria.

These challenges also provide opportunities for the Council to use its purchasing power to deliver improvements in the structure of markets, provide opportunities for local suppliers, deliver better outcomes for people, and support better commissioning and integration of services across public sector organisations operating in Cumbria.

A development plan (set of measures) has been developed to demonstrate delivery against the Strategy and this is set out in Appendix 3. (It demonstrates the relationship flowing from and between the aims; the outcomes and the actions).

#### 4. National Context

Public procurement in the UK has largely been determined by the framework of regulations and directives that are set at an EU level. Currently, all EU directives remain in effect while the UK negotiates an exit settlement. This means that decisions of the European Courts continue to be binding on the UK Courts, and that the fundamental EU Treaty principles in application of procurement activities of equal treatment, non-discrimination, transparency, mutual recognition and proportionality remain unchanged.

Brexit and the continuing pressure on public finances are likely to dominate public policy on procurement and will impact on how the Council procures goods, works and services. The UK is expected to have completed its negotiation with the EU by March 2019. After Brexit, changes to procurement in the UK will depend on the nature of any agreement made with the EU. There are two main scenarios:

- If the UK participates in the European Economic Area (EEA), then rules on procurement will remain unaltered;
- If the UK reverts to World Trade Organisation (WTO) membership and its participation in a Government Procurement Agreement (GPA), then the UK could develop legislation that operates largely in accord with EU rules, but with a greater degree of flexibility.

While the negotiations of an EU exit create a degree of uncertainty in relation to local authority procurement, the main drivers remain factors relating to the UK. These factors are contributing to a general but rising level of uncertainty in many markets which is impacting on the investment and pricing models employed by suppliers.

The main driver for procurement policy in Local Government since 2010 has been around driving efficiencies through the supply chain, while maintaining the quality of goods, services and works procured.

The scale of the financial challenge is unprecedented. On 22nd November 2017 the Chancellor of the Exchequer announced the Autumn Budget 2017. Austerity for local government continues, as an example, the Council's main revenue grant from central government in 2012 was £148m, and in 2018/19 is £41m; a cut of over £100m in cash terms. By 2020/21 we expect this grant to be reduced to zero.

The Autumn Budget did not provide much detail about the impact of Brexit on the economy although £3bn was put aside for mitigations. Public Sector borrowing is expected to increase as the Chancellor pushed up public sector spending, on areas such as Brexit preparations (£3bn), and therefore slowed down the deficit reduction. The Chancellor is now expecting to remove the deficit by 2025 which will mean continued pressure on public sector spending in the medium term, with commitments to public services such as international development, defence and to pensioners remain which means there is expected to be continued pressure on local government for the foreseeable future.

The Council has found savings of £214million in its annual revenue budget since 1<sup>st</sup> April 2011 and is expected to find at least a further £70 million in its annual budgets to 31<sup>st</sup> March 2022.

Against this background, current policy discussion on local government procurement has been set out in two key national reports:

- House of Commons Communities and Local Government Committee: 'Local Government Procurement': Published 13 March 2014;
- Local Government Association (LGA): 'National Procurement Strategy for Local Government in England 2014': Published July 2014.

Both reports are set in the context of declining public sector spend and developing initiatives around commercialisation, delivery of strategic objectives through procurement, greater outsourcing and development of alternative models of delivery, managing risk and greater probity and governance. The LGA report particularly focuses on how councils can achieve savings in a way that supports local economies, demonstrates leadership, and is able to use procurement to assist in the modernisation of services. This report also produced recommendations set against the various tiers of local government, and pan government Professional Buying Organisations (PBO's).

**Appendix 1** sets out how the Council is currently delivering against the recommendations of each of these national reports.

## 5. Local and organisational context

### 5.1 What the Council currently procures

Currently, the Council procures goods, works, services and utilities with a value in the region of £520m gross per annum (2016/17). This is known as the ‘addressable spend’. The Council has contracts with approximately 7,900 suppliers, spanning the entire spectrum from local third sector organisations and SME businesses generally, through to multi-national companies.

The Council has significant influence on the economic wellbeing of the county, given its purchasing power.

The Council categorises procurement expenditure into four tiers, and the table below sets out the proportion of Council spend on each tier.

Currently, the Council spends approximately 35% with local Small, Medium Enterprises (SME’s) and 58% with SME’s nationally. This compares favourably when viewed against central government’s ambition to spend 1 in every 3 pounds through SMEs through government contracts by 2020.’

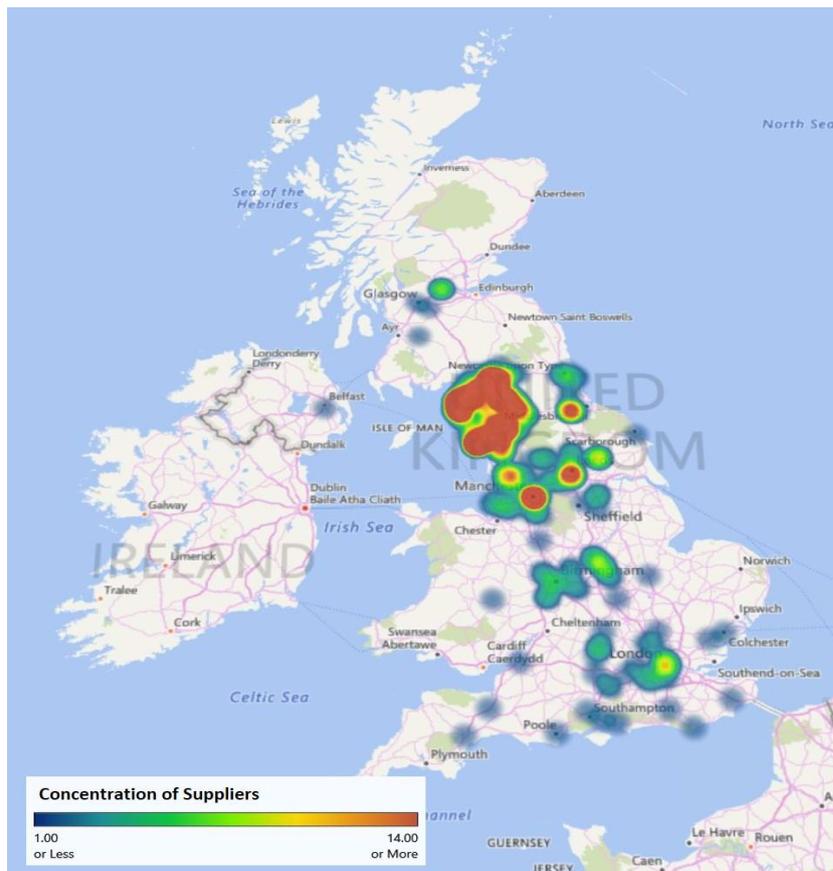
The Council spends approximately 63% with Cumbria-based organisations. In relation to Third Sector spend; this is approximately 9%, across 90 organisations.

	<b>Percentage of spend</b>	<b>Value of spend</b>	<b>Number of suppliers</b>	<b>Percentage of spend volume</b>
<b>Tier 1:</b> more than £500k spend pa	58.4%	£303.7m	87	1.1%
<b>Tier 2:</b> more than £50k spend pa	34.6%	£180m	832	10.4%
<b>Tier 3:</b> more than £10k spend pa	6.4%	£33.4m	2,412	30.3%
<b>Tier 4:</b> less than £10k spend pa	0.6%	£2.9m	4,642	58.2%

The analysis of transactional expenditure shows that over 58% is with over 4,600 suppliers, for just over 0.5% of the Council’s overall spend. This reflects the Council’s commitment to deliver value for money *and* support the local small and medium businesses (SME’s). The size of our supply chain also reflects the variety of services provided by the Council.

The ‘heat map’ of Council expenditure in 2016/17 demonstrates the commitment to Cumbrian and North-West suppliers, whilst complying with the requirements of procurement legislation. The commitment to local spending remains in the refreshed Strategy.

(‘Red’ depicting where the Council spends most money):



## 5.2 Organisational context

Local government has faced unprecedented levels of budget reductions over the past few years. This has resulted in the Council having to make savings of £214million in its budget over the period 2011-2018 and we still need to save another approximately £70million by 2022.

The Sustainable Procurement Strategy contributes to the delivery of the Council Plan and Medium Term Financial Plan. Both were agreed by Council at its meeting in February 2018 for the period 2018-2022. The Council Plan sets out the vision for the Council along with outcomes and is supported by Council Plan Delivery Plan. The Council’s vision is to be:

***‘A Council that works with residents, businesses, communities and other organisations to deliver the best services possible within the available resources’.***

We will achieve this vision by putting customers at the heart of everything we do; supporting communities to thrive; focusing on the most vulnerable and managing demand.

### 5.3 Delivering Commissioning Outcomes within increasing/changing patterns of demand



As shown in the commissioning diagram above, the sustainable procurement strategy supports the commissioning activities of the Council in the following ways:

The Commissioning Strategy for Care and Support delivered by Adult Social Care 2016-2020 describes Cumbria as having a 'super-ageing' population. This means that there is an increase in the number of people in the older age groups, and a decrease in the number in the younger age groups. By 2020, over a quarter of the Cumbrian population will be aged over 65. This is a greater proportion than the average for the country. At the same time, more young people with disabilities are surviving into adulthood and old age, and more people are living for longer with complex needs, frailty, long term conditions and/or dementia.

The Cumbria Looked After Children Strategy 2015-2018 states that Local Authorities and health services in England face a growing pressure to meet their statutory responsibilities in relation to children looked after. Since 2009 there has

been a 12% increase in the numbers of children in care, with more children in care than at any time since 1985.

This growth in needs is happening alongside the continuing reduction of funding from central government to local government, and at a time of increasing demand pressures elsewhere in the public sector, (in particular, in the NHS), which will impact upon the Council. In relation to demands upon health and social care, the Care Act 2014, placed wider requirements on Councils to promote prevention and wellbeing, and to develop the market for the whole population, consequently, the Council will need to consider this in commissioning 'people' related services. Consequently, market shaping, oversight and contingency planning are key activities to be proactively managed by the Council. For example, it must understand the care provider market and stimulate a diverse range of care and support services to ensure people and their carers have choice over how their needs are met. It is also about the market as a whole being vibrant and stable. Local authorities have a duty to step-in around provider failure and the formal Care Quality Commission market oversight regime helps local authorities carry out this role. Preparing for any provider failure ensures people continue to receive the care and support they need. This will be a broad activity to manage risks around service disruption, including financial failure of providers but also extending to other reasons such as quality failings.

In relation to the commissioning of Capital and Infrastructure services, the recent short-term increase in spending on the Infrastructure Recovery Programme has led to the early re-procurement of some key highways contracts and frameworks. Looking ahead, procurement will be focused on developing long-term relationships with key suppliers for the substantial maintenance activities such as surfacing works. The aim is to maximise the benefits of collaborative working throughout the supply chain, for example, through the development of shared objectives, values and behaviours, thereby encouraging innovation and efficiency. Health and Safety performance is a key element on all contract KPI's, in addition to both the development of the in-house operations team and frameworks with SME's and suppliers generally.

Sustainable Procurement will support the provision of goods, works and services, to deliver the commissioning strategies of the key services described above.

## 6. Our vision, principles and outcomes

Within the context of Cumbria County Council, procurement has become a much more integrated function within the overall business of the Council. We have subscribed to develop and implement an ethical contracting charter which will set out our aspirations, standards and the behaviours we expect from organisations wishing to do business with the Council.

## 6.1 Vision and Aims of Sustainable Procurement

The aims of the Sustainable Procurement Strategy in contributing to the Council's vision are:

- Support the Council's long-term financial sustainability and drive efficiencies;
- Support local economic growth whilst responding to commissioning requirements;
- Optimise the opportunities for delivering 'social value' opportunities through procurement.

## 6.2 Principles of procurement

Over the next four years, to achieve these aims and outcomes, the Council commits to the following principles:

- To exercise responsibility as a contracting authority;
- To help shape, influence and facilitate the market;
- To raise the level of contract management expertise across the Council;
- To consider the efficiencies from new contracting arrangements.

In achieving these principles, the Council will commit to:

- apply evidence-based decision making at both commissioning and contract award stages, along with robust risk management;
- be open, fair, transparent and accessible – by ensuring contracting opportunities are identified and available in a timely and user friendly format;
- take an efficient and proportional approach to procurement policies, procedures, systems and operations;
- proactively engage with all stakeholders, maximising customer, partner and contractor relationships;
- work closer and smarter with Third Sector, SME's and local businesses, and consider structuring appropriate large scale contracting opportunities to make them more accessible to SME bids;
- continue to use social value toolkit in shaping the contract offer;
- ensure operational activities are aligned to strategies;
- ensure robust and appropriate contract management arrangements are in place;
- proactive supplier engagement events with all market segments.

## 6.3 Outcomes from procurement

Procurement is often viewed as a compliance activity that is focused on rules and legislation. (In part this is true as the Council must comply with legislation and thereby be free of any legal challenge to both its processes and contract award

decisions). However, this can lead organisations to underestimate the contribution of procurement to improved outcomes.

The outcomes from the Sustainable Procurement Strategy (2018-22) are as follows:-

- **Value for money is achieved** for the Council and the people of Cumbria – procurement drives efficiencies and results in cost effective purchasing decisions within available resources;
- **Council Plan outcomes and activities are delivered** from procured goods and services meeting the commissioning needs of services users;
- **Local economic growth is supported** – local organisations are supported to bid, win and deliver Council contracts where possible;
- **The impact and value from our contract expenditure is maximised** – opportunities will be taken to incorporate socio, economic and environmental benefit clauses into contracts, wherever relevant and proportionate to do so;
- **The Council's commitment to the Living Wage is demonstrated** – the encouragement of providers to pay the Living Wage Foundation's Living Wage rate to their staff in delivering services to, and for the Council;
- **The Council encourages and supports the operation of effective markets** - the Council will use its purchasing power and relationships to help optimise competition and performance, seeking to mitigate risks of market failure and put in place simple, robust and legally compliant contract procedures.

## 6.4 Social Value Policy and Legislation.

Through the delivery of the Sustainable Procurement Strategy the Council has leverage in terms of purchasing power; achieves value for money on its contracts, and is increasingly delivering wider social, economic and environmental benefits. **Appendix 2** sets out the Social Value toolkit which provides examples of how such wider benefits can be requested and realised through contract awards.

The Public Services (Social Value Act) 2012 came into force on the 31 January 2013.

As a Council we developed a Social Value toolkit several years ago and over the past five years have applied such to relevant tender exercises. Currently, we have a target to ensure we have at least one social value clause in nine out of ten tenders going out to the marketplace, and where legally appropriate and proportionate to do so, we increase this number. This target will continue in the refreshed Strategy.

## 7. Delivering the Strategy

**7.1** In delivering the Sustainable Procurement Strategy, the following actions are set out in relation to the four new ways of working the Council committed to in the Council Plan (2018-22) as follows:

### Working together:

- Continue to develop the collaborative relationships we have with the Cumbrian local authorities; LDNPA; Police; Third Sector and wider communities, in order to benefit from economies of scale in contracting.
- Support our partnership working with local NHS and Health partners in commissioning and procuring services to improve integration of services and delivered outcomes.
- Discuss with marketplace the application of the Living Wage Foundation's Living Wage rate, where appropriate to do so.

### Enterprise and Efficiency:

- Secure approx. £500,000 income through, for example, the supplier early payment scheme, and continue to develop commercial opportunities such as through rebates and dividends;
- Work with commissioners to review the scope of contracts in advance of commissioning of new services and new contracts, to seek contract efficiencies and early consideration of how best to deliver customers' needs;
- Use our purchasing power to help shape the provision of services from a 'mixed' market provision;
- Harness the use of pan government buying organisations where appropriate in order to achieve leverage/value for money;
- Appropriate use of 'call-off'/mini-competitions through Frameworks, in order to secure value for money;
- Hold supplier engagement events with the various organisations ie. SME, Third Sector and others;
- Review the current Social Value toolkit and its application during 2018/19.
- Develop and implement a charter setting out the Council's aspirations from the contracting arrangements it undertakes with its suppliers, commercial and voluntary sector, including sub-contractors of the prime contractors.

### Digital Transformation:

- Continue to develop 'The Chest' and the e-portal to procure goods and services, seeking to further streamline procurement processes for bidders and suppliers;



- Enhance the use of Council's website to facilitate transport user information for school children and adults using Council provided transport solutions;
- Increase the number of suppliers using The Chest (web portal).

#### **Prevention and Intervention;**

- Support the implementation of commissioning strategies of Children's Services and Health and Care in procuring prevention and intervention services, assisting the review and re-modelling of commissioning and procurement intentions, where appropriate.

## 7.2 Performance and Monitoring

Measuring effectiveness through tangible outcomes will be critical to the delivery of the Procurement Strategy. This requires being able to report back on whether the Council is:

- Improving and developing the shape of the mixed market model in terms of the way the Council spends its money and delivers, goods, works and services, and ensuring such is sustainable;
- Managing and reporting on the economic impact of how much business is delivered by Cumbrian-based organisations, (and others), as a percentage of total Council spend (and applying the Local Multiplier effect);
- Demonstrating 'excellent'/'good' value for money Goods, Works, Services and Utilities through research into national best practice and robust contract management/monitoring regimes;
- Delivering stretching income/contract savings targets, and wider benefits, through commissioning, procurement and contract management processes;
- Demonstrating innovation and/or transformation in terms of commissioning, procurement and delivery,(including review and appropriateness of various internal and external delivery models/legal entities);
- Demonstrating strong partnerships and collaboration at both local, regional and national levels;
- Achieving overall improvement in terms of performance against time, cost and quality.

The Council will produce a delivery plan (a set of measures) identifying the metrics set against the outcomes required, as exemplified in **Appendix 3**.

## 7.3 Organisational resource

The Procurement and Contract Management team within Finance is involved with all procurement activities and the full commissioning and procurement cycle for corporate contracts, including utilities. The PCM team provides contract monitoring advice support to the Directorates, comprises of around 24 fte's; providing advice and support in all County Council formal procurement exercises; involvement in the early commissioning stages of most tender exercises, and later, a degree of contract management/monitoring in support of the wider directorates, including all

contract management/monitoring of a raft of corporate contracts. In addition to the above, another part of the team (6.16 fte's) also commissions transport for mainstream and special schools; Pupil Referral Units; Out of County Placements and Rural Wheels.

The team supports policy and strategic leads and commissioners in service directorates in relation to the commissioning, procurement, contract management and review cycle of activities.

#### 7.4 Governance and Review of the Strategy

The corporate pipeline of commissioning activity is identified through a Contracts Register, which is visible to, and shared with the marketplace. This 'pipeline' of activities is reviewed and discussed on a regular basis with the Commissioning and Procurement Working Group, and with Corporate Directors and Portfolio Holders in the commissioning and the awarding of contracts.

On a quarterly basis, and by exception report to Corporate Management Team, Assistant Directors review the top 20-25 'live' high value/high risk 'significant contracts,' and where appropriate, such will be reported to Members via an agreed escalation procedure.

Quarterly corporate performance reporting of delivery against the strategy and annual reporting to Scrutiny Management Board will also take place in relation to spend with SME's and application of Social Value through contracts.

## 8. Conclusion

The Strategy provides Cumbria County Council with a number of opportunities to build upon its successes over the past few years. Through its procurement activity the Council is well placed to support the delivery of high quality public services; improvements in outcomes, and the role of SME's and other Cumbrian organisations within the local economy.

**March 2018**

## Appendices:

Appendix 1: Council delivery against national recommendations

Appendix 2: Social Value Toolkit

Appendix 3: Delivery Plan

## References

- Local Government Association: National Procurement Strategy for Local Government in England: 2014
- House of Commons Communities & Local Government Committee: Local Government Procurement: 2014
- Cumbria County Council Plan (and Priorities): 2016-19
- Cumbria County Council Delivery Plan: 2017-18
- Cumbria County Council Medium Term Financial Plan: 2017-20
- Cumbria County Council Workforce Plan: 2016-19
- Cumbria County Council Contract Procedure Rules
- EU Procurement Directive and Regulations: 2015
- Public Service (Social Value) Act, 2012
- Public Sector Equality Duty
- Local Multiplier effect (LM3)

## Appendix 1: Council delivery against national recommendations

This appendix sets out how the Council has addressed the recommendations in two national reports into local authority procurement, published by the House of Commons and the Local Government Association.

### **House of Commons Communities and Local Government Committee: 'Local Government Procurement': Published 13 March 2014.**

**Improving local government:** The County Council has appropriate mechanisms in place to enable it to measure the costs and savings of procurement exercises; it achieves savings through aggregation of contracts, where appropriate to do so, both locally and through regional and national purchasing arrangements; it collaborates with other Councils (Chairing a Cumbria-wide procurement group, comprising of the County Council, six District Councils, Police; University and LDNPA) and pan government buying organisations, and determines the most appropriate routes to market via stand alone, local or national framework contracts, sub-dividing such where appropriate to do so, to enable SME's to compete more equitably.

**Delivering strategic objectives through procurement:** Virtually all contracts are awarded on a best value basis ('MEAT', most economically advantageous tender) i.e. not solely on price, and the implementation of socio, economic and environmental benefit clauses are introduced to varying degrees in all contracts, where appropriate and proportionate to do so.

**Procurement processes:** Tender documentation has been streamlined, with a particular focus on supporting smaller organisations in the bidding process, and indeed, prompt payment processes are in place for all Small Medium Enterprises (SME's).

**Managing risk:** Contracts are 'future proofed' in terms of contractors bearing their share of the effect of further budget cuts to the Council i.e. appropriate clauses are written into contracts, relating to, for example, specified indices 'inflaters', no guarantee of spend, or links to grant monies coming from central government.

**Outsourcing service delivery: employment issues:** The Council monitors certain services going out to tender, specifically Adult Social Care, in relation to hourly rates of pay (against the National Living Wage), and indeed, the wider employee Terms and Conditions packages i.e. training, mileage rates and expenses policies etc.

**Probity and governance:** Appropriate levels of contract monitoring (i.e. KPI's) are in place, based on the complexity of each contract, and contracts are let in a transparent manner and subsequent performance is duly auditable.

**Achieving change:** Procurement is used to underpin a joined-up process from initial service design and commissioning, through purchasing of goods and letting of contracts, to contract management and review. It has a lead Member and senior officer, and feeds into both a Commissioning & Procurement Working Group for 'advice and direction' and into Scrutiny Management Board to a wider group of Members.

**Local Government Association (LGA): 'National Procurement Strategy for Local Government in England 2014': Published July 2014.**

**Making savings:** The County Council has a mature 'Category Management' approach in place in relation to supporting and identifying main spend categories, and dealing with them in the most appropriate manner i.e. buying locally, regionally, nationally and via discreet and/or national contracts/frameworks. 'Partnering and Collaboration' takes place with other local Cumbrian public sector bodies, and at both regional and national levels too. 'Contract and supplier management' has been streamlined and is more focussed and appropriate; performance is more robustly enforced, and the supply base is analysed by high value/high risk; bottleneck; routine and leverage (The Kraljic Matrix is used). 'Partnering and transparency' is adhered to in relation to publishing and sharing data. Risk registers and RAG systems are produced, beginning at the commissioning stage, through procurement and into contract management phases in relation to 'risk, mitigation and fraud.' In terms of 'Demand management,' procurement is involved at an early stage in the commissioning process in relation to exploring alternative models.

**Supporting local economies:** In terms of 'Economic, environmental and Social Value,' opportunities are assessed, where appropriate and proportionate to do so; sustainability is built into the procurement cycle, and ethical issues such as fair pay and zero hours contracts are considered. 'SME and Third Sector' opportunities are regularly assessed at an early stage; guidance on 'How to do business with the County Council' and a contract pipeline of future activities are both available on our website, as is awareness raising/training, pre and post formal tender processes.

**Leadership:** Professional qualifications (CIPS) have been obtained by the four procurement managers, and all the procurement and contracts team have undergone general procurement and contract management training. (A more formal technical level training programme will commence in late 2017/18). There is strategic responsibility at director level and a Cabinet Member 'champion,' and there are linkages between Procurement and Corporate priorities/plans. In terms of 'Commissioning', the procurement team supports the service directorate commissioning teams i.e. a multi-functional projects/team approach; co-produce

work; timetables for delivery and governance reporting; risk management, and there are clear lines of demarcation.

**Modernisation:** In terms of commercialisation and income generation the relevant market segments are engaged early in the process, with initial proposals and requests for inputs; contracts, where appropriate, are outcome focussed; future proofed; flexible and have refresh/break clauses for future reviews. With regard to modern technology, the Council uses a web-based portal for its tendering activities and e-invoicing is in place.

## Appendix 2: Social Value Toolkit



**A Social Value  
Toolkit: For  
Commissioners  
and Procurers**

## Contents

<b>1. Introduction</b> .....	<b>3</b>
What is the toolkit for? .....	3
'Commissioning' .....	3
What is Social Value? .....	4
So what is Social Benefit? .....	4
Why do it and when? .....	4
So how do we do this? .....	5
Social Value Policy and Legislation .....	5
Equality and Diversity & How this Impacts on Social Value .....	6
Small, Medium Enterprise (SME's) and Third Sector Organisations .....	6
Sustainable Procurement for Community Needs .....	6
<b>2. Consider and reconsider what you are commissioning and procuring</b> .....	<b>7</b>
Our approach to commissioning and procurement .....	6
<b>3. Steps in the commissioning and procurement process to achieving high-quality social benefits</b> .....	<b>8</b>
Deciding on the appropriate procurement route .....	8
The Likely Options: Social Benefit Award Criteria, Performance Aspirations (non contractual) or Not Applicable. (See figure 2 below) .....	8
Practical considerations when applying Social Value: .....	8
How do you go about approaching this? .....	10
Choosing the Award Criteria Route: .....	10
Conclusion .....	14
References .....	15

## 1. Introduction

### What is the toolkit for?

This toolkit has been designed as a guide for the Council's commissioners and procurers and potential providers to consider how to achieve Social Value and Benefits from commissioning and procurement activities.

As part of the Public Services (Social Value Act) which was passed at the end of February 2012, Cumbria County Council and its members have made a commitment to ensure that through its processes and procurement procedures that it will aim to maximise the Social Value or Benefit available from its commissioning and procurement.

Within the Act, and aligning with the principles set out in the Council's Sustainable Procurement Strategy, all public bodies in England and Wales are required to consider how the services they commission and procure might improve the economic, social, and environmental well-being of the area.

### Commissioning

It is important to understand what is meant by commissioning, as the term may be used interchangeably when discussing contracting, purchasing or procurement. There are many definitions; however the Audit Commission perhaps best captures the key elements of commissioning and ensuring it is successful.

*"Successful commissioning means delivering the right outcomes at the right cost. Compare that with our definition of good value for money: 'the optimal use of resources to achieve the intended outcomes'. Successful commissioning is, almost by definition, good value for money".*  
(HM Government 2013)

To assist the process of successful commissioning, the Corporate Procurement Strategy (2014-18) sets out the Council's ambition to use procurement to build on and positively impact on the social, economic and environmental impacts we have on our communities. We understand that through our aims to ensure successful commissioning, the key drivers from the strategy will assist us and our commissioners and procurers to generate significant efficiency savings, drive local growth and improve service delivery.

**Definition: Social Value Act**  
An Act to require public authorities to have regard to economic, social and environmental well-being in connection with public services contracts; and for connected purposes. (HM Government 2012)

This toolkit provides guidance to support commissioners and procurers and also potential providers of services to the Council, in any sector, to embed the principles of Social Value into the procurement process. It is aimed particularly at commissioners and procurement officers and those advising us on legal issues on how we can derive Social Value from procurement activity. It has been created to inspire new thinking that will help you to consider different options available to establish what is right for you in the process of delivering social value as part of commissioning. However, it must be appropriate and proportionate to the particular service being tendered.



## What is Social Value?

Social Value can be defined in many ways. For this purpose, we have defined Social Value as a process where we as a local authority can meet the needs of our communities when procuring goods, works and services, in a way that ensures we are achieving value for money on a whole life costs basis. This in turn allows the Council to achieve long term community benefits whilst minimising damage to the environment.

Section 6 of the act states...  
*"The authority must consider... Only matters that are relevant to what is proposed to be procured and, in doing so, must consider the extent to which it is proportionate in all the circumstances to take those matters into account".*

## So what is Social Benefit?

Social Benefits can be defined as the outcomes that are provided through the process of incorporating Social Value considerations into a procurement exercise.

The benefits realised will be defined through the Social Value elements implemented as part of a commissioning activity. This may be decisions about commissioning services, the method of funding for a project or a particular need where we as a Council may be able to deliver Social Benefits.

Social benefits could include (but are not limited to):

- Achievement of jobs for the long term unemployed;
- Career advice and work placements for school children;
- Apprentice opportunities;
- Graduate placements;
- Skills and training opportunities for staff and for local businesses;
- Supply chain and sub-contracting opportunities for SME's and Social Enterprises;
- Development of Third Sector organisations;
- Local Investment from contractors;
- Environmental benefits through sustainable purchasing;
- Increased community engagement through consultation;
- Increased market diversity;
- Encouragement of ethical purchasing.

Social value can bring long term benefits not only to end users of a service but to our communities in general. This can benefit our local economy and future generations to come.

## Why do it and when?

The answer is simple: because we can, and because we should. It is often perceived that implementing Social Value into procurement is difficult and is therefore an added value process that is subsequently dismissed. What is failed to be considered is the huge difference that Social Value can make to our service delivery and our local communities.

Each year, Cumbria County Council spends approximately £330m on the procurement of goods, services and works for the County. It is our duty as a Council to ensure that when commissioning and procuring services that they meet the needs of our communities. It is a key priority that we achieve value for money for the Cumbrian pound and the taxpayers who live here.

By working with our suppliers to deliver social benefits in contracts, where appropriate and proportionate to do so, Cumbria can achieve direct and indirect benefits for the County.



## So how do we do this?

For our commissioners and procurers to have the best possible tools to achieve Social Value through contracts, an ethos of working needs to be adopted firstly on the importance of delivering Social Value. This toolkit, accompanied by a library of guidance and social value statements, will assist with the skill set and knowledge required by commissioners and procurers to implement this process. To secure Social Value, due consideration must be given from the outset and planning stages of any procurement process. The message that you provide to the market on Social Value must show clear intentions and expectations throughout the process in order to highlight the importance of Social Value to the Council.

There should be no doubt internally or externally that a key objective of the Council is to achieve Social Value, including where possible Social Return on Investment (SROI), through its procurement activity wherever possible.

To meet the tough challenges ahead and any future reductions to the Council's budget, we must continue to look at developing new and innovative ways that we can achieve Social Value. This toolkit is a key part of our strategy and will assist the Council to ensure clear processes and guidelines for procurers and commissioners are in place, and that all staff understand the importance of Socially Responsible and Social Value procurement.

## Social Value Policy and Legislation

The Public Services (Social Value Act) came into force on the 31 January 2013.

Commissioning and procuring for Social Value can help streamline many strategic aims we have as a Council; e.g. as a local authority we have a duty to achieve best value i.e. improve the economic well-being of Cumbria is certainly a factor to consider. Ensuring Social Value is

embedded into our commissioning and procurement exercises can ensure that we are maximising our purchasing power to do this. This should now be the role of all who are commissioning and procuring services. It should form the way we choose to buy services. For example, we have applied socio, economic, environmental statements into a range of contracts i.e. Lillyhall Construction Centre.



## Equality and Diversity and How this Impacts on Social Value

The Equality Act 2010 sets out anti-discrimination law and what is expected under the public sector equality duty (PSED). It requires us to take equality issues into consideration. This should be seen as an effective tool for improving economy, efficiency and effectiveness and therefore value for money.

The EU legislative framework supports the achievement of equality outcomes through procurement. The Public Contract Regulations 2015, state that social issues can be considered in different ways at different stages in the procurement process and these social issues may include equality issues. However the specific requirements of the relevant Directives and regulations also state that we must ensure provision of equal treatment, transparency, proportionality, non-discrimination and free movement of goods and services also apply to all public sector contracts.

We must ensure that the Council doesn't unfairly obstruct or facilitate the ability of economic operators and suppliers within the EU. Provided the Council adheres to these principles when considering social value, this will help to avoid any legal issues.

*"Approximately 79% of our addressable spend in 2016-17 was spent with Cumbrian businesses."*

## Small, Medium Enterprise (SME's) and Third Sector Organisations

It is important for us to understand that suppliers have a key role to play in assisting the Council in the delivery of services to those who live, work and visit Cumbria. Our Corporate Procurement Team are increasingly involved in collaborating with suppliers, and attend a variety of SME and Third Sector events across the County to discuss our contracts and requirements. We acknowledge that SME's and Third Sector organisations can and do play a pivotal role in helping us to deliver innovation, value for money and essential Social Benefits. It is up to us as a Council to ensure that we fully engage with suppliers throughout the commissioning and procurement process, to ensure they are clear about the Council's commitments and expectations relating to Social Value, so they can actively demonstrate how they could meet the requirements in a procurement process.

## Sustainable Procurement for Community Needs

Taking a step back to what Social Value means and the benefits obtained through its achievement, it is clear that delivering Social Benefits could potentially have a significant impact in us achieving our sustainable objectives, including achieving value for money through whole life costing, ensuring fair and transparent treatment of suppliers and contractors, providing opportunity for economic regeneration and so on.



## 2. Consider and reconsider what you are commissioning and procuring

### Our approach to commissioning and procurement

Through our Corporate Procurement Strategy and associated procedures, we refer to commissioning and procurement activity as forming part of a 'cycle'. This cycle begins with the 'identification of a need' for a particular service or product and ends with 'lessons learnt' from each particular procurement process that is carried out.

Each step of the 'Procurement Cycle' (see Figure 1)

- **Identifying Needs** – E.g. what is the need, is it a new need for a service/product, is the current contract coming to an end and requires re-procurement?
- **Develop your Business Case** – E.g. consider the brief, the overarching objectives of this piece of work, the requirements, political influences that may apply;
- **Define your Procurement Approach** – E.g. consider the route to market, new tender required, existing framework, what Social Value if any could be considered at this stage;
- **Consider the Competition** – E.g. consider how the procurement is going to be released to the market and what tender process has been decided e.g. open/restricted, other?
- **Evaluate Tenders** – E.g. what is the process, what requires consideration against specification;
- **Contract Award and Implementation** – consider approval procedures, cabinet reports and requirements and any additional procedures that need to be followed.
- **Manage the Contract and Supplier Relationship** – E.g. consider KPI's, communication, dispute processes, financial controls, reporting and contract exit strategy
- **Closure and Lessons Learnt** – E.g. review costs, performance, Social Benefits achieved.

To achieve real Social Value through our commissioning and procurement of contracts, we must learn to think outside of the box on how such benefits can be realised. This includes ensuring that the full thought process has been undertaken where a new commissioning/procurement activity/need is identified. We must use the procurement cycle and accompanying guidance to ask ourselves, what do we want, what are we doing, are there any other ways we could do this better? This will help us to make more informed/better decisions on contracts, whether staying with an existing supplier or moving to a new one, or indeed deciding not to obtain the service.

Three areas commissioners must consider then re-consider include

- Why are we doing this?
- What can we achieve for all the stakeholders involved?
- Are there any other outcomes that can be achieved?

**Figure 1 : The Procurement Cycle (2013)**



### 3. Steps in the commissioning and procurement process to achieving high-quality social benefits

#### Deciding on the appropriate procurement route

To ensure the success of delivering additional Social Value to a contract we must ensure that the requirements are embedded into the process. Dependent on the route to market chosen, whether Open, Restricted, or other, where increased Social Value can be delivered needs to be identified and be a key driver of the process where appropriate and proportionate to do so, as soon as possible throughout the document trail.

#### The Likely Options: Social Benefit Award Criteria, Performance Aspirations (non contractual) or Not Applicable. (See figure 2).

The Social Value Act applies to all Public Services contracts and Frameworks where the Public Contracts Regulations 2015 This includes all public service markets, from health and housing to transport and waste.

Use of Social Benefits statements should be used when appropriate and proportionate to do so and must be **linked to the subject matter of the contract**. In these circumstances, Social Benefits could be applied at key stages. If it is not possible to apply social value criteria, we could still apply performance aspirations that would assist us to deliver benefits but would not be an obligation (but rather an agreed aspiration) this cannot be taken into account when awarding a contract.

#### Practical considerations when applying Social Value:

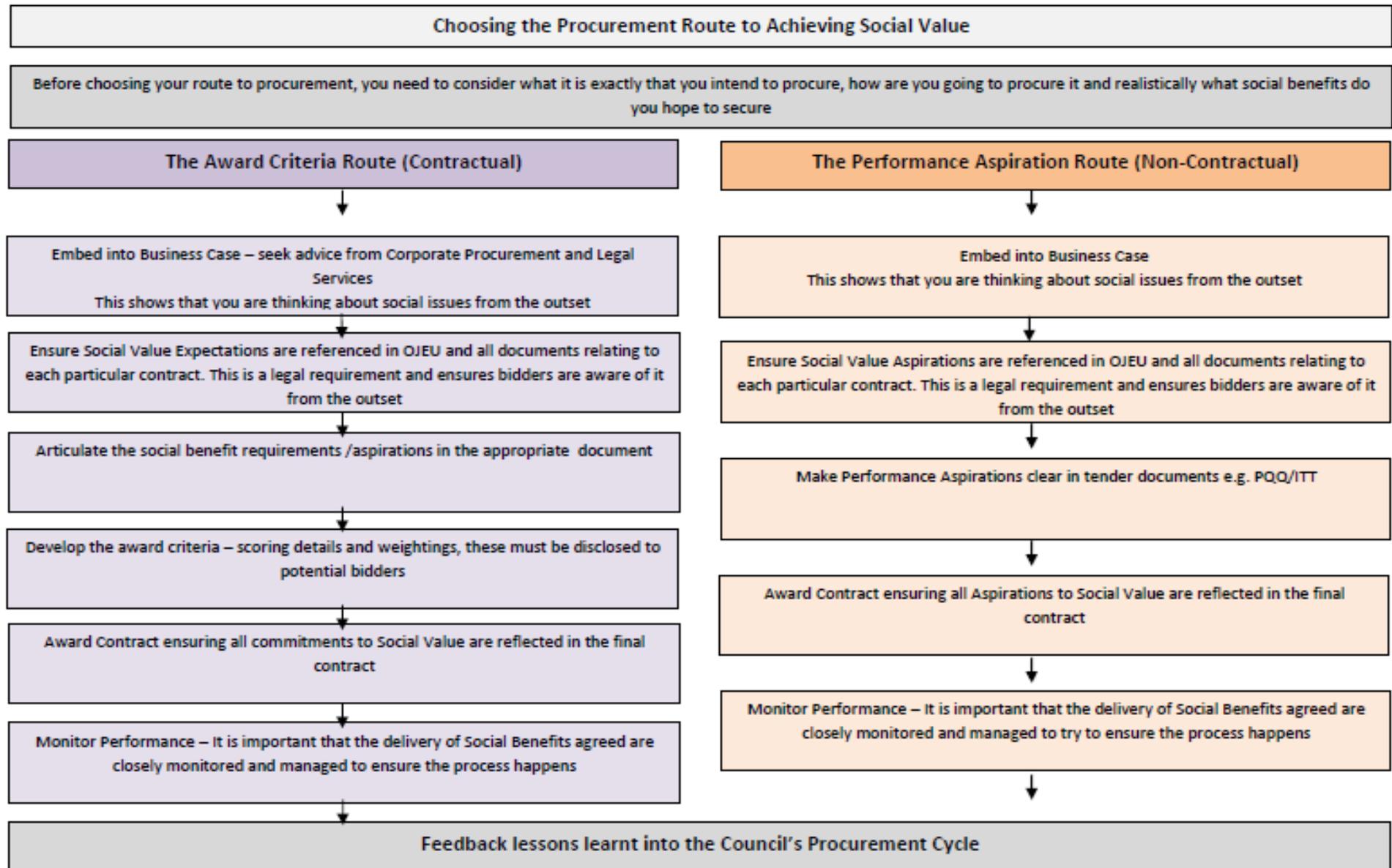
As mentioned earlier, ensure that social value requirements, where applicable, are mentioned in every document and pervade the whole process e.g.

- Pre procurement: initial options appraisal; Committee reports; PIN notice etc;
- Procurement documents: PQQ; ITT; Conditions of contract and,
- Evaluation criteria.

In some circumstances it is difficult to ascertain whether the social benefits required are linked to the subject matter of a contract. You must ensure that you are thorough about what it is you see in commission and procure and can link the benefits to a core requirement of the contract.



Figure 2



## How do you go about approaching this?

Defining the right approach will differ on a case by case basis. Each contract will need to be considered individually to take account of the related factors. This will include:

- The value of the contract and whether it is subject to the Public Contracts Regulations 2015;
- The nature of the contract and whether it lends itself to a Social Benefit approach;
- Whether it is subject to the full application of the Public Services (Social Value) Act e.g. a service contract;
- The type of organisation that may bid for the work;
- Whether the Contract is a call-off under a framework agreement, e.g. the Framework itself should consider the Social Value Act but it does not apply when calling off contracts under a Framework;
- If there is an urgent need to arrange a procurement exercise, the requirement to consider consultation and the impact on Social Benefits can be disregarded if it is impractical to consider them. Urgency caused by undue delay by an authority however will not be a valid reason not to comply with the Act (Procurement Policy Note 2012).

Whether contracts do or don't fall under the Act, all commissioners and procurers as a matter of good practice should consider economic, social and environmental well-being as part of the procurement process in order to achieve maximum value for money.

This may be particularly relevant to lower value contracts, where it is difficult to apply Social Value principles.

### Choosing the Award Criteria Route: Market Testing/Supplier Engagement

If you are to consider Social Benefits being delivered in procurement, it is pivotal that market-testing/supplier engagement is carried out at the earliest opportunity in the process. This includes ensuring that you thoroughly research potential providers in the market (business intelligence) for each particular contract, and that you not only account for the large organisations but also SME's and Third Sector businesses too. Once this process is complete and you have an idea of what the market looks like, this will provide the opportunity for further provider engagement, including well planned prospective bidder days, where the initial project plan; spend; specification; key legal conditions and other concerns can be discussed.

Supplier engagement events can deliver a host of benefits to the process including:

- The ability to access supplier knowledge and information we may not have, including Equality Impact Assessment and how individual procurements can affect the area;
- Create an awareness of the possible resources, technology, e-learning, e-sourcing tools that may be required;
- Opportunity to provide information and awareness of tender submission requirements, if applicable;

- Create an awareness of and understanding of award criteria, confirming Social Value as a core requirement;
- The opportunity to discuss and encourage suppliers to advertise sub-contracting opportunities where appropriate;
- The opportunity to consider if the route to market chosen is the right one, or whether it would be appropriate to split works into lots, to ensure greater accessibility for SME's/Third Sector and micro organisations;
- Attract suppliers we weren't aware of;
- Obtain feedback that will assist with the technical specifications which align with the marketplace but also assist to achieve Social Benefits.

Market engagement can potentially widen the participation from the marketplace and stakeholders, providing a wealth of useful knowledge whilst also providing prospective bidders with more confidence in our abilities to provide the right services at the right time. You must however be careful not to directly or indirectly show any favour towards potential bidders as this could very well lead to legal challenge.

### OJEU

If a procurement exercise is over the EU threshold then a Notice must be published through the Official Journal of the European Union (OJEU). Within this notice, the use of intended Social Value criteria or Performance Aspirations must be clearly defined. This is a legal requirement but also allows you to advise the market on whether we are seeking contractual or aspirational benefits.

## Practical tips: Suggested wording for OJEU Notices when applying basic Social Benefits

To support the Council with the practical implementation of the Social Value Act, the template below could be used for demonstrating we have taken the Act into account when placing an OJEU notice.

*“Under the Public Services (Social Value) Act 2012 the contracting authority must consider:*

- (a) How what is proposed to be procured might improve the economic, social and environmental well-being of the area where it exercises its functions, and*
- (b) How, in conducting the process of procurement, it might act with a view to securing that improvement.*

*Accordingly, the subject matter of the contract has also been scoped to take into account the priorities of the contracting authority relating to economic, social and environmental well-being. These priorities are described in the invitation to tender/ negotiate/participate in dialogue and are reflected in environmental and social characteristics in the evaluation criteria for the award of the contract.”*

*Social Enterprise UK (2012)*

If the contract is under the threshold of the EU regulations then a notice should still be published nationally and additionally through OJEU depending on the type and value of the contract in question. The approach and wording used should reflect the wording as if it were advertised in the OJEU so that potential bidders are fully aware of our Social Value criteria or aspirations.

## At Pre-qualification (PQQ) Stage

The PQQ stage and development of documents are key to defining the importance of Social Value to the Council. This stage in the process allows us to directly outline the Social Benefits we are seeking to achieve and allows us to work with the market to ensure there is a complete awareness of our expectations. Project specific questions relating to Social Value may also be used including:

- Environmental
- Labour and Employment
- Social and Community

(A ‘library’ of example questions has been developed as part of this toolkit to assist you in your deliberations, see Appendix 1).

When looking to determine what a prospective bidder may offer in terms of Social Value and Benefit, there are two approaches to the questions you may wish to think about, including whether you will present the bidders with open questions or specific set questions.

## What do the different questions offer at ITT stage (Looking forward)

### Open Questions

Open questions are developed to give providers an understanding of what it is that we as a Council are trying to secure. This method is beneficial as it allows the supplier to demonstrate innovation and expertise into responses from the questions asked. Such innovation may provide solutions or ways of working that the Council may not have considered, and in addition, provide wider diverse range of benefits.

### Specific Set Questions

Specific set questions are developed in the set of a pro-forma where you will ask potential providers to outline how they will deliver the Social Benefits required for that particular contract. This method allows you as the buyer to provide a more structured approach that forces the bidder to consider all of the requirements and provide responses based on the scoring criteria. This provides consistency and can make the evaluation and transfer to contract process easier.

## Open Questions

Pros	Cons	Pros	Cons
Allows Innovation	No structure to the questions	Structured approach	Limits opportunity for innovation
Challenges bidders to exceed expectations		Achieved consistency	Analysis required
Can solve problems		Easily transferred into contracts	Can be less objective
		Delivers minimum requirements	

## The Contract Management Phase

Measuring the success of implementing Social Value and achieving Social Benefits is determined by the processes and monitoring mechanisms that are put in place by the Council and contract management teams. Effective Contract Management is crucial to this happening. Social Benefits as with any other contractual obligations must be measurable and quantifiable, and if part of the award criteria they must be accompanied by a method statement that will be adopted as part of the contract. Robust KPI's must be drafted; they must be achievable and reflect the Social Benefits of the project as a whole. Regular reviews should be held to ensure compliance. This can, in turn, result in fostering a stronger 'partnership' culture which can provide further benefit to the contract.

## Specific Questions

### Choosing the Performance Aspirations Route

#### Market Engagement/Intelligence/Supplier (Pre-procurement exercise)

If the chosen route entails Performance Aspirations as opposed to the Award Criteria approach then you have taken the approach that Social Benefits are a non-contractual requirement and that the post contract award approach of Performance Measurement (KPI's) is the best approach for this procurement activity. This will require effective early market engagement and communication with potential suppliers to consider the likelihood of achieving these aspirational benefits. Clearly, defined Social Benefits need to be incorporated into contracts wherever possible and appropriate to do so, and managed effectively.

## OJEU

As discussed earlier in the document as part of the award criteria route, when choosing either the award criteria or the performance aspiration route, where the Public Contracts Reg apply a Notice will still be required to be produced. It is as important in the performance route to ensure that bidders are made aware and are clear on the importance of Social Value as part of the procurement and contract. This will assist bidders to decide if they have the ability and capacity to deliver the Social Value elements required by the Council or whether to refrain from investing their time into the process.

### Contract Management

It is important to note that performance aspirations are non-enforceable. Performance aspirations cannot form part of the award criteria or play any part in deciding the successful bidder. However bidders must accept the main terms and conditions of contract but are only required to implement performance aspirations wherever possible. This is a very similar process when applying Social Value criteria except that provided you have articulated all relevant obligations in the contract documents they will be contractual and form part of the legal contract. This generic method of contract management will assist the process of effective delivery. A wide range of Social Benefits can be derived from contractual conditions and are recognised by the EU regulations.

There are a wide range of possibilities when deciding which contractual clauses to use in terms of Social Value. The Commission of the European Communities have provided some examples of additional specific conditions an authority may consider including in a contract which are detailed below:

- the obligation to recruit unemployed persons, and in particular long-term unemployed persons, or to set up training programmes for the unemployed or for young people during the performance of the contract;
- the obligation to implement, during the execution of the contract, measures that are designed to promote equality between men and women or ethnic or racial diversity;
- the obligation to comply with the substance of the provisions of the ILO core conventions during the execution of the contract, in so far as these provisions have not already been implemented in national law;
- the obligation to recruit, for the execution of the contract, a number of disabled persons over and above what is laid down by the national legislation in the Member State where the contract is executed or in the Member State of the successful tenderer.

Commission of the European Communities (2001)

Further examples of Social Value statements are also provided within the 'library' document accompanying this toolkit. The two main things to remember in your decision to use Social statements within contracts is that firstly, it is clearly related to the subject matter and, performance of the contract in question and secondly, it is clearly outlined in the OJEU and all relevant documentation as a core requirement for the Council.

## Complex or Large Contracts and Considering the option of the Competitive Dialogue procedure for achieving Social Value

As opposed to using the Open or Restricted contract procurement routes to procurement (where you are not allowed to negotiate with candidates or tenderers on contracts, or changes that could distort competition, or prices), the Competitive Dialogue route offers a little more flexibility in this area when considering Social Value. A competitive dialogue process provides a two way communication that allows the Council to clearly outline its social award criteria or aspirations and align them with the capabilities of providers. This can provide innovation but also more definition in the requirements of the contract rather than leaving it up to bidders own suggestions on how they would want to approach the Social Value elements required.

In contrast, the flexibility allowed by the Competitive Dialogue (or indeed Negotiated Procedures) should enable commissioners and procurers to look at and consider alternative and/or innovative approaches with bidders and ultimately give credit for innovation and offerings over and above the core requirement. (Investment Strategy Northern Ireland 2010)

### The Social Value Act and Best Value duty

The Local Government Act of 1999 sets out a general Duty of Best Value for specified local government organisations to *"make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness."*

Under the Duty of Best Value local authorities should consider overall value, including economic, environmental and social value, when reviewing service provision. Further information on the interrelation of these two subjects is provided at source. (Cabinet Office 2012)

## Conclusion

### Our approach to commissioning and procurement

Whilst Corporate Procurement has undertaken fairly extensive national research regarding the application (contractual and non-contractual) of Socio, economic and environmental benefit statements (as shown under the attached references), they are by no means exhaustive, or indeed applicable in every situation. Obviously, some tenders lend themselves better than others to their application; however, they must be relevant and proportionate to the contract.

In order to optimise the use of these statements (contractual or otherwise), it is recommended that you discuss your approach with Corporate Procurement and/or Legal Services as early on in the process as possible so you can ensure you have not under or overplayed their use, and as a consequence put the Council at risk of Legal challenge or missing an opportunity.



## References:

### Desktop Research

- 1) Nationally Researched 'Library of socio, economic and environmental clauses

### Websites

- 2) Cabinet Office. (2012). Procurement Policy Note – The Public Services (Social Value) Act 2012 – advice for commissioners and Procurers [Online] Available at: [www.gov.uk/government/publications/procurement-policy-note-10-12-the-public-services-social-value-act-2012](http://www.gov.uk/government/publications/procurement-policy-note-10-12-the-public-services-social-value-act-2012) (20th Dec 2012)
- 3) Commission of the European Communities. (2001). Interpretive Communication of the Commission. [Online] Available at: [eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2001:0566:FIN:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2001:0566:FIN:EN:PDF) [2001]
- 4) Croydon Council. (2013). Inspiring and creating Social Value in Croydon: A Social Value Toolkit for Commissioners [Online] Available at: [www.croydon.gov.uk/contents/departments/business/pdf/socialvalue.pdf](http://www.croydon.gov.uk/contents/departments/business/pdf/socialvalue.pdf) (2013)
- 5) Equality and Human Rights Commission. (2013). Buying Better Outcomes [Online] Available at: [www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-procurement/](http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-procurement/) [March 2013]
- 6) HM Government. (2011). Open Public Services White Paper [Online] Available at: [files.openpublicservices.cabinetoffice.gov.uk/OpenPublicServices-WhitePaper.pdf](http://files.openpublicservices.cabinetoffice.gov.uk/OpenPublicServices-WhitePaper.pdf) [July 2011]

- 7) HM Government. (2012). Public Services (Social Value) Act 2012[Online] Available at: [www.legislation.gov.uk/ukpga/2012/3/enacted](http://www.legislation.gov.uk/ukpga/2012/3/enacted)
- 8) HM Government. (2013) Successful Commissioning Guide, [Online] Available at: [www.nao.org.uk/successful-commissioning/](http://www.nao.org.uk/successful-commissioning/) (2013)
- 9) Investment Strategy Northern Ireland. (2010). Delivering social benefits through public procurement: A Toolkit [Online] Available at: [www.isni.gov.uk/Documents/Social%20Clauses%20Toolkit%20-%20Latest%20Draft%20Toolkit%20-%2025%20February%202010.PDF](http://www.isni.gov.uk/Documents/Social%20Clauses%20Toolkit%20-%20Latest%20Draft%20Toolkit%20-%2025%20February%202010.PDF)
- 10) Social Enterprise UK. (2012). Public Services (Social Value) Act 2012 [Online] Available at: [www.socialenterprise.org.uk/uploads/files/2012/03/public\\_services\\_act\\_2012\\_a\\_brief\\_guide\\_web\\_version\\_final.pdf](http://www.socialenterprise.org.uk/uploads/files/2012/03/public_services_act_2012_a_brief_guide_web_version_final.pdf) [February 2012]



Appendix 3: Development Plan

AIMS	OUTCOMES	ACTIVITY	THEMES				Target	Date	RAG
			WT	EE	DT	PI			
<ul style="list-style-type: none"> <li>To support the Council's long-term financial sustainability and drive efficiencies</li> </ul>	<ul style="list-style-type: none"> <li>Value for money is achieved for the Council and the people of Cumbria – procurement drives efficiencies and results in cost effective purchasing decisions within available resources;</li> </ul>	Income through Early Payment (PSS) scheme		X			£450,000 per annum		
		Income via YPO 'dividend' (Targeted purchasing via pan government orgs)		X			£150,000 per annum		
		Contract savings through commissioning/procurement reviews (expiring/new contracts)		X			Aim for 5% reduction		
		Fully electronic end to end commissioning, procurement and contract management process			X			April 2019	
	<ul style="list-style-type: none"> <li>The impact and value from our contract expenditure is maximised – opportunities will be taken to incorporate socio, economic and environmental benefit clauses are incorporated into contracts, wherever relevant and proportionate to do so</li> <li>The Council encourages and supports the operation of effective markets - the Council will use its purchasing power and relationships to help optimise competition and performance, seeking to mitigate risks of market failure and put in place simple, robust and legally compliant contract procedures.</li> </ul>	Detailed Spend Analysis across all categories of addressable spend to inform contract decision making		X				01/10.2018	
		Min number of stakeholder engagements for OJEU contracts:		X			30 Per Annum		
		Increase number of suppliers using The Chest (electronic portal):		X			56,000 Per Annum		
		) Alternative procurement models applied as routes to market.		X				Every quarter	
		Optimise collaborative opportunities with public and Third Sector organisations		X			We will use the following: (i) YPO (we currently have associate status) (ii) other nat. Public Buying Organisations (using such) (iii) Crown Commercial Services -Cent. Gov't (using such) (iv) EPIC -Cumbrian-based public bodies (chairsing such) (v) Third Sector bodies (Using such - 9% of total spend)		
<ul style="list-style-type: none"> <li>Support local economic growth whilst responding to commissioning requirements</li> </ul>	<ul style="list-style-type: none"> <li>Council Plan outcomes and activities are delivered from procured goods and services meeting the commissioning needs of services users;</li> <li>Local economic growth is supported – local organisations are supported to bid, win and deliver Council contracts where possible;</li> </ul>	Number of contracts advertised via The Chest.		X			200 per annum.		
		CCC Spend through national SME's		X			50% (35% of its supply base)		
	Undertake Supply chain analysis/ LM3 info and reports (impact on the local economy)		X						
	CCC spend with all Cumbrian orgs		X			50%			
	CCC Contracts awarded to Cumbrian organisations		X			75%			
	CCC local SME spend		X			35%			

		Support the implementation of commissioning strategies of Children's services and Health and Care Services in procuring prevention and intervention services, assisting the review and re modelling of commissioning and procurement intentions, where appropriate				X		By 01/04/19	
		All 'significant contracts' to have a corporate risk log		X				by 01/04/2018	
		All 'significant contracts' (High risk/high value/politically sensitive) input into new Contract Management software system.		X				Beginning 01/04/2018	
		Remainder of Council contracts input into new Contract Mgt software system		X				By 01/04/2019	
Optimise the opportunities for delivering Social value opportunities through procurement	<ul style="list-style-type: none"> <li>The Council's commitment to the Living Wage is demonstrated – the encouragement of providers to pay the Living Wage Foundation's Living Wage to their staff in delivering services to the Council;</li> </ul>	Increase application of Social Value clauses, where appropriate to do so as contracts are awarded		X			90% of all relevant contracts have at least one clause income		
		Produce an ethical contracting charter		X				By 01/04/2019	

Footnote: The Activities are a 'best fit' against the Aims and Outcomes

Themes Key:

WT: Working Together

EE: Enterprise & Efficiency

DT: Digital Transformation

PI: Prevention & Intervention