

## PLYMOUTH CITY COUNCIL

**Subject:** The Public Services (Social Value) Act 2012  
**Committee:** Cabinet  
**Date:** 15 January 2013  
**Cabinet Member:** Councillor Lowry  
**CMT Member:** Adam Broome (Director for Corporate Services)  
**Author:** Tim Howes, Assistant Director for Democracy and Governance  
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**Ref:**

**Key Decision:** No  
**Part:** I

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**Purpose of the report:**

To advise Members of the implications arising from the coming into force of the Public Services (Social Value) Act 2012.

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**Corporate Plan 2012 – 2015:**

This Act has implications for all procurement of services above the EU threshold and will therefore impact on many aspects of the corporate plan. In particular it allows us to deliver the values of a cooperative Council through service contracts.

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**Implications for Medium Term Financial Plan and Resource Implications:  
Including finance, human, IT and land**

There will be a minimal increase in workload in implementing the Act which will be absorbed within existing resources.

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**Other Implications: e.g. Child Poverty, Community Safety, Health and Safety, Risk Management and Equality, Diversity and Community Cohesion:**

The Act should impact positively on environmental, economic and social well-being. However it is difficult to estimate the impact at this stage.

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**Recommendations & Reasons for recommended action:**

Cabinet support the actions being proposed to implement the Public Services (Social Value) Act 2012.

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**Alternative options considered and reasons for recommended action:**

This is a statutory requirement and no other options are recommended.

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**Background papers:**

None

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**Sign off:**

Fin	mc1 213. 024	Leg	TH0 072	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member:											
Have you consulted the Cabinet Member(s) named on the report? Yes											

## **1.0 Introduction**

The Public Services (Social Value) Act 2012 received Royal Assent on 8 March 2012 and is due to be implemented in January 2013. The Act requires the Council to consider how the procurement of services may improve the economic, social and environmental wellbeing of the relevant area.

The Act applies to contracts for the provision of services and framework service agreements, or the provision of services together with the purchase or hire of goods or the carrying out of works. The Act only applies to those contracts above the EU threshold (currently £173,934).

## **2.0 What must the Council consider?**

Where the Act applies, consideration must be given to:

- How what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area covered by the contract
- Consider only matters that are relevant to what is proposed to be procured and must consider the extent to which it is proportionate in all the circumstances to take those matters into account
- If relevant, how, in conducting the procurement the improvement can be secured
- Whether to undertake any consultation

There is no universal definition of “social value” but it may be described as follows: “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”. In other words, what are the additional benefits to the community, be they social, economic or environmental, which can come from this procurement process over and above the direct purchasing of the services?

## **3.0 When to consider the issue**

The Act will require the Council to take into account economic, social and environmental well-being considerations in connection with public services contracts as part of our pre-procurement deliberations.

The Council will need to keep a good record and a full audit trail demonstrating that the duties under the Act have been properly discharged.

### On a case-by-case basis

The Act applies when an authority proposes or makes arrangements to procure the provision of services and does not apply to procurement of works or supplies contracts where there are no services provisions involved.

The Act applies to all scales and types of procurement for services above the EU threshold (currently £173,934.00).

### The Act and EU rules

While the Act encourages economic, social and environmental well-being considerations to be taken into account, the emphasis is that authorities may only do so within the context of existing constraints emanating from the EU rules. The EU procurement regime already permits social issues to play a part in public procurement, but this is subject to a number of significant controls and limitations. The Act should not be misconstrued as giving the Council a broad scope to include generic economic, social and environmental well-being considerations where these are not relevant to the subject matter of the contract.

### Link to the subject matter

In order to comply with EU rules, it is a requirement that considerations may only be included if they are linked to the subject matter of the contract and that the principles of value for money and equal access for suppliers are observed. The Act should not be misinterpreted to extend the scope to set unrelated specifications or criteria in order to achieve economic, social and environmental policy outcomes.

Restrictions imposed by EU rules are to ensure all economic, social and environmental well-being considerations to be taken into account remain relevant and proportionate to the contract requirements so as not to risk distorting the outcome of the competition by any undue emphasis given to them.

#### **4.0 What can we do now to prepare for the implementation of the duty?**

The Act will require us to actively consider if there are economic, social and environmental well-being issues in connection with the procurement of public services contracts. To be ready and compliant with the Act by its full implementation date of 1 January 2013, the Council is reviewing our internal procurement policies and adopting a compliant approach to deal with the positive duty imposed.

We now have an opportunity to embed the Council's co-operative values in larger service contracts. This will include devolving power to communities, supporting greater engagement, local influence over service design and delivery and the transfer of ownership of assets and services.

In preparation for the duty coming into force we should consider the following:

- Provide clarity to contractors on the values of the authority as a cooperative council – what are the key social values for the authorities and its stakeholders? Make sure the values are within/aligned to our corporate strategy and culture. If appropriate, engage in consultation with key stakeholders and the third sector;
- Document the relevant social values (if they are not in one place already) and think about how we will consider them in practice;
- Ensure commitment from senior officers and members;
- Review our standing orders, contract procedure rules and/or procurement policies so that reference is made to the duty and commissioners understand the core social values of the organisation. Set out the steps for commissioners to consider, using examples where this is helpful.
- Review and update any standard impact forms or processes used in commissioning services so that the duty under the Act is flagged and appropriate action recorded;
- Review and update the standard form reports used for members so that reference to the Act is made and is shown to have been considered;
- Review and update the authority's "outward facing" guidance to make reference to the Act.
- Consider training the relevant staff within the authority – the aim of the Act is to embed a culture change in the approach to commissioning services. This is unlikely to happen overnight but training will be useful and demonstrate the authority's commitment to the new duty and how that duty fits in with the overarching EU procurement obligations.
- Decide how we will measure our achievements.

## **5.0 Urgency**

If there is an urgent need to commence a procurement process (and by starting a process the Act refers to (a) sending a notice to the Official Journal; (b) publishing an advertisement; (c) contacting a person to seek an expression of interest; (d) contacting a person in respect of an unsolicited offer or expression of interest from that person; and (e) entering into a service contract or framework agreement) the authority can disregard the duty but only where it is impractical to comply with the duty ahead of commencing a process. In addition, the authority cannot rely on this provision where the impracticality arises from undue delay on the part of the authority after the duty is in force.