

**ANGUS COUNCIL**

**POLICY AND RESOURCES COMMITTEE – 13 OCTOBER 2015**

**COMMUNITY BENEFITS IN PROCUREMENT**

**REPORT BY THE HEAD OF CORPORATE IMPROVEMENT AND FINANCE**

**ABSTRACT**

This report summarises changes required to maximise Community Benefits from Angus Council's procurement activity in accordance with duties emerging from the Procurement Reform (Scotland) Act 2014 and aligned to the Tayside Sustainable Procurement Policy.

**1. RECOMMENDATION**

It is recommended that the Committee agrees to:

- (i) Approve the policy approach to delivering Community Benefits in Procurement as summarised in **Appendix 1** to this Report; and
- (ii) Remit to the Head of Corporate Improvement and Finance to apply that policy as a Procurement Guidance Note and communicate it to all procuring Services for application with immediate effect in accordance with Financial Regulation 16.3.2.

**2. ALIGNMENT TO COPORATE PLAN**

This report contributes as a whole to the local outcome(s) contained within the Angus Community Plan and Single Outcome Agreement 2013-2016 and the Council's Economic Strategy 2013 - 2020.

**3. BACKGROUND**

- 3.1 A key feature of the Procurement Reform (Scotland) Act 2014 is the exploitation of socio-economic and environmental opportunities through public procurement
- 3.2 The overall aim of this proposed Community Benefits policy is to embed the delivery of such opportunities for the Angus community with an emphasis on employment, skills/experience and apprenticeships into the procurement of both construction and non-construction Council contracts, with implementation within construction contracts as the immediate priority.
- 3.3 As well as being aligned to the Council's corporate plan as outlined above, this policy is also aligned to and develops the Tayside Sustainable Procurement Policy, which was approved by Committee in 2012 (Committee Report 221/12 - Annex 1 approved by Angus Council at its meeting on 22 March 2012 refers).

**4. CURRENT POSITION**

- 4.1 A small officer working group has developed guidance, template contract clauses, pre-qualification questions, tender questions and other documentation intended to support the implementation and tracking of Community Benefits from Angus Council procurement activity. This is based on National Skills Academy for Construction industry standards but as developed on a Tayside basis. This work has been carried out in conjunction with Dundee City Council's Community Benefits Policy Officer to ensure cross-boundary consistency and business process streamlining for suppliers.
- 4.2 The working group also developed appropriate performance benchmarks which would be incorporated into tender documentation and concluded that the adoption of the 'National Skills

Academy For Construction Benchmarks' framework would be helpful. They also developed suitable performance programme benchmarks for the 'Angus Shared Apprentice Programme'.

- 4.3 Consultation has been undertaken with Scottish Building Federation (SBF), Dundee & Angus Branch in June 2015 who were satisfied that Angus Council's proposed policy was deliverable. They requested that Guidance for Contractors is produced on a simplified/easy read basis to only include what contractors require to complete/evidence. Further, they request that requirements set out in the tender documents give equal credit to Contractors who have existing apprentices under their employment as Contractors who intend to provide a 'new' apprenticeship. Their comments have been addressed in finalising the policy.
- 4.4 That guidance etc. has been drawn together into a full Procurement Guidance Note (PGN 35) on 'Community Benefits – Construction Procurement', a copy of which has been made available on the members information hub and a summary of which is attached as **Appendix 1** to this Report.
- 4.5 It is proposed that the council adopts the policy relating to Community Benefits in Procurement, which will form the basis of draft Procurement Guidance Note 35. The work done to develop detailed council practice and procedure on complying with the general and specific duties in Angus Council procurement, to be applied in a proportionate and 'business friendly' manner, will bring the council into line with good procurement practice and ensure compliance with the relevant legislation.
- 4.5 If approved, it will be communicated to all procuring Services in the Council and embedded as part of the Council's Corporate Procurement Manual in accordance with Financial Regulation 16.3.2 which requires chief officers to arrange for regard to be had to it in carrying out devolved procurement activity within Services. The Council's Procurement Team will support Services to implement the approved policy into practice.

## 5. PROPOSED POLICY

- 5.1 A summary of the policy is set out in **Appendix 1** to this Report. The key messages about this policy are as follows:

- 5.2 Application of the proposed policy centres around inclusion of Community Benefit in Procurement being proportionate to the Contractor's likely return on investment. The following thresholds are therefore applied (below which Community Benefits is considered to be disproportionate):

- |  |  |
|--|--|
| • For construction works   | <b>£2,000,000</b>                            |
| • For construction works - consider the inclusion of an 'Angus Shared Apprentice Programme' clause | <b>over £50,000 but less than £2,000,000</b> |
| • For supplies and services (including social care)  | <b>£50,000</b>                               |

- 5.3 Each time that a tender is prepared above those value thresholds, the Council Authorised Procurement Officer (APO) leading the process must consider the inclusion of Community Benefits. It must be noted that the APO cannot stipulate within tender documents that only Angus sub-contractors be utilised or that only Angus residents be employed. The Council can make use of local employment vehicles by stipulating that vacancies/opportunities created as a result of the project must be advertised within specific employability agencies, as well as anywhere else that Contractor chooses to advertise. This ensures that all persons resident in Angus will have apprenticeship opportunities equally and without discrimination, even indirectly.

- 5.4 The "standard" areas where Community Benefit will be sought are under the headings:

- 'Supplier Development'
- 'Support To Local Labour'
- 'New Start Employment Opportunities'
- 'Apprentice – Project Initiated'
- 'Existing Apprentices'
- 'Vacancy Sharing and Work Experience'
- 'Awareness Raising/Curriculum Support Activities'
- 'Donation of Materials'

- ‘Local Supplier Spend Reporting’
- but the policy is flexible; bespoke Community Benefits can be considered and applied to any given Council contract provided that the following aspects are assessed and justified at the planning phase of the procurement:
- The Community Benefit proposed in proportionate to the purchase
  - The Community Benefit is being applied in a non-discriminatory manner
  - There is a reasonable relationship between the Community Benefit specified and what is being purchased.

## 6. FINANCIAL IMPLICATIONS

There are no Financial Implications arising for the Council as a direct consequence of approval of the recommendation in this Report. The Report recognises the balance between cost, quality and sustainable (social) outcomes that is implicit in pursuing best value as opposed to lowest price. Procurement-specific cost implications will be addressed by the Financial Regulations requirement to keep procurement costs within approved budgets. Non-delegated procurement proposals will also be subject to scrutiny and officers held accountable through the Procurement Authority Report process (in terms of Financial Regulation 16.8).

## 7. OTHER IMPLICATIONS

### 7.1 Risks

The risks arising for the Council from approval of this policy and the steps for mitigation of those risks are as follows:

<u>Risk</u>	<u>Mitigation</u>
There is a risk that the opportunities for Community Benefits are not realised	Adoption by Services of the policy set out in this Report fully addresses this risk by ensuring that benefits tracking and realisation is built-in.
There is a risk of adverse impact on the Angus economy (and suppliers generally) from application of the extra compliance that this policy entails for them with potentially increased bid costs as a result.	The policy set out in this Report only applies to higher value procurement where Community Benefit on a <u>proportionate</u> basis and be <u>deliverable</u> is required so the impact is mitigated and is only applied where it is necessary.
There is a risk of legal challenge that a given contractual Community Benefit is disproportionate / discriminatory and contravenes procurement law	The policy requires assessment of Community Benefits on a case by case basis to ensure proportionality / non-discrimination and the adoption of effective industry standard benchmarks as advocated by National Skills Academy for Construction. This offers further assurance on mitigation of that risk.

### 7.1 Equalities

An Equalities Impact Assessment has been carried out.

### 7.3 Strategic Environmental Assessment (SEA)

On consideration of the Equalities and Procurement Policy it has been concluded that this policy is likely to have no or minimal environmental effect and the SEA Gateway will be notified

accordingly as required by the Environmental Assessment (Scotland) Act 2005. This notification will be published by the Gateway on the Public Register maintained to that end.

**NOTE:** The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:

**None**

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**List of Appendices:**

1. Procurement Policy: Summary of Community Benefits in Angus Council Procurement