



# Commissioning Public Services

The good practice principles  
of commissioning



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Commissioning Public Services has been produced as part of the EQUAL Programme. The Social Economy Scotland Development Partnership is part-funded through the EQUAL Programme. The Development Partnership involves:

- Careers Scotland
- Communities Scotland (Scottish Centre for Regeneration)
- Forth Sector
- Highlands and Islands Enterprise
- North Lanarkshire Council
- Scottish Council for Voluntary Organisations (Lead Partner)
- Scottish Enterprise
- Scottish Government (Third Sector Division)
- Scottish Social Enterprise Coalition
- Social Firms Scotland
- Social Investment Scotland
- Volunteer Development Scotland

Social Economy Scotland works in partnership (nationally and transnationally) to support the social economy to increase its role in the delivery of innovative, high quality services, thereby enhancing its contribution to community regeneration, sustainable economic development and labour market integration in Scotland. To support this aim, Social Economy Scotland has funded a range of pilot projects under the following themes: Public Social Partnership; Access to Finance; Quality and Impact; Business Development and Raising the Profile.

For more information see [www.socialeconomyscotland.info](http://www.socialeconomyscotland.info)

We would like to thank all of the individuals and organisations that helped us research and develop the good practice principles of commissioning. We are grateful to those who took part in roundtable discussions and interviews, , there are too many of you to mention, but we are grateful for your valuable contributions.

This report was co-authored by Forth Sector Development, and Kevin Robbie, Forth Sector.

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## CHAPTER 1 INTRODUCTION

Commissioning Public Services is a practical guide aimed at frontline service commissioners who are involved in the design of service specifications and contracts. It is particularly focused on service commissioners who are developing services for delivery by third sector organisations. The guide may also be of use to procurement support staff that support front-line service commissioning.

The guide is based around recognised principles of good commissioning when purchasing services for 'service users'.

The guide is part of a suite of publications being produced by the EQUAL Social Economy Scotland Development Partnership. The series of publications includes:

- **Tendering for Public Sector Contracts** – this is a practical guide for social enterprises and other third sector organisations that want to understand the procurement process and increase their skills when tendering.
- **Better Value: Purchasing public services from the social economy** and the accompanying case studies in **Better value: The social economy delivering public service contracts** – these guides are intended to demonstrate to the public sector the advantages of contracting with the social economy.
- **Developing consortia** – this guide is for social enterprises and other third sector organisations aiming to develop consortia to deliver public services
- **New approaches to commissioning** – this report outlines developments in commissioning around more collaborative approaches to purchasing services.
- **Making the Case: Social Added Value Guide** – this guide stresses to social enterprises and third sector organisations the importance of proving their social added value and describes some of the tools that can be used to measure this.
- **Investing in Impact: Developing Social Return on Investment** – this report outlines the lessons learned from using Social Return on Investment as an impact measurement tool.
- **Buying for Good: Housing Associations, Social Firms and Community Benefits in Procurement** – This guide shows Housing Associations how to use community benefit clauses in procurement and has a particular focus on contracting with Social Firms and other social enterprises.



Copies of these publications are available on the following website:  
[www.socialeconomyscotland.info](http://www.socialeconomyscotland.info)

## What is the EQUAL Development Partnership?

The EQUAL *Social Economy Scotland* Development Partnership works to support the third sector to increase its role in the delivery of innovative, high quality services, thereby enhancing its contribution to community regeneration, sustainable economic development and labour market integration in Scotland.

To support this aim, Social Economy Scotland funded a range of pilot projects under the following themes:

- Public Social Partnership and Procurement
- Access to Finance
- Quality and Impact
- Business Development
- Raising the Profile

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For more information see [www.socialeconomyscotland.info](http://www.socialeconomyscotland.info)

## Why publish this guide?

The Scottish Government is committed to improving public service delivery and making Scotland wealthier and fairer, healthier, safer and stronger, smarter and greener.

Approximately £8 billion is spent annually by the public sector in Scotland purchasing goods and services. The Scottish Government recognises that action is required to level the playing field for social enterprises and voluntary organisations in securing access to this growing public sector market.

*Commissioning Public Services* was commissioned by the EQUAL Social Economy Scotland Development Partnership in partnership with the Scottish Government Third Sector Division. This guide is aimed at promoting the principles of good commissioning across the public sector.

## Why is there such a focus on improving commissioning and procurement?

The Scottish Government has a vision of world-class public service delivery. Social enterprises and voluntary organisations have been delivering public services for many years. This work has traditionally been undertaken through grant-funded arrangements, voluntary activity, service level agreements, partnership working and increasingly over the last decade through contracts.

As good practice develops in the public sector there is a corresponding need for social enterprises and voluntary organisations to become more business like in their dealings with this sector.

Also as the public procurement market opens up there will be increased opportunities for social enterprises and voluntary organisations to compete for contracts to deliver public services. It is also recognised that some public services will continue to be grant funded rather than put out to tender. The decision about whether services are outsourced will be made by service commissioners in their pursuit of Best Value.

## What policy developments are shaping the environment?

There have been a number of recent policy developments within the area of public service delivery. These include:

- *The Review of Public Procurement in Scotland* (the McClelland Review) highlighted inconsistencies in procurement practice across the Scottish Public Sector. The review offered a number of recommendations to increase transparency, to improve innovation and when appropriate to consolidate buying practices. The Scottish Government is acting upon these recommendations and has established the Public Procurement Reform Board to oversee the successful implementation of actions to improve performance, and a Public Procurement Advisory Group composed of business organisations, including Third Sector representation, to provide a body with whom the Reform Board could engage in dialogue about the effect of changes in public procurement policy and practice upon suppliers.



A copy of *The Review of Public Procurement in Scotland* (the McClelland Review) is available from [www.scotland.gov.uk/Publications/2006/03/14105448/0](http://www.scotland.gov.uk/Publications/2006/03/14105448/0)

- *From Grants to Contracts* – Over the past few years, there has been a shift in the funding relationship between the public sector and the third sector. The public sector is now increasingly purchasing goods and services rather than grant-funding organisations. This growth in purchasing has resulted in a corresponding need to improve practice in commissioning public services and a need to improve the interaction between front-line service commissioners and procurement support.
- Best Value and Community Planning are intrinsic to the Local Government in Scotland Act (2003) which placed a duty upon local authorities to secure continuous improvement in performance and work with other public agencies, together with communities, to plan and deliver better local services.



A copy of the Local Government Scotland Act (2003) is available from [www.hms.gov.uk/legislation/scotland/acts2003/20030001.htm](http://www.hms.gov.uk/legislation/scotland/acts2003/20030001.htm)

- *The Public Contracts (Scotland) Regulations 2006* take account of the new EU Services Directive and have had considerable implications in terms of the regulation of procurement. The Directive sets out clear guidance on the requirement to advertise tender opportunities for works, goods and services across the European Union. It has clarified a set of technical standards for use across the EU, and requirements for objective and open criteria for the evaluation of tenders and the selection of contractors. The Directive outlines when and how public contracts might take account of social and environmental considerations as part of this process. The Scottish Procurement Directorate has published guidance on community benefits within procurement.



Community Benefits in Public Procurement Report. A Report Demonstrating the Methodology for Including Targeted Recruitment and Training Clauses in Public Sector Contracts. This publication is available at

[www.scotland.gov.uk/Publications/2008/02/13140629/20](http://www.scotland.gov.uk/Publications/2008/02/13140629/20)

- The growth of e-procurement across Scotland is of considerable importance as it has the potential to improve accessibility to guidance about the procurement processes and strategies employed by the public sector, as well as information about specific tender opportunities. Scotland is leading the way in this regard as it is the first country in the world to recommend all government-funded organisations use e-procurement as a buying method.

### Who is the guide for?

The guide is for front-line service commissioners that purchase services for 'service users'. It is particularly focused on service commissioners who are developing services for delivery by third sector organisations. The guide may also be of use to procurement support staff that support front-line service commissioning.

The focus of the guide is on the principles of good commissioning.

The guide will give an overview of the commissioning process, look at the best practice principles for commissioning and outline the steps that can be taken in order to allow public bodies to take into account broader outcomes such as social, environmental and ethical considerations when designing service specifications and awarding contracts.

Although the focus of the guide is around social enterprises and other third sector organisations that supply public services, the processes outlined will also support commissioning from private sector companies who act in a sustainable and responsible way and will encourage organisations who currently do not operate in such a way to consider how they can begin to.

By commissioning in a sustainable way with a focus on broad outcomes, public bodies can use their buying power to achieve their overall strategic aims, whether that is regeneration, economic development, job creation, or acting in an environmentally sustainable way.

Good practice around developing commissioning and procurement processes is emerging. Within the public sector most agencies are now developing procurement strategies that are linked to their strategic aims. Understanding the potential and full implications of the social economy becoming involved in the formal delivery of public services is still sketchy. This guide will support service commissioners to engage more fully with the social economy.

## How to use the guide?

The guide introduces key concepts in commissioning public services:

Chapter 2 **'Commissioning and Procurement'** discusses the commissioning and procurement process and the differences and interaction between the two.

Chapter 3 **'The Principles of Good Commissioning'** outlines the key principles that are embedded in good practice commissioning

Chapter 4 **'Commissioning for Outcomes'** gives you an overview of why you would commission for outcomes and impacts rather than focussing solely on costs and outputs.

Chapter 5 **'Pricing Service Delivery'** outlines briefly how you can ensure that you adhere to Full Cost Recovery when purchasing or commissioning services.

Chapter 6 **'Responsible Procurement'** gives an overview of when it may be appropriate and the mechanisms by which you can build in green or environmental considerations into contracts.

Chapter 7 **'Social Procurement'** gives an overview of when it may be appropriate and the mechanisms by which you can build social clauses into contracts.

Chapter 8 **'Standard Terms and Conditions for a Contract'** This section outlines some of the key elements of good practice in terms of designing a contract and discusses how to use procurement support effectively.

Chapter 9 **'Support Available'** This section signposts you to sources of advice and support.

At the end of the guide there is a terminology section and bibliography.

Throughout the guide you will come across different symbols. These are as follows:



**Top Tips** – a series of dos or don'ts that should help you through the commissioning process.



**Question** – is used to indicate a key question for you to answer.



**Signpost** – is used to signpost to advice and support.

It is not intended that the guide be read in one sitting. It is there as a reference source for you and designed so that you can dip in and out of it, picking up appropriate information at each stage.

## CHAPTER 2 BACKGROUND

Commissioning public services to a high standard involves three inter-related aspects of the process:

- The principles and practice of commissioning
- The culture of the buying organisation
- The skills of the people purchasing or commissioning the service

This guide is only focused on the principles and practice of commissioning.

While we recognise that the culture of the buying organisation and skills and attitude of the people involved in the process are equally important, this guide does not focus on these aspects of good commissioning. This guide is underpinned by the recognition that in order for public bodies to purchase in a “socially” responsible manner, it is essential that all those involved in the procurement process have the skills, knowledge and willingness to purchase in a “socially” responsible manner.

### **What is the difference between commissioning and procurement?**

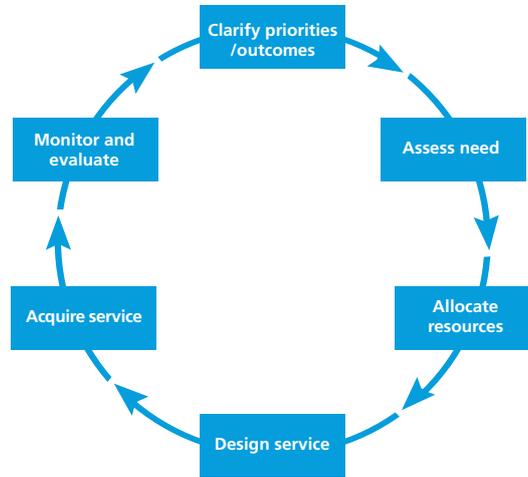
These two terms have often been interchanged, which has on occasions led to confusion.

- **Commissioning** *is the strategic function of identifying priorities and outcomes, assessing the needs of people in an area or the requirement for goods or services by a public agency, allocating resources and then designing and securing the appropriate services.*
- **Procurement** *is the whole process of purchasing by the public sector from third parties covering goods, services and capital projects. The process spans the whole-life cycle from initial concept through to the end of the asset or the end of a services contract.*

Procurement will result in the acquisition of goods or services from suppliers under legally binding contractual terms. There is a dynamic interaction between commissioning and procurement where procurement professionals actively support service commissioners to secure Best Value in the goods and services that they are seeking to obtain.

## What is the commissioning cycle?

The commissioning cycle works as follows:



### Clarify priorities/outcomes

Identify the impact that you wish to have in relation to your strategic objectives. *This will take account of the mission and key policy drivers within your organisation and will often mean looking more broadly at the area of work that you are directly involved with.*

### Assess need

Develop an understanding of the needs of service users and link this back to the outcomes desired for service delivery. *This will involve consultation with service users and organisations that advocate on their behalf. You will be seeking to understand 'how' you will know that the outcomes and impact you are looking for have been achieved.*

### Allocate resources

Resources or a budget for the service should be agreed based on the outcomes sought and the assessed need. *Initial targets will become clearer once the budget is agreed. The process is re-iterative and may require that you take a step back if it is clear that your budget will not allow you to achieve the desired outcomes.*

### Design service

The best service available within resources should be designed based on the outcomes sought and the assessed need. *This may involve working in partnership with service delivery organisations to ensure innovation and best practice is taken into account. Using service delivery organisations at this stage will assist you in ensuring that the outputs required are achievable.*

### Acquire service

An options appraisal helps decide how the service should be delivered. Purchasing the service through a competitive process – procurement – is often the best option in terms of securing Best Value. *At this point you will engage more fully with procurement professionals to follow established process that will take account of Best Value, EU legislation and the strategic aims of the procurement strategy of your organisation.*

### Monitor and evaluate

Once your service delivery organisation is in place then you will have to monitor and evaluate the service delivery, involving key stakeholders (particularly service users) as appropriate. *Monitoring and evaluation should be proportionate to the contract value and contract length to ensure value for money. Information gathered from the monitoring/evaluation process should help you redesign the service for any future tender.*

## What is the procurement process?

Commissioners work to design the service they need. Procurement is a strategic back office function to support this process ranging from market research to legal support to administrative requirements to ensure efficiency. The mutual aim of both commissioning and procurement should be to secure Best Value.

There is no standard procurement process within the public sector in Scotland. The following shows a typical procurement process within the public sector where the decision has been made to put the supply of goods or services out to competitive tender, it also outlines the stages whereby commissioners should involve procurement staff.

1

### Develop a strategic plan

All public sector agencies should have a strategic plan that links their vision, purpose, values and strategic aims/objectives into the statutory powers they possess and the wider impact that they wish to have. *Good practice within the public sector is seeing the development of Corporate Social Responsibility strategies underpinning the strategic plan.*

2

### Develop a purchasing strategy

Many public agencies are now developing purchasing or procurement strategies that link their purchasing decisions to their wider strategic plan. This is underpinned by the idea that public spending should be for public benefit and ensuring accountability for the public pound to deliver Best Value. The purchasing strategy will also make clear the levels of responsibility and accountability across the public agency for purchasing decisions. *Good practice stresses the link between the core aims and objectives of the public agency and the purchasing decisions it makes.*

3

### Options appraisal

Where goods are required or a service has been designed then an options appraisal is carried out. This options appraisal is founded on Best Value. Broadly the options appraisal will look at whether to deliver in-house or purchase externally. Increasingly the options appraisal will consider whether value for money can be achieved through collaborative purchasing. The options appraisal will also consider whether to purchase the goods or services or to grant-fund the delivery of the service. A business case for the option chosen is then developed. *This options appraisal is often the initial interface period between service commissioners and procurement officers as decisions are made about how Best Value can be secured.*

4

#### **Develop a project plan**

If the decision is made to purchase externally, the public agency should develop a project plan to secure the outcomes and impact agreed. This will be driven by obtaining Best Value and ensuring adherence with legislative requirements, particularly in regard to open and competitive tendering. The timeline for the procurement process is agreed. *Good practice will ensure that the procurement process is proportionate to the contract value and contract length.*

5

#### **Develop the specification**

A specification is developed for the services to be purchased. This process should involve both service commissioners and procurement professionals and may involve further market research to identify best practice and innovation within the area of purchase. *Good practice should ensure that service users and organisations that represent service users should be consulted whilst developing the specification.*

6

#### **Advertise the contract**

Tenders are advertised in a variety of ways according to the policy of the public agency and compliance with EU and national regulations. There is a growing move to advertise public sector contracts online via portal sites. This ensures greater transparency, non-discrimination and compliance with the legal requirement in Scotland for adequate publicity for contracts. *Good practice for large contracts is to 'notify' that potential contracts may be advertised shortly to give the market time to respond, particularly where consortia of service deliverers may be required to deliver the service.*

7

#### **Pre qualification questionnaire (PQQ)**

A pre-qualification questionnaire (PQQ) assists the public agency to assess the technical capability and financial capacity of interested parties. The PQQ process allows the public agency to efficiently select suppliers capable of delivering the goods or services required. *There is a requirement to place the minimum burden on suppliers via PQQs. The process should focus on the core questions to allow the public agency to short-list those suppliers that they wish to invite to fully tender.*

8

#### **Invite tenders**

Qualified suppliers are invited to tender. The Invitation to Tender (ITT) will detail the service specification, the criteria used for decisions on tendering and the timescale for the process. *Good practice is to allow a sufficient time for tender completion that is proportionate to the information required in the tender documents and the contract value/length.*

9

**Evaluate tenders**

The public agency then evaluates the tenders submitted against the specific criteria associated with that tender. Certain elements will be standard such as the achievement of value for money although the weightings and additional criteria will vary from one tender to another. *Good practice is to be clear in the tender documentation how tenders will be evaluated/scored, this will enable the suppliers to provide you with the information required.*

10

**Award the contract**

The contract is awarded to the supplier whose bid is judged to represent Best Value. This is the 'most economically advantageous tender' (MEAT) that meets the selection criteria. *Good practice is to ensure that you are clear on the criteria for Best Value prior to the advertisement of the tender. This will help you to be clear that you are going to buy what you want to buy.*

11

**Debrief**

Suppliers that are unsuccessful at either PQQ or tendering stage can request a debrief. To allow sufficient time for appeal, for high value contracts (i.e. those above a recognised EU threshold) a standstill rule (also known as the Alcatel Rule) applies, whereby work must not begin on the contract for a period of at least 10 days. *Whilst these rules do not apply to lower value below-threshold procurements, it is often considered good practice by purchasers to build in a standstill time to ensure that ample opportunity is given to unsuccessful bidders to appeal.*

12

**Manage the contract**

The supplier's performance is checked and monitored according to the terms of the contract. Performance criteria should be clearly outlined in the terms and conditions of the contract. This should also outline what will happen if performance falls below accepted levels. *Good practice is for monitoring and evaluation to be proportionate to the contract length and value.*

13

**Review and test**

The need for the contract will be reviewed regularly. This review will help to prepare for future service requirement. After a set period of time the contract may need to be advertised again. Contract length is often determined by the amount of significant upfront investment that is required to service the contract or where frequent changes in suppliers may be detrimental to Best Value and the outcomes/impact sought from the contract.

-  Further information on procurement processes is available on the Scottish Government website [www.scotland.gov.uk/procurement](http://www.scotland.gov.uk/procurement)
-  Further information is available on PQQs at the Scottish Government website [www.scotland.gov.uk/Topics/Government/Procurement/Selling/Qualification Question](http://www.scotland.gov.uk/Topics/Government/Procurement/Selling/Qualification Question)
-  We acknowledge that the above process may not be applicable in all circumstances. Commissioning of services is carried out by a range of people. This can range from people who are hugely experienced in the process doing commissioning within well resourced public agencies, through to people within smaller agencies who are under-resourced, and may be going through the commissioning process for the first time. This guide is being written in order to cover individuals across this spectrum and we try to focus on the key principles.

### **How does collaborative working influence service commissioning?**

It is recognised that to achieve the vision of innovative and dynamic world-class public services there needs to be stronger and more effective commissioning based upon partnerships. Recent policy has placed an emphasis on collaborative purchasing which sees public agencies coming together to buy goods and services in order to achieve cost savings and efficiencies.

Processes such as Community Planning place an emphasis on the design and delivery of services at a level closer to the users, often allowing them to have an input into the priorities around design of local services. This means that service commissioners have to make complex and multi-faceted purchasing decisions.

One consequence of public sector reform will see an increasingly mixed economy of public service delivery with different sectors contributing according to their strengths. The public sector will bring its value base, strong governance, professionalism, experience and accountability. The private sector will contribute both commercial discipline and customer focus. The third sector will bring its understanding and experience of service users, as well as a culture of responsiveness to need and positive attitude towards innovation. Social enterprises blend commercial acumen with social purpose and have the potential to provide benefits associated with the social economy and private sector. Collaboration between sectors will be far more common.

Additionally a key driver for service commissioners will be an increased focus on outcomes for service users alongside achieving value for money for taxpayers. The quality of the service will matter more than the nature of the organisation that provides it.

-  The EQUAL Social Economy Scotland Development Partnership has produced a ‘Collaborative Commissioning’ which looks at emerging developments in collaborative working. This publication is available at [www.socialeconomyscotland.info](http://www.socialeconomyscotland.info)

## CHAPTER 3 COMMISSIONING PRINCIPLES AND PRACTICES

All public purchasing must comply with the EU Treaty and the ECJ (European Court of Justice) jurisprudence. The treaty sets down principles to prevent discrimination against businesses from any member state and to remove restrictions on the free movement of goods and services.

This is backed up by a series of EU procurement directives which ensure:

- Transparency of process
- Free movement of goods and services
- Equal treatment through non-discrimination
- Proportionality within the process

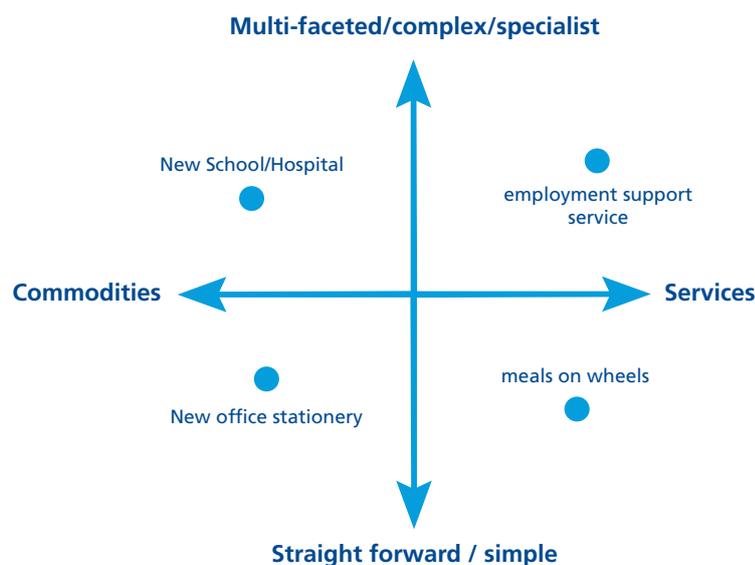
When purchasing goods or services the key principles, within the UK are those of Best Value and Value for Money<sup>1</sup> (VfM). Open competition is often the best way to achieve Best Value. This can be about facilitating the involvement of the broadest range of suppliers, including considering sub-contracting and consortia building, where appropriate.

### What differences are there when buying goods or commissioning services?

The EU principles and directives combined with the UK key principles apply whether you are buying goods or commissioning services.

There are obviously areas that need to be thought through when you are faced with any purchasing or commissioning decision. It is more complex to commission services for people (childcare, debt advice, healthcare services, etc) than to buy commodities (such as stationery, electricity, etc).

The diagram below illustrates a simple approach to decision making:



<sup>1</sup> Value for money is defined as the optimum combination of whole-life cost and quality (or fitness for purpose) to meet the user's requirement.

It is stating the obvious to say that procuring a large-scale contract to build and resource a new hospital or school (upper left quadrant) requires a far higher level of sophistication in the procurement process than purchasing stationery for an office (bottom left quadrant).

Correspondingly it requires more sophistication to commission an employment support service for people who are long-term unemployed, with multiple barriers to employment including health, offending behavior and debt issues (top right quadrant) than to commission a meals on wheels service for people to remain within the community (bottom right quadrant).

Yet it is also the case that when commissioning services (right-hand quadrants) for people rather than goods or commodities (left hand quadrants) then you have to account for the 'people factor' which will mean that the commissioning process is more inter-personal. Because of this we believe that commissioning services requires an additional layer of principles to ensure good practice.

### **What are the principles of good commissioning?**

Good commissioning is driven by the vision of securing better public outcomes for individuals and communities. This should yield both efficiency gains and community benefits. Smarter, more effective and innovative commissioning for individuals and communities should lead to the optimal involvement of the third sector in public service design, improvement and delivery.

In order to make this vision a reality there are seven principles<sup>2</sup> that are embedded in good commissioning:

1. Fully assess the range of stakeholders involved in any potential service delivery;
2. Consult with the stakeholders, including potential service users, their advocates and potential suppliers, around the aims they have and outcomes they require from the delivery of the public service;
3. Put outcomes for users at the heart of the strategic planning process and any subsequent service design;
4. Engage with the fullest practical range of potential suppliers well in advance of commissioning new services, working with them to identify potential innovation<sup>3</sup> in service delivery and understanding the contribution they could make to delivering the outcomes sought;
5. Fully assess the impact of purchasing decisions, taking account of issues around sustainable development, corporate responsibility, contract length and community benefit;
6. Risk should be evaluated and rated in terms of likelihood and impact. Risk sharing should focus on achieving efficiency and effectiveness, with appropriate reward structures for risk management;
7. Seek feedback from service users, communities and providers in order to review the effectiveness of the commissioning process in meeting local needs.

Adherence to these principles should ensure that service commissioners aim to buy what they need to buy to achieve the outcomes sought. The principles will assist service commissioners to maximize the effectiveness of engagement with procurement professionals who can advise on adherence to EU directives around process.

2 These principles of good commissioning have been adapted from those developed by the Office of the Third Sector (Partnership in Public Services: An action plan for third sector involvement) and IDEA ([www.idea.gov.uk](http://www.idea.gov.uk)). Development work carried out through the Social Economy Scotland Development Partnership 'Partnership and Procurement Thematic Board' honed this work to the above 7 principles.

3 This needs to be done in the context of balancing expectations, i.e. there is no guarantee that involvement in this process will help win the contract. Also, it should be recognised that there might be a requirement to pay for this expertise.

## CHAPTER 4 DEVELOPMENT PARTNERSHIPS

### Why focus on commissioning for outcomes?

At the heart of good commissioning is the practice of focusing on outcomes.

A traditional approach to commissioning has been to focus on the input (or resources) that are being provided for the service and the potential outputs (or targets) that will be achieved from this input. This approach has at its basis the aspiration that if these outputs are achieved then that will lead to outcomes (the change required from the activity) being realised and hopefully longer-term impact.

This approach has developed because inputs (staff time, hours worked, amount of cash provided) and outputs (number of referrals, number of people served, number of qualifications, etc) are easier to measure than outcome and impact. But this approach may not be in the best interest of providing value for money for the public pound.

By focusing on outcomes and evaluating impact, you can ensure that the services you are commissioning will be to the benefit of the people and communities they serve. This should enable you to achieve greater value for money and Best Value.

The following diagram illustrates how this could be approached:



This approach means that service commissioning is driven by the 'outcomes' sought from the process. Once you are clear about what 'outcomes' you want to purchase you should focus on the 'indicators' that signal that desired outcomes have been achieved. This can be easily done by asking the question 'how will we know if this outcome has been achieved?'

Once the outcomes and indicators are clear then you should look at the resources that will be required to achieve these outcomes. This is a re-iterative process; if the resources are not available then the outcomes sought will need to be refined. Once it has been agreed that the resources will be provided to achieve the outcomes sought then outputs can be clarified. These outputs will be driven by the outcomes sought.

## What are the advantages of this outcome focused approach?

The main advantage of this approach is outlined above; it should assist you to achieve Best Value or Value for Money (VfM).

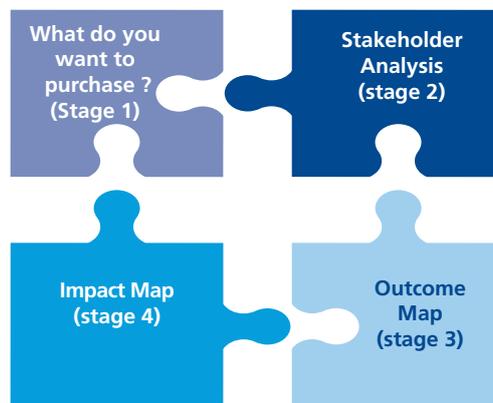


As a commissioner you have the opportunity to make the contract results focused. The focus is not only on outputs or number of people served but you should also consider the effectiveness of the service, the quality of the service and the ability of the service provider to meet the wider outcomes of your agency. To do this you need to be clear about outcomes. It is important that when writing out service specifications that you are clear and precise about the needs that are to be met.

The other key advantage of this approach is that it should simplify monitoring and evaluation processes. If you are clear at the start of the process the outcomes that you want from commissioning a service and you have the indicators of successful outcome clarified then this should shape the type and quality of information that you will require from the service provider. Efficiency savings should flow from focusing the service provider on collating the relevant information to provide evidence that outcomes have been achieved.

## How do we decide on the outcomes we want to commission?

The diagram<sup>4</sup> below outlines the stages in developing clarity around the outcomes that you may want to purchase.



We suggest developing a “jigsaw” approach to developing an understanding of the outcomes that you are seeking. This is built around one of the key principles of service commissioning, that you engage with all the key stakeholders and clarify their outcomes. Piecing the jigsaw together will assist you in developing an ‘impact map’<sup>5</sup>.

<sup>4</sup> This has been developed from a process called ‘impact mapping’ that is used in measuring social return on investment into public services. Investing in Impact: Developing Social Return on Investment (2008) EQUAL Social Economy Scotland Development Partnership

<sup>5</sup> The initial work on ‘impact mapping’ was carried out by the new economics foundation and is outlined in the publication “Impact Briefing: Putting impact at the heart of the tendering process”

## Stage 1: Define the service being commissioned

As indicated above in the quadrant diagram the initial stage of this process is to consider whether the service you are thinking of commissioning is straightforward/simple or multi-faceted/complex/specialist.

The questions to ask at this point are:



- What do we want to commission? What problem are we seeking to solve?
- Why do we want to commission this service?
- What need are we seeking to meet through delivering this service?
- What experience do we have of commissioning this type of service before?
- Where has this service been commissioned before?
- Where have similar types of services been commissioned before?
- What lessons can we learn from those processes that will aid us to commission more effectively at this point?



You can take steps to understand the needs of service users and their communities by ensuring that you consult directly with them or with third sector organisations, as their advocates.



It is vital that you know what you want to buy at the beginning of the commissioning cycle. Engaging service users and providers before the contract process will allow you to ensure that there can be open and wide consultation about what the needs are and the best way of meeting these needs. This will help develop a culture of partnership and trust and will also help inform the commissioning process and develop the core requirements and specifications of the tender.

You should end up with a brief description of the type of service that you are looking to see delivered. You will be beginning to get a sense of your motivation for seeing this service delivered and the outcomes that you as the purchasing agency want to achieve through delivery.

## Stage 2: Stakeholder Analysis

### Who are your Stakeholders?

In relation to commissioning, stakeholders are individuals or organisations who have a direct interest, or stake, in the service you are commissioning for.

### How do I design a stakeholder analysis?

The next stage when designing an outcome based approach is to undertake a stakeholder analysis. Adopting this approach will enable you to develop a far more rounded perspective of what is required from the service you are commissioning for.

The focus for your stakeholder analysis should be on identifying the aims and desired outcomes of your stakeholders. There may be little value in identifying stakeholder inputs and outputs at this stage as this can distract from a focus on outcomes.

To carry out a stakeholder analysis you should identify who all the potential stakeholders are and seek to ascertain their aims and outcomes. This can be done by following the model below:

Stakeholder	Aim	Outcomes
➔	➔	➔

You should ask the following questions:

- 
  - Who are the main stakeholders?
  - What other stakeholders exist?
  - What are the main stakeholders aims?
  - What outcomes would they want from this service being commissioned?
-  Focus on the main stakeholders, particularly the service users. Remember that as the commissioner you will be one of the primary stakeholders. You need to think through the aims and outcomes that you have from the proposed service.
-  Good practice would be to ask the stakeholders what their aims and outcomes are. This will give you a fuller picture. But you can short-cut this process by studying literature or using your knowledge/understanding of the stakeholders to identify aims and outcomes.

### Stage 3: Outcome Analysis

The next stage of building the jigsaw is to rationalise the range of outcomes that the variety of stakeholders have.

Remember an outcome is the changes that happen because of an activity. They usually refer to movement of some kind (e.g. increase, improvement, reduction). Examples of outcomes are:

- Increase positive parenting skills
- Increase volunteering in the local area
- Strengthen levels of community contact and mutual support between local families
- Increase the employability of people moving out of homelessness

You should be able to identify patterns of similar outcomes between the various main stakeholders. Once these have been refined you will be able to identify priorities in terms of the outcomes that are being sought.

-  At this point it might be useful to begin to think about the indicators. This is done by asking the questions 'how will you know if this outcome is achieved?' or 'what will be different?'

Examples of outcome indicators are:

- **Outcome 1** – **a.** parents feel confident in dealing with their children and **b.** children are less disruptive within the family home.
- **Outcome 2** – **a.** the number of people volunteering increases and **b.** the number of hours that people are volunteering increases.
- **Outcome 3** – **a.** the number of families participating in community activities increases and **b.** local families feel they have access to peer support in the local area.
- **Outcome 4** – **a.** people moving out of homelessness are moving into employment and **b.** people moving out of homeless are demonstrating distance traveled on the employment spectrum.



It may be useful initially to work as a team to develop outcomes and indicators for services to get the hand of this thought process.

Several guides exist on the tools that are available to support suppliers to prove the outcomes they achieve:



**Making the Case: Social Added Value Guide** – this guide stresses to social enterprises and third sector organisations the importance of proving their social added value and describes some of the tools that can be used to measure this. [www.socialeconomyscotland.info](http://www.socialeconomyscotland.info)



**Investing in Impact** – this report outlines the lessons learned from using Social Return on Investment as an impact measurement tool. [www.socialeconomyscotland.info](http://www.socialeconomyscotland.info)

#### Stage 4: Impact Mapping

You should now have a set of outcomes that you want to achieve through commissioning the service. The final stage of the jigsaw will be to analyse these outcomes to ensure that you will achieve the impact that you are looking for.

Impact is the change that happens because of an activity (an outcome), adjusted for the proportion of the outcome that is not sustained (drop off), the proportion that is shared with others (attribution), what would have happened anyway (deadweight) and any negative effects from the activity (displacement).

Although this might seem complicated, for commissioning purposes the analysis can be boiled down to a few crucial questions that you should ask. These are:



What proportion of the outcomes sought do we think will be sustained over time?



What proportion of outcomes that will be achieved can be attributed to the suppliers/service providers or will other service providers share those outcomes? Who else is delivering these outcomes?

-  What will happen if we do not commission this service? Will the outcomes happen anyway?
-  What are the potential negative consequences of achieving these outcomes?
-  You may be able to get information to help you in this analysis from other service commissioners in neighbouring areas that have commissioned similar services. Alternatively you may have the experience to know the answers to the above.
-  This final stage of the jigsaw will help you to ascertain whether it will be worth commissioning the service over the longer term. It will help you to begin to identify the criteria you will need to judge Best Value and Value for Money (VfM) from potential suppliers.

### **What else should we consider at this stage?**

When thinking about the outcomes and the potential impact that you want to achieve then remember to refer back to what the aims and objectives of your agency are.

-  Where possible when commissioning services this should be done within the core purpose and powers of your agency. Your procurement strategy should mirror the objectives of your agency.
-  Remember that when drafting tender documents you need to make clear the outcomes that you want to achieve and ask suppliers how they will evidence that they will help you achieve these outcomes. They need to be able to prove how their activities and outputs are creating the desired outcomes that you are looking for.

## CHAPTER 5 PRICING SERVICES

### How do we put a cost on the service that we want to commission?

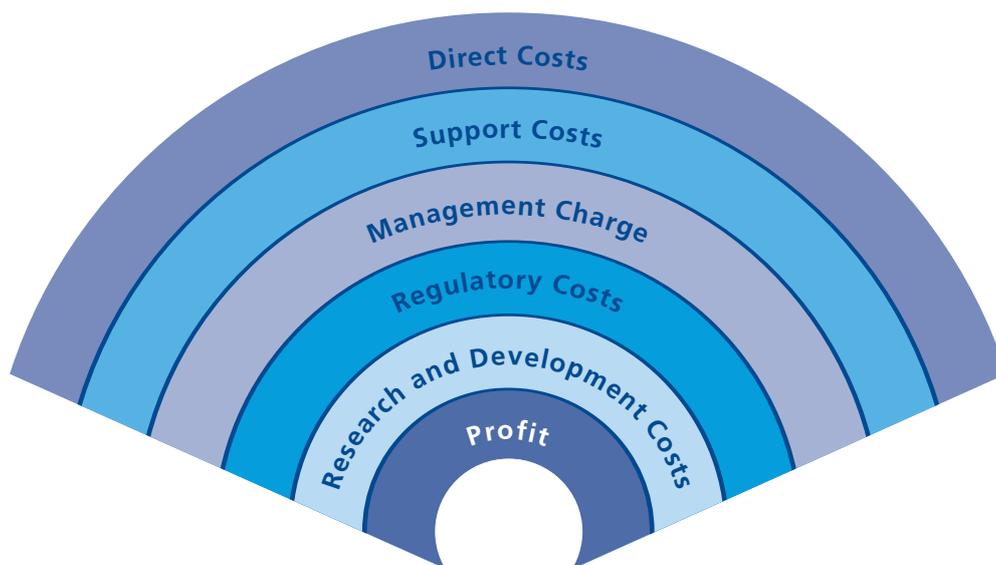
This is one of the trickiest aspects of service commissioning. Often it is done by looking at the budget available and trying to squeeze the maximum out of this. It is also recognised that the pressure for efficiency savings has led to a false interpretation in some areas that this means cutting costs. But in terms of ensuring Best Value and Value for Money (VfM) this is misguided because:

- If an organisation is losing money on the delivery of a service then they may be forced to cut costs. This may involve cutting corners in the delivery of the contract, which could have a negative effect on the outcomes that you initially envisaged the service producing.



Good practice would indicate that you should be clear about the cost of service delivery prior to going out to tender. Your tender should be focused on buying the outcomes that you can afford to pay for.

When pricing services it is useful to think through the following model:



Broadly, the areas that you need to budget for when pricing a potential service are as follows:

**Potential direct costs** – These are the direct costs of service delivery and include areas such as staffing, training, travel, premises, insurance, etc.

**Potential support costs** – These are the costs that are closely associated with delivering the service and will include areas such as line management, recruitment costs, monitoring and evaluation, etc.

**Management charge** – All suppliers will have indirect management costs for areas such as executive management, payroll, personnel, IT support, administrative support, marketing materials, etc.

**Regulatory costs** – Another aspect of the indirect costs that should be budgeted for are the regulatory costs that suppliers incur, including health and safety, audit requirements, quality assurance, annual reports, etc.

**Research and Development** – Suppliers will also legitimately incur costs in terms of the transaction costs of tendering for the service and ongoing business development. These may be included in the management charge above.

**Profit** – As public service delivery moves to become more of a competitive market then suppliers will be looking to make a profit from the delivery of services to the public sector. Your agency may have a view on what level of profit is acceptable for the services that you want delivered but when budgeting you will need to include that profit margin.

-  One of the advantages of commissioning services from social enterprises and other third sector organisations is that they are usually non-profit distributing. While they will also be looking for a profit in terms of potential service delivery, they use their profits differently. Within the third sector, profits are re-invested into community benefit.
-  If you have never priced a service before it is advisable to seek assistance on this aspect. Often you will find that staff within your procurement support teams of finance departments will be able to give you advice on realistic costs and apportionment procedures to realistically work out a budget for the service that you want to commission.

### What is full cost recovery?

When dealing with third sector organisations you may come across the term 'full cost recovery'. Best practice is that service deliverers – whether from private or third sectors – should charge the full cost of providing the service.

Full cost recovery means that an organisation recovers the full costs associated with providing a service or other output. The principle of full cost recovery is a widely accepted accountancy principle. Full costs are broadly defined as “the total cost of all the resources used in supplying a service, including the direct costs of producing the output, a full proportional share of overhead costs and any selling and distribution expenses. Both cash costs and notional (non-cash) costs should be included, including depreciation, inflation and finance charges.”

As a commissioner you should be aware of the principle of full cost recovery and as a **minimum** you should be confident that any successful tender bid meets this. Furthermore, suppliers, including third sector organisations, should be looking to generate a profit from the contract. So you should also expect that on top of full cost recovery, organisations will build in a profit margin.

-  The Association of Chief Executives and Voluntary Organisations (ACEVO) published a guide “Funding our Future II: Understand and Allocate Costs”, this guide has a template that outlines the steps involved in introducing full cost recovery. This guide is available from [www.acevo.org.uk](http://www.acevo.org.uk)
-  The Compact is the agreement between government and the voluntary and community sector to improve their relationship for mutual advantage and community gain, they have produced a number of publications and guides, including work on full cost recovery, available at [www.thecompact.org.uk](http://www.thecompact.org.uk)

### **What do we do if we cannot afford the service that we want to purchase?**

If you have fully priced the product you are commissioning for, plus acceptable profit margin, and then realise that the service is going to cost more than you can afford, then you will have to review your potential outcomes and reduce your expectations. If this is the case then remember to focus on the outcomes that are most important.

### **What should we do if potential suppliers indicate that they can lever in additional resources to allow us deliver the service more cost effectively?**

When dealing with third sector organisations, you may come across situations where either an organisation is able to tender at a price below the full cost of delivering the service or can provide an enhanced service for no extra cost. This is often one of the unique selling points of the third sector and can arise because:

- The third sector organisation is aiming to deliver this contract a part of its core mission toward the service users and will contribute to service delivery using donations from the general public or using its reserves.
- The third sector organisation can lever in additional funding from grant funders towards delivering the service.

It is an added bonus if this happens and may be a key factor in deciding to award the contract to this supplier. The crucial issue to consider when evaluating tenders is the sustainability of this situation:

- What will happen if the third sector organisation cannot continue to donate towards the service delivery because of a decline in donations or a change in reserves policy?
- What will happen once the short-term grant funding runs out?

These contingencies need to be discussed with the suppliers prior to any decision being made on service delivery.

### **How long should we award contracts for?**

When budgeting and pricing contracts you may only know your budget for a short-term period, even though you are aware that the service will continue to need to be provided in the long term.

In these situations it is reasonable to include 'break clauses' in the contract. If the costs of repeatedly re-tendering would be disproportionate to the value of the contract or where there is significant upfront investment required by the supplier (in equipment, property, staff expertise, etc) then it is possible to award a long term contract.

This can be done by awarding the contract over a reasonable timeframe (5 years, 7 years, 10 years, etc) but including provisions in the contract that do not guarantee contract delivery if you do not receive the budget to continue with the service. These break clauses would be similar to standard break clauses in contracts over performance.



Seek procurement guidance because contract length is considered in EU Regulations as well as being a budgetary consideration

## CHAPTER 6 COMMISSIONING RESPONSIBLY

### How do we build green or environmental considerations into commissioning?

By commissioning services that also respect the environment, your agency can make a significant contribution to sustainable development. A number of public agencies will have or will be in the process of developing a green or responsible purchasing strategy. These are fairly straightforward to develop.



An example of a public agency having a responsible purchasing strategy is the Scottish Parliament, this strategy is recognised as good practice- The Scottish Parliament's Responsible Purchasing Strategy, available at, [www.scottish.parliament.uk/corporate/procurement/docs/Strategy-FINAL.pdf](http://www.scottish.parliament.uk/corporate/procurement/docs/Strategy-FINAL.pdf)

Many procurement departments already purchase goods (such as recycled paper, energy efficient equipment) in a responsible manner with a view to long-term sustainability. Those that are operating progressively in this area are now considering 'green procurement' within the full life-cycle costs of a contract, energy efficiency and reduction of waste/pollution are key elements of this.



The Scottish Procurement Directorate has produced guidance on social issues in purchasing. This can be obtained from: [www.scotland.gov.uk/Topics/Government/Procurement/PublicProcurement/policy-notes/sppn062007guidance](http://www.scotland.gov.uk/Topics/Government/Procurement/PublicProcurement/policy-notes/sppn062007guidance)  
Or [www.scotland.gov.uk/resource/doc/116601/0053331.pdf](http://www.scotland.gov.uk/resource/doc/116601/0053331.pdf)



Central to ensuring green or responsible purchasing is training for service commissioners and purchasing staff in order for them to have the appropriate legal, financial and environmental knowledge to be able to decide to what extent environmental considerations can be factored into and commissioning or procurement process.

### What are the first steps in this process?

As above the key stages in this are ensuring that purchasing responsibly is an outcome that you want from the commissioning process. See the chapter above on 'commissioning outcomes'.

It is also helpful if your public agency has a responsible purchasing strategy.

You can then include into any tender the requirements that you want in terms of sustainable development and evaluate all suppliers against these.

## **Is Green Procurement Legal?**

One of the main questions that arises in relation to responsible or green procurement is around its legality. It is possible to apply environmental award criteria within the contract, provided the criteria:

- Are linked to the subject matter of the contract;
- Do not confer unrestricted freedom of choice on the contracting authority;
- Are expressly mentioned in the contract notice and tender documents;
- Comply with the fundamental principles of EU law.

## CHAPTER 7

# SOCIAL CLAUSES IN COMMISSIONING

### How do we build social clauses into commissioning?

As above, if you want to build social clauses or community benefit clauses into a contract then this should be done at the front end of the commissioning process. It is crucial that the social outcomes that you want from the contract are built into the contract during the service design process and prior to notification.

The Scottish Government has recently completed a programme testing use of community benefit clauses in public procurement. The report is available as follows:



Community Benefits in Public Procurement Report,  
[www.scotland.gov.uk/Publications/2008/02/13140629/20](http://www.scotland.gov.uk/Publications/2008/02/13140629/20)



Community Benefits in Public Procurement Guidance Note,  
[www.scotland.gov.uk/Publications/2008/02/12145623/0](http://www.scotland.gov.uk/Publications/2008/02/12145623/0)

The Scottish Government has also produced guidance on social issues in procurement. This guidance note is available as follows:



Social Issues in Public Procurement  
[www.scotland.gov.uk/Topics/Government/Procurement/PublicProcurement/policy/notes/sppn062007guidance](http://www.scotland.gov.uk/Topics/Government/Procurement/PublicProcurement/policy/notes/sppn062007guidance)

### When should community benefit clauses be used?

Community benefit clauses are contractual requirements which deliver a wider social benefit as part of the core purpose of the contract. The major development work around community benefit clauses has often been in relation to targeted training or employment outcomes. The aim is to support socially excluded and long-term unemployed people to move into permanent employment. Community benefit clauses can also further enhance the regeneration of deprived areas.

### Are Community Benefit Clauses Legal?

Both social and environmental clauses can be included into public contracts as long as they do not contravene EU procurement rules, directives and general EU laws.

**The Public Contracts (Scotland) Regulations 2006, regulation 39 states:**

- (1) - A contracting authority may stipulate conditions relating to the performance of a public contract, provided that those conditions are compatible with Community Law and are indicated in -
  - (a) the contract notice and the contract documents; or
  - (b) the contract documents.
- (2) - The conditions referred to in paragraph (1) may, in particular, include social and environmental considerations.

Your agency must have a legal and policy basis for incorporating community benefit requirements into any commissioning or procurement processes. The Local Government in Scotland Act 2003 confers "well-being" powers on local authorities facilitating their scope to pursue targeted recruitment and training requirements in a way which meets their sustainable development responsibilities (see below). The scope for other public agencies will depend on their particular legal frameworks and strategic plans.

**How do community benefit clauses fit with Best Value and Value for Money?**

Commissioning and procurement must always be carried out on the basis of Best Value or Value for Money. The Scottish Government is clear that Best Value and Value for Money do not however mean lowest price.

The Local Government in Scotland Act (2003) introduced two new statutory responsibilities for Local Authorities, Best Value and community planning. This places a duty on local authorities to make arrangements to secure best value. Best Value requires all options to be considered on their merits with decisions being made on an assessment of which option delivers the best outcomes. The guidance issued to local authorities lists a number of characteristics that are representative of a Best Value:

- A contribution to sustainable development which includes a consideration of the social, economic and environmental impacts of activities.
- A commitment to joint working which encourages partnership in service delivery where this will contribute to better services and customer focussed outcomes.
- A demonstration of responsiveness and consultation, including the voluntary and community sectors.
- A culture which encourages both equal opportunities and the observance of equal opportunities requirements.

The priority of all commissioning and procurement is also to achieve value for money, The Scottish Public Finance Manual defines Value for Money (VfM) as "the optimum combination of whole life cost and quality to meet the end user's requirement".



Scottish Public Finance Manual,  
[www.scotland.gov.uk/Topics/Government/Finance/spfm](http://www.scotland.gov.uk/Topics/Government/Finance/spfm)



Hence, when you are considering community benefit clauses in contracts you need to be sure that these will deliver Best Value and Value for Money (VfM).

### **What are the limitations of social clauses?**

Although you can build community benefit clauses or social clauses into contracts the freedom to do so is not unlimited. Clauses must be related to the subject matter of the contract. You are still bound by the usual European Community directives and UK procurement regulations, particularly those relating to the free movement of goods and services. The above Scottish Government Guidance note recommends that you have a team of trained staff working to develop appropriate social clauses and that your agency seeks legal advice when including social or community benefit clauses in contracts.

## CHAPTER 8

### STANDARD CLAUSES

Given the wide range of services that are commissioned across Scotland and the range of procedures followed by different public agencies, it is impossible to be prescriptive about what should be included in a contract. This section will seek to identify the key elements of good practice in terms of designing a contract.

A Contract should detail the following in terms of service provision:

- Who is commissioning the contract – name, address and contact details of your public agency
- The value that the contract is for – and the conditions attached relating to payment.
- Who is supplying the service – name, address and contact details of the organisation and any 'parent' body associated with the service delivery
- The client group that the contract is targeting, where appropriate
- Description of the type of service being contracted for
- What outcomes are specified as part of the contract delivery, including appropriate indicators and outputs expected
- The timescale for contract delivery
- How and when payments will be paid
- Details of your liaison officer for the contracted organisation, including name, job title and department.
- Bank and financial details of the contracted organisation, including details of key staff involved

The following standard<sup>6</sup> conditions and clauses may be included when dealing with third sector organisations:

#### **Standard Clauses**

- Amendments to Service Provision Arrangements, including details of when this might occur and how these will be dealt with

<sup>6</sup> These have been listed alphabetically.

- Assignment of the contracts conditions, including details of the process for this and any prohibitions on this occurring
- Charity compliance requirements, where appropriate and possibly including details on trustees, frequency of meetings, structure, etc
- Complaints procedure within the organisation and identification of point of notification of complaints to purchasing agency
- Confidentiality requirements for clients
- Data Protection Act requirements
- Employment conditions, usually detailing the legal responsibilities expected of the organisation as an employer, the expected employment practices and procedures to comply with employment law around areas such as race relations act, sex discrimination act, equal pay, disability discrimination act, human rights act, etc
- Equal opportunities requirements
- Health and safety requirements, including details on compliance
- Indemnity requirements for the public agency
- Information requirements, including details on providing annual reports, audited accounts, invites to AGM, etc
- Inspection requirements and quality audits, including periods of notice of any inspection and appeals process
- Insurance requirements, including details of the level of public liability insurance expected to be held by the organisation providing services to the public agency
- Intellectual property rights, including details of who retains this
- Key well-being policies that your agency may insist on such as 'Smoking Policy', 'Green Transport Policy', 'Environmental Policy', 'Occupational Health Policy', etc
- Marketing, promotion, advertising and acknowledgement requirements
- Monitoring and evaluation requirements and reporting procedures
- Mutual responsibilities such as payments, public agency staff training, provision of information, transparency of processes, etc

- Notifications of significant changes procedures
- Performance level requirements to meet service specification
- Police checks and child protection, where appropriate
- Pre-conditions, usually indicating that the third sector organisation is properly constituted and has the power to enter into legal agreements
- Prohibitions on use of contract funding for furtherance of political parties or engaging in activities that affect public support for a political party
- Record keeping requirements, including details of how long records should be retained and process for inspection of these records during that period
- Referral procedures, particularly from public agencies
- Regulatory costs, including details on audit requirements, etc
- Re-negotiation of agreement conditions
- Resolution of disputes procedure
- Risk assessment requirements
- Staffing structure and requirements
- Termination of agreement conditions for both parties, use of grant for non-approved purposes, financial irregularities, insolvency of organisation, material breach of the agreement, failure to comply with conditions, failure to meet performance level requirements, etc.
- Value Added Tax, where appropriate
- Volunteer Policy, where appropriate



Remember that when you are putting together a contract, there may be procurement support staff within your agency that can assist with the standard clauses of a contract.



Your agency may have legal support to check contracts before they are awarded to ensure that all contractual requirements have been adhered to.

## CHAPTER 9

### SUPPORT AVAILABLE

We have outlined the principles of good commissioning, based on current good practice within the public sector in Scotland. There are other good practice tips that will help you to achieve Best Value in service commissioning. These are:

-  Your department should make clear who suppliers can contact to find out when contracts are coming out. It is essential that you also identify a lead person for each contract that you are commissioning.
-  You should link your commissioning strategy to key policy documents such as community plans or corporate strategies. This will enable you to make the most use of the potential for community benefit clauses through service commissioning.
-  You should work closely with the back-office procurement staff that can support you in service commissioning. They need to understand fully the 'whole life costs' of what you want to commission. They can work with other departments or units within your agency to join up service commissioning, help you to achieve multiple outcomes and Best Value through the commissioning process.
-  You should organise 'meet the supplier' events. This will help you to build market intelligence about potential suppliers, identify innovation, build working relationships with suppliers and allow you to flag up potential contracts that will be coming up. The latter is often important when consortia delivery is required to provide the service you are commissioning.
-  You should try to understand now what is happening with your current spend. This will help you to evaluate where you might be able to achieve Best Value.
-  Your agency should consider whether to have a 'procurement champion' that works across departments to identify opportunities for you to engage with the third sector in service delivery. You should also look at good practice within other public agencies and learn from where others have succeeded.
-  You should aim to make your commissioning processes as accessible as possible. Good practice is emerging with public agencies having documentation such as procurement strategies, community plans, key contacts and processes detailed on the internet to increase transparency.
-  Where possible you should move away from annual tendering and look to longer-term contracts with appropriate break clauses. This will allow you to focus on performance management rather than repeated re-tendering for similar services.

## What support is available?

Service commissioners will find it useful to utilise procurement support at various stages throughout the commissioning process.



We have tried to signpost throughout this guide when we think it is important to utilise procurement support. But your agency may have its own policy on commissioning services and the role of procurement support. It is important that you familiarize yourself with this policy.

There are further sources of support on commissioning and procurement. These are as follows:



**Scottish Procurement Directorate** - The Scottish Procurement Directorate provides information, guidance and tools on procurement policy and guidance for the Scottish public sector.

[www.scotland.gov.uk/Topics/Government/Procurement](http://www.scotland.gov.uk/Topics/Government/Procurement)

**e-procurement Scotland** - eProcurement Scotland (ePS) is a fully hosted and managed 24 x 7 eProcurement service which supports the full purchase to pay cycle providing a range of services including e-sourcing (electronic tendering and auctions) and transactional purchase to pay solutions. The scope of the service includes the analysis of an individual buying organisation's requirements and priorities, followed by the development, delivery, support and management of eProcurement services to the Scottish public sector buying organisation and their Suppliers. The e-Procurement Scotland Programme comes under the remit of the Scottish Procurement Directorate.

[www.eprocurementscotland.com](http://www.eprocurementscotland.com)



**Chartered Institute of Public Finance and Accountancy (CIPFA)** -

CIPFA is the leading accountancy body for the public services providing education and training in accountancy and financial management. CIPFA has responsibility for setting accounting standards for a significant part of the economy, namely local government. CIPFA also provides a range of advisory, information and training and consultancy services to public service organisations.

[www.cipfa.org.uk](http://www.cipfa.org.uk)



**Institute of Commissioning Professionals (IOCP)**

The Institute of Commissioning Professionals is a professional association for commissioning. It aims to raise the professional credibility of the role of commissioning, set standards for commissioning professionals, and provide a forum and network for those working in the profession.

[www.iocp.co.uk](http://www.iocp.co.uk)

## TERMINOLOGY

### For clarity throughout the guide the following terms are used

**Adequate Publicity** – The advertising of contracts which is sufficient to enable open competition and meet the requirements of the principles of equal treatment, non discrimination and transparency.

**Best Value** – Best Value is a formal requirement for all local authorities. Best Value was introduced to ensure continuous improvement in the performance of public services. It encourages consideration of what services should be delivered according to local need, an options appraisal of the most appropriate way to deliver those services to meet the identified need, sound management of resources (economy, efficiency and effectiveness) while maintaining an appropriate balance between quality, cost, achieving equalities and sustainable development. Although specific guidance and a statutory framework for Best Value is provided by the Local Government in Scotland Act 2003 it is recognised that the principles of Best Value are applicable across the whole of the public sector.

**Commissioning** – Commissioning is the strategic function of identifying priorities and outcomes, assessing the needs of people in an area or the requirement for goods or services by a public agency, allocating resources and then designing and securing the appropriate goods or services.

**Community and Voluntary Organisations** – Often referred to as the voluntary sector this broad sector includes organisations for the public benefit, not-for-profit, managed by a voluntary committee or Board, independent of the statutory sector, non-profit-distributing, usually charities that deliver services, campaign or support volunteering and active citizenship.

**Community Benefit Clauses** – Community Benefit Clauses are a subset of Social Clauses which enable the requirement for particular community benefits (e.g. targeted recruitment and training) requirements to be built into the delivery of contracts. To comply with the policy and legal framework, the community benefit requirements must be part of the core purpose of the contract and must provide a benefit to the commissioning agency. Community benefit clauses should be supported by strategic documents such as Community Plans.

**Contract** – A contract is the term used to describe a legally binding agreement between a purchaser and a supplier for the supply of goods, services or works.

**Full Cost Recovery** – Full cost recovery refers to an organisation recovering the full cost associated with providing a service or other output. It is a widely accepted accountancy principle. Full cost recovery is broadly interpreted to mean the total cost of all the resources used in supplying a service, including the direct costs of producing the output, a full proportional share of overhead costs and any selling and distribution expenses. Both cash costs and notional (non-cash) costs should be included, including depreciation, inflation and finance charges.

**Impact** – Impact is the change that happens because of an activity (an outcome), adjusted for the proportion of the outcome that is not sustained (drop off), the proportion that is shared with others (attribution), what would have happened anyway (deadweight) and any negative effects from the activity (displacement).

**Inputs** – Any resources invested in the activity, service or contract.

**Options Appraisal** – The term ‘option appraisal’ covers a range of decision-making techniques used to assess competing approaches. In the case of Best Value service reviews, the term refers to competing approaches with respect to the future management and delivery of local authority services.

**Outsourcing** – This is the term used within the public sector to describe the arrangements for a service that is provided by another organisation. The service will continue to be funded and facilitated by the public sector but the delivery is made by an external service provider.

**Outputs** – Outputs are the direct and tangible products resulting from the activity, i.e., people trained, trees planted, services delivered and products sold.

**Outcome** – Outcomes are the changes that happen because of an activity. They usually refer to movement of some kind (e.g. increase, improvement, reduction).

**Procurement** – Is the whole process of purchasing by the public sector from third parties covering goods, services and capital projects. The process spans the whole-life cycle from initial concept through to the end of the asset or the end of a services contract.

**Public Sector Business/Public Procurement Market/Public Service Contracts/Public Service Markets** – These terms are used interchangeably to describe the broad range of commercial contracts that are offered by the public sector.

**Public Social Partnership (PSP)** – The shared responsibility for the delivery of public services by social economy organisations and the public sector is referred to as Public Social Partnership (PSP).

**Service Level Agreement** – Service Level Agreements (SLAs) originated within the public sector to specify the nature and quality of services provided between departments. This then expanded to include interagency arrangements and became the term used to describe a schedule that is an adjunct to commercial contracts with suppliers. The term has now gained common currency as describing new grant-funded delivery arrangements between the public and voluntary sector. The term Service Level Agreement is used here to describe a grant that is ‘output related’. It is seen as a different arrangement to a commercial contract.

**Social Added Value** – Social added value describes the benefits a business or organisation provides in terms of its social and environmental impact.

**Social Clauses** – Clauses that can be included in the procurement process that allow social and environmental considerations to be included in the contract specification and used in the selection and award procedures, where the considerations are relevant to the subject matter of the contract.

**Social Enterprise** – A social enterprise is an organisation that trades in the market for an explicit social purpose. Social enterprises are assumed to have three distinct characteristics: they have a clear social aim, they are socially owned (non-profit distributing) and they have an enterprise orientation where greater than 50% of their turnover is derived from sales or contracts.

**Standstill Period** – (Also known as the alcatel rule) The standstill period refers to the 10 day period following the issuing of award letters in line with a tender during which no work should be undertaken in respect of that particular contract. This time is used ensure that ample opportunity is given to unsuccessful bidders to appeal before work begins.

**Whole Life Costs** – The full cost to an organisation of a solution to a requirement over the full period that the requirement will exist. Whole life costs take into account running costs such as energy usage, maintenance requirement, staff training needs, and disposal costs such as recycling, as well as the initial purchase price. The life span of the product will also need to be considered.

**Value for Money (VfM)** – Value for money is defined as the optimum combination of whole-life cost and quality (or fitness for purpose) to meet the user's requirement.

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**Social Economy Scotland** works in partnership to support the third sector to increase its role in the delivery of innovative, high quality services, thereby enhancing its contribution to community regeneration, sustainable economic development and labour market integration in Scotland. To support this aim, Social Economy Scotland has funded a range of pilot projects under the following themes: Public Social Partnership and Procurement; Access to Finance; Quality and Impact; Business Development and Raising the Profile. For more information see [www.socialeconomyscotland.info](http://www.socialeconomyscotland.info)