

PUBLIC SERVICES (SOCIAL VALUE) ACT 2012

A brief guide



About This Guide

The Public Services (Social Value Act) was passed at the end of February 2012. This is a brief guide to how it is likely to change things and how it should work in practice. It will be followed by more guidance and help as we get nearer to the Bill being implemented. If you would like more legal information please contact info@socialenterprise.org.uk

Under the Public Services (Social Value) Act, for the first time, all public bodies in England and Wales are required to consider how the services they commission and procure might improve the economic, social and environmental well-being of the area. We hope it will transform the way public bodies choose to buy services.

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What do we mean by social value?

“Social value” is a way of thinking about how scarce resources are allocated and used. It involves looking beyond the price of each individual contract and looking at what the collective benefit to a community is when a public body chooses to award a contract. Social value asks the question: ‘If £1 is spent on the delivery of services, can that same £1 be used, to also produce a wider benefit to the community?’

What does that mean in practice?

It could mean that a mental health service is delivered by an organisation that actively employs people with a history of mental health problems to help deliver the service. The social value of commissioning these services comes through the person with mental health problems having a job where they may otherwise have been unemployed, their becoming more socially included, and having a say in how mental health services are run. It also means a local job for a local person.

A housing Arms Length Management Organisation (ALMO) contracts a private sector company to undertake repair work on their properties. As part of the contract the private company states that they will provide greater social value by promoting careers in construction and trades to local schools, and they commit to employing young people and the long term unemployed. The social value comes through local jobs for local people and raising the aspirations of local pupils.

It could mean that an NHS trust commissions a patient group to plan and run a series of consultation events. The patient group can then use its profits to increase its beneficial activities in the local community, rather than an events company that doesn't have local roots using the profit elsewhere or giving it to their shareholders.

What are social enterprises?

Social enterprises are businesses that exist primarily for a social or environmental purpose. They use business to tackle social problems, improve people's life chances, and protect the environment. They create shared wealth and give people a stake in the economy.

Social enterprise is a growing sector - there are more than 68,000 social enterprises in the UK, contributing £24 billion to the UK economy and employing almost one million people.

A social enterprise does:

- Make its money from trading - that is, selling goods and services.
- Reinvest its profits back into the business or social mission.
- Have a social mission at its heart - what difference it is trying to make, who it is aiming to help and how it is going about doing this.
- Pay fair salaries to staff rather than rely on volunteers (though like any organisation it may need voluntary help to get started).

It does not:

- Exist to make profit for shareholders.
- Exist to make its owners wealthy.
- Rely on volunteering or grants to stay afloat - (though again, it may need support in the early days).

Why is it important?

When times are tough economically it is more important than ever that we get the most value from all our public spending. Commissioning and procuring for social value can change the way we think about things so that more taxpayers' money is being directed towards improving people's lives, opportunities, and the environment.

Think of it like this: if a public body needs to do something, it probably needs to do it quickly, effectively and cheaply. It can also do it quickly, effectively, cheaply and in the way that most benefits society. This Bill asks public bodies, by law for the first time, to consider the ways that it most benefits society as part of each decision.

Commissioning and procuring for social value can help join up all the strategic aims of a public body. For example - every local authority has a duty to improve the economic well-being of an area. Commissioning for social value can ensure that the local authority uses its own purchasing power to do this. This is no longer just the role of the authority's economic development department or a local enterprise partnership. It is now the role of all the people who are commissioning services.

Where does it apply?

All English and some Welsh bodies will have to comply with the new law, including local authorities, government departments, NHS Trusts, PCTs, fire and rescue services, and housing associations.

To what sort of contracts does it apply

It applies to all public services contracts and those public services contracts with only an element of goods or works. It doesn't apply to public work contracts or public supply (goods) contracts. However, there is widespread approval for public bodies considering social value in all forms of contracts including support from Nick Hurd, Minister for the Cabinet Office.

How does it fit with wider procurement law?

The Public Services (Social Value) Act sits alongside other procurement laws. Value for money is the over-riding factor that determines all public sector procurement decisions. But there is a growing understanding of how value for money is calculated, and how “the whole-life cycle requirements” can include social and economic requirements. The new legislation reinforces the best practice of what can already take place but too often doesn't.

For local authorities, under their duty to achieve best value they must already consider social, economic and environmental value¹.

The recent consolidation of EU procurement framework also makes it clear that social requirements can be fully embraced in procurement practice providing certain criteria are met. These criteria are:

- **Social requirements should reflect policy adopted by the public body**
- **Social requirements should be capable of being measured in terms of performance**
- **Social requirements drafted in the specification become part of the contract**
- **Social requirements should be defined in ways that do not discriminate against any bidders across the European Union**

To summarise – this new legislation complements existing procurement legislation rather than replacing it.

¹Best Value Statutory Guidance, Communities and Local Government, September 2011

If you work for a public body

Step 1:

Think about what social value means to your organisation. This may already be something you do, you may already have a sustainable commissioning strategy. If not you may have to do some work to develop your own social value priorities. These need to reflect your own organisational priorities and the needs of the local area, and could link to existing corporate plans and/or sustainable community strategies.

Step 2:

Engage your wider community in establishing what social value means to them. This should include your supplier community to prepare them for the changes to the way you procure. You may also want to undertake a pre-procurement market-testing exercise in which potential contractors can advise what sort of social, economic or environmental requirements could be specified in the eventual procurement exercise. As part of this you may want to map out your existing supply chain, who's in it, where they are based and what form of organisation they are.

Step 3:

Develop a policy for social value commissioning procurement. We would hope that this would consider the application of social value to contracts for works and also the supply of goods.

Ensure this incorporates steps 1 and 2 and gives clear guidance on the policies you want to pursue to benefit the area you serve and how work out how these can be incorporated into its commissioning of services, works and goods.

Step 4:

Consider how these policies can be translated into verifiable requirements within the core of a tender specification. Ensure that any social, economic or environmental requirements (even if only in broad terms) are mentioned in the advertisement for any competitive procurement exercise that is undertaken.

Step 5:

Develop the weighting to be applied to contribution to social value criteria in each specification and develop criteria to judge the most advantageous tender.

Step 6:

Set up monitoring and performance management based on value. Manage the contract with the successful contractor in a way that enables the maximum social value to be realised from the contract - inevitably, this requires a partnering culture and approach.

For social enterprises and voluntary sector organisations

Step 1: Think about your social value

You may already measure the social value you create. If not you should think about doing this. There are heaps of resources out there to help you do it (see resources section).

Step 2: Get in touch

Contact the public bodies you want to work with, telling them you've heard about the bill and you'd like to discuss social value in your community. Offer your help in working up priorities and criteria. This will help you better understand their needs and priorities and how you might help deliver these. Review their existing strategies.

Step 3: Think about your own success measures

There are many different sources of information on success measures and broader frameworks for looking at groups of these. One useful summary is a sourcebook on outcomes and indicators from the Charities Evaluation Service.

Step 4: Plan!

Be able to articulate why you should deliver any particular contract and what added social value you offer.

Step 5: Don't forget the rest

Each tender will still be assessed against, strategy, financial management, cost, quality, risk management. The added social value you create is just one part of the assessment - be sure to make the most of it but not at the risk of other elements.

Case study

In September 2011, the London Borough of Waltham Forest was looking to re-tender a seven year contract for the provision of transport services. The contract included Special Educational Needs transport and adult day centre transport, as well as other local services.



Staff at Hackney based social enterprise, HCT group, work to help the most marginalised access transport services

In designing the tender, Waltham Forest's procurement officers wanted to make sure they got as much value out of the contract for local residents as possible. To help evaluate the all-round contribution of potential providers, they included a question in the tender asking bidders to demonstrate how their operational model could contribute to efficiencies and give added value to the service. This question counted for 10% of the final contract score and gave all bidders the opportunity to think about how they could achieve a wider impact from their services for the local community.

The contract was won by HCT Group, a social enterprise that was founded in 1982 in Hackney, and now runs transport services in a number of London Boroughs as well as elsewhere in the UK and Channel Islands. As a social enterprise, providing community value is central to how HCT Group operates, with a focus on helping the most marginalised to access transport services and creating employment opportunities for those furthest from the labour market. However, all too often there is no opportunity for them to demonstrate this in bids for contracts.

The fact that Waltham Forest's contract included a scored question about added value gave HCT Group the space to set out the additional social impact of their approach, explaining that any profits they made on the contract would be re-invested into a learning centre that would provide training for long-term unemployed people in the borough. HCT Group was therefore able to score very highly on this section, contributing, along with their competitive pricing and high quality delivery model, to the contract win.

Commissioning & Procurement

New Economics Foundation: Commissioning for Public Benefit 2010

<http://neweconomics.org/programmes/valuing-what-matters>

New Economics Foundation: A Better Return - setting the Foundations for Intelligent Commissioning to achieve VFM. 2009.

http://www.neweconomics.org/sites/neweconomics.org/files/A_Better_Return_1.pdf

Office of Government Commerce: Buy & Make a Difference- How to address Social Issues in Public Procurement

APSE: More bang for the public buck- A guide to using public procurement to achieve community benefits. 2010

<http://www.apse.org.uk/blog/post/2010/03/05/Getting-more-bang-for-the-public-buck.aspx>

NAO Commissioning and commissioning from civil society

http://www.nao.org.uk/guidance__good_practice/third_sector/successful_commissioning/successful_commission_toolkit/introduction.aspx

LGA and The SROI Network Guide to commissioning for maximum value 2012

http://www.local.gov.uk/c/document_library/get_file?uuid=ad803542-e680-430f-8090-8af903b8dd3a&groupId=10161

Value

A. Westall: Value and the Third Sector. TSRC Paper 25. University of Birmingham. 2009

J.Eliot & R.Piper: True Value- Uncovering the Full Value of your organisation. NCVO. 2008

Outcomes

J.Ellis: The Case for an Outcomes Focus. Charities Evaluation Service 2009

<http://www.ces-vol.org.uk/index.cfm?format=509>

S.Cupitt: Demonstrating the Difference. Charities Evaluation Service 2009

<http://www.ces-vol.org.uk/index.cfm?pg=472>

New Philanthropy Capital: Manifesto for Social Impact. 2010

http://www.philanthropycapital.org/downloads/pdf/NPC_social_impact_manifesto.pdf

New Economics Foundation: Seven Principles for Measuring What Matters 2009

<http://neweconomics.org/programmes/valuing-what-matters>

SROI & Social Impact

Cabinet Office (Office of the Third Sector): A Guide to Social Return on Investment. 2009

New Economics Foundation: Small Slices of a Bigger Pie- Attribution in SROI. 2011

New Philanthropy Capital: Social Return on Investment- Position Paper. April, 2011

http://www.philanthropycapital.org/publications/improving_the_sector/charity_analysis/sroi_position_paper.aspx

D.Leighton & C.Wood: Measuring Social Value: the gap between policy and practice. DEMOS. 2010

http://www.demos.co.uk/files/Measuring_social_value_-_web.pdf

Social Enterprise UK

We are the national membership body for social enterprise. We offer business support, do research, develop policy, campaign, build networks, share knowledge and understanding and raise awareness of social enterprise and what it can achieve. We also provide training and consultancy and we develop bespoke business and information packages for clients of all kinds.

Working with public bodies

There are a number of regional and local social enterprise networks and Social Enterprise UK works in partnership with these wherever possible. We offer social enterprise training for teams and groups at all stages of their social enterprise journey.

We offer social enterprise training for teams and groups at all stages of their social enterprise journey. Public sector organisations or individual teams within them are welcome to join Social Enterprise UK. If you are interested in joining please visit

www.socialenterprise.org.uk/membership

We have a network of almost 9,000 organisations and operate a very busy website. We also have a lively and growing social media presence. Follow us on Twitter [@SocialEnt_UK](https://twitter.com/SocialEnt_UK) or visit us at

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