

What are Community Benefits Clauses?

Community Benefits Clauses (CBCs) are contractual clauses which can be used to build a range of economic, social or environmental conditions into the delivery of public contracts. CBCs can allow organisations to contribute to the achievement of outcomes which benefit their communities by specifying requirements which seek to deliver such wider social benefit. Community Benefits which can potentially be included as contractual clauses include:

- Creating opportunities for third sector / socio-economy organisations to deliver public services
- Training and employment opportunities for the long term unemployed and disadvantaged individuals
- Provision of facilities for all
- Employability development
- Support community initiatives
- Environmental targets

Legislation

Sections 24 and 25 of the Procurement Reform (Scotland) Act 2014 (“the Act”)

New domestic procurement legislation came into effect during April 2016. For the purposes of the Act, a community benefit is a contractual requirement imposed by a contracting authority, relating to;

- training and recruitment (employability and workforce development), or;
- the availability of sub contracting opportunities, or;
- which is otherwise intended to improve the economic, social or environmental wellbeing of the authority's area in a way additional to the main purpose of the contract in which the requirement is included.

Community benefit requirements in major contracts; The Act requires that for procurements covered by it with >£4million estimated value; a contracting authority must **consider** inclusion of community benefits. Where it is decided not to include CBs, the contract notice must provide reasons. Where CB requirements are included in a contract the contract award notice must record what these are expected to be. Contracting authorities with £5m+ spend must report on community benefits imposed through procurement that were fulfilled in a particular year. Related to the above, the taking into account of “social considerations” under the Public Contracts (Scotland) Regulations 2015 is well established in Scotland, as is the practice of considering Community Benefits in Procurement.

SDS' Nine Step Process for Consideration of Community Benefits in Procurements/ Social Considerations in Procurements

Overarching: SDS's Corporate Procurement Strategy 2016/20 sets out at organisational level the approach to community benefits. In addition, SDS has an agreed approach in relation to community benefits which requires consideration of Community Benefits for contracts placed with an aggregate value greater than £1 Million (June 2017).

Stage 1; Identification of Business Need, engage with Procurement who will collate the Procurement Strategy and Specification.

Stage 2; at Strategy stage consider whether Community Benefits are relevant to the contract, possibly through the use of the Sustainability Tools. Outputs from the tools should be used to inform the specification or the terms and conditions of contract (or both) for the goods or services.

Stage 3; Where appropriate, you may wish to engage with stakeholders in the contract as to how feasible community benefits requirements would be to incorporate in the procurement, as the key is to ensure that any benefits sought are relevant and proportionate to the requirement. In addition, community benefit requirements / social considerations require to be non-discriminatory, transparently stated and (for the purposes of evaluation) capable of objective assessment.

Stage 4; Agree award criteria weighting for community benefits in the procurement documents.

Stage 5; Contract Notice, if applicable must highlight the use of community benefits requirements, suggested wording as follows; *“Community Benefits are included in this requirement. A summary of the expected community benefits have been provided as follows; insert text.”*

If the Contract Notice relates to an OJEU procurement, use *“Community Benefits / Social Considerations”*.

Should the decision be made that including community benefits requirements is not feasible, the contract notice (for those over £4m only) must provide an explanation as to why this is the case; for example, not being appropriate to the scope, relevant and/or proportionate.

Stage 6; Evaluate responses in line with tender requirements.

Stage 7; Include the proposals of the successful tenderer to the conditions of contract.

Stage 8; Award Notice published by Procurement (either by open procurement or framework call off in line with transparency notice) should include the expected community benefits to be delivered through the contract for those above £4m.

Stage 9; Manage and monitor the contract, and the successful delivery of the community benefits in line with the contractual clause.

If you require any further information, please get in touch with Stacy Simpson, Procurement Business Partner T 0300 013 3669

Management and Measurement of the Contract and Reporting of Community Benefits

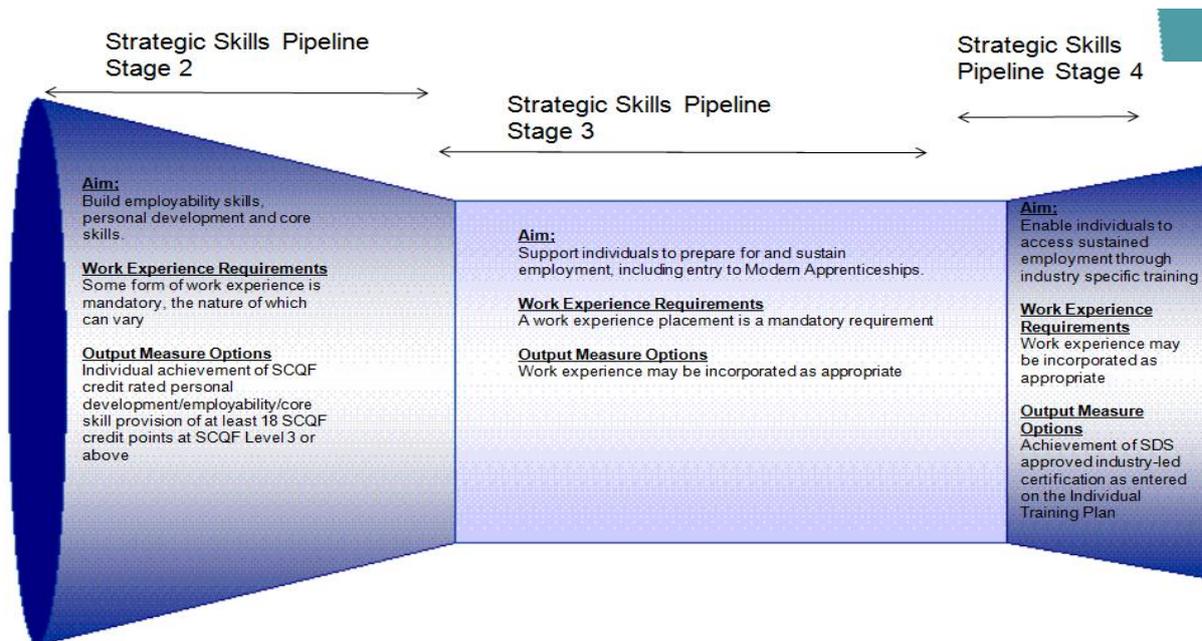
Section 18.2 of the Act states that a Contracting Authority's Annual Procurement Report must include a summary of any community benefits requirements imposed as part of a regulated procurement that were fulfilled during the financial year covered by the report. SDS will collect this information by introducing a central register of delivered Community Benefits, over the coming months.

This CBC register will be maintained by the CPT. Contract Managers will provide Community Benefit returns from contract management meetings to inform the register on a quarterly basis. Care must be taken to ensure CB's reported are those directly from the SDS contract, and not repeated over numerous returns.

Community Benefits will be measured through Balanced Scorecards. Under sustainable procurement the benefits to be delivered : environmental, employability and workforce development will be reported through Balanced Scorecards as detailed on page 5 of the SDS Corporate Procurement Strategy 2016 – 2020

SDS Employability Development Pipeline

Work based learning is a key deliverable for SDS as an organisation. Please see below the various stages of the strategic skills pipeline. SDS has a community benefit clause specific to the various stages of the pipeline.



Definition of SDS' Products

MA; Modern Apprenticeship - Modern Apprenticeships help employers to develop their workforce by training new staff, and upskilling existing employees. For individuals, an MA is a job which lets them earn a wage and gain an industry-recognised qualification.

FA; Foundation Apprenticeship - Bringing education closer to industry. Foundation Apprenticeships give school pupils a taste of the world of work and help employers shape future talent

GLA; Graduate Level Apprenticeship- Taking work-based learning higher, Graduate Level Apprentices can study up to Masters degree level

CWR; Certificate of Work Readiness

Further Information

There are various sources of useful information. For example, within the following, section 4 of the Scottish Government's statutory guidance goes into further detail on the 'categories' of community benefits / social considerations commonly pursued. The Scottish Futures Trust toolkit provides a detailed overview, including examples, of how to incorporate community benefits / social considerations to ensure compliance with European procurement rules (whilst this document pre-dates the 2014 Act provisions on community benefits, its contents provides detail on the relevant considerations).

Further information can be found at:

<http://www.gov.scot/Resource/0049/00496919.pdf>

<http://www.gov.scot/Topics/Government/Procurement/policy/corporate-responsibility/Sustainability/CommunityBenefits>

<http://www.gov.scot/Topics/Government/Procurement/policy/ProcurementReform/procurementlegislationfaq#A>

<http://readyforbusiness.org/programme-offering/community-benefit-clauses/>

<http://ourskillsforce.co.uk>