

Background

1. Public procurement is a key driver of policy development and service delivery which supports sustainable economic growth. SDS is committed to sustainable procurement practices. Service quality levels are often critically dependent on the quality and engagement of the workforce through fair work practices for those engaged in delivering public contracts.

2. Employers whose staff are treated fairly, who are well-rewarded, well-motivated, well-led, have access to appropriate opportunities for training and skills development, and who are a diverse workforce are likely to deliver a higher quality of service. Foster good relationships between employers and their workforce contribute to sustainable economic growth.

3. SDS considers the payment of the Living Wage to be a significant indicator of an employer's commitment to fair work practices and that payment of the Living Wage is one of the clearest ways that an employer can demonstrate that it takes a positive approach to its workforce. SDS encourage others to be, a Living Wage Accredited Employer.

4. We expect suppliers who deliver public contracts to adopt policies which demonstrate how they comply with relevant employment, equality and health and safety law, human rights standards and adhere to relevant collective agreements. We further expect contractors to have policies which describe how they adopt fair work practices for all workers engaged on delivering the public contract.

Fair Work Framework

The Fair Work Framework sets out what we mean by fair work, why it is important, who can play a part in making Scotland a world leading nation in fair work and how this might be achieved. It also acknowledges that, given the broader economic context, there are challenges along the way. The Framework is built on five dimensions.

Effective Voice: Voice is effective where workers have scope to say what they feel, are listened to and where their voice can make a difference.

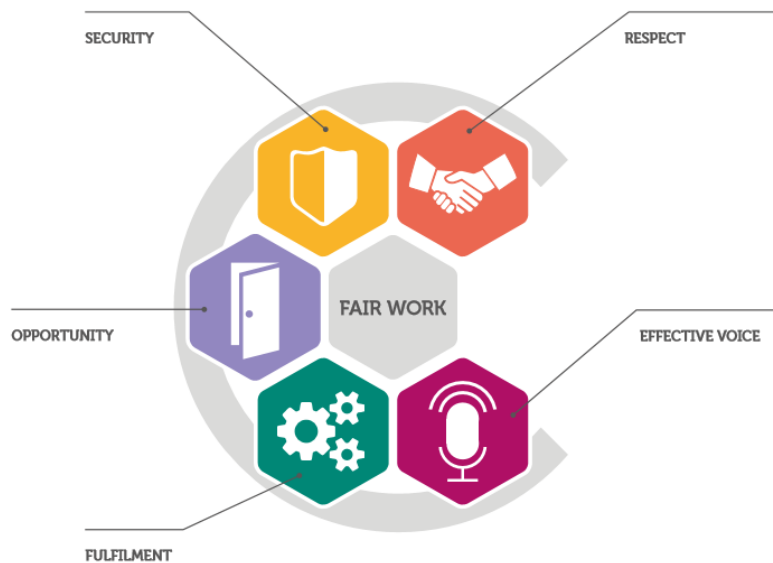
Opportunity: Opportunity allows people to access and progress in work and employment and is a crucial dimension of fair work. Meeting legal obligations by ensuring equal access to work and equal opportunities in work sets a minimum floor for fair work.

Security: Security of employment, work and income are important foundations of a successful life. Predictability of working time is often a component of secure working arrangements. While no one has complete security and stability of employment, income and work, security remains an important aspect of fair work.

Fulfilment: For many people, work is a fulfilling part of their life. Workers benefit from engaging in fulfilling work in terms of using and developing their skills; having some control over their work and scope to make a difference.

Respect: Fair work is work in which people are respected and treated respectfully, whatever their role and status. Respect involves recognising others as dignified human beings and recognising their standing and personal worth.

The goal of the Framework is to ensure that by 2025, people in Scotland will have a world-leading working life where fair work drives success, wellbeing and prosperity for individuals, businesses, organisations and society. SDS can support this vision by ensuring the values run through the organisation and embedding FWP into our supply chain and beyond.



Evaluating FWP

The Sustainable procurement duty requires that before carrying out a regulated procurement, SDS must consider how in conducting the procurement process it can improve the economic, social, and environmental wellbeing of the area in which we operate.

Public bodies are required to consider whether it is relevant and proportionate to include a question on Fair Work Practices in any tender. Whilst SDS is a supporter of the real living wage we can not mandate it. Fair Work can impact the quality of a contract. Public bodies are required to consider whether it is relevant and proportionate to include a question on Fair Work Practices.

You will be required to score FWP question on the 0-4 scale as with quality and price. Pass / Fail criteria does not work in relation to FWP evaluations due to the complex and differing nature of the organisations which we deal with. Your Procurement Business Partner will discuss the relevant 'weighting' of the question asked, and how this will have an impact on the overall scoring.

As with any scoring criteria using FWP Question can ultimately affect the outcome of any contract opportunity and that is why it is important to ensure that the question being asked is relevant and proportionate to the subject matter of the contract and that the weighting given is equally proportionate.

Organisations **SHOULD NOT** be treated in the same manner in terms of evaluations of FWP. Each Tenderer should be evaluated on the merits of their FWP response given their size, structure and type. Therefore an excellent response for one organisation may not be the same for another for the same tendering opportunity.

There will also be occasions where it is not appropriate to include FWP as an evaluation criteria, this will be assessed by your Procurement Team.

Perception vs Reality

Whilst considering the above points it is important to highlight this does not mean that in every contract procured by SDS there will be a FWP element or that SDS mandate that the Living wage is paid. There must be consideration of both the nature of the contract and proportionality FWP would be in relation to it. The table below highlights some of the common misconceptions around FWP.

Perceptions	Reality
<i>“Good, so this means everyone will be paid Living Wage and not be subjected to zero hours Contracts?”</i>	<p>Not the case, not all Companies can commit –</p> <ul style="list-style-type: none"> • National Companies have Equal Pay to consider across their organisation; • Smaller companies just cannot afford to raise their wage bill; • Some services lend themselves to zero hours Contracts eg Seasonal, Events, Research <p>Need to adopt a holistic approach to evaluating full range of Fair Work measures</p>
<i>“It’s going to cost more, causing a strain on budgets, we’ll get less for our money?”</i>	<ul style="list-style-type: none"> • Where Contracts have to be amended retrospectively to meet Fair Work Policy this can be the case; however • Continue to obtain savings on new procurement exercises
<i>“Is there a risk of being “Unsuccessful” based upon a score allocated for Award Criteria around Social aspects?”</i>	<ul style="list-style-type: none"> • Yes there is but adopting a relevant and proportionate stance in weighting should be defence against this. • Regulation 67. (6) The need to ensure Award Criteria is “relevant to the subject matter of the Contract”; and • Regulation 19. (1)(b) “Act in a Proportionate manner”

FURTHER SOURCES OF INFORMATION

Further information can be found in the FWP in Procurement module on the SDS Academy.

<https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2018/07/fair-work-practices-in-procurement-toolkit/documents/information-sheets/5d705beb-3c35-4d75-88c7-875e59a3aafa/5d705beb-3c35-4d75-88c7-875e59a3aafa/govscot%3Adocument>

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