

	<h2>Cabinet</h2>
Title	Updated Social Value Policy
Date of meeting	18 October 2023
Report of	Councillor Anne Clarke, Cabinet Member for Community Wealth Building
Wards	All
Status	Public
Key	Yes
Urgent	No
Appendices	Appendix 1: Social Value Policy Appendix 2: Barnet Themes Outcomes Measures Appendix 3: Updated Social Value Policy Action Plan
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<h3>Summary</h3>	
<p>The council introduced a Social Value policy in December 2021, we now need to update that policy, following establishment of new corporate priorities, as set out in Our Plan for Barnet 2023-2026 – particularly the effective and engaged and reducing poverty/community wealth building priorities – and the publication of the Sustainable Commercial Strategy.</p> <p>This report sets out proposed changes to the Social Value Policy, including the introduction of measures to strengthen our approach to the management and benefit realisation of Social Value outcomes, a streamlined number of Themes Outcomes Measures (TOMs) and an action plan to structure the implementation of this policy.</p>	

Recommendations

That Cabinet approves and agrees to:

Update the Social Value Policy (Appendix 1) and that the following measures are included in the new policy

1. A minimum expectation of 5% is reinvested in social value initiatives by suppliers on contracts over £100,000.
2. A minimum expectation of one employment outcome for each £1 million (per contract)
3. That Liquidated Damages Clauses are introduced to contracts to compensate the council for the non-delivery of Social Value commitments.
4. Condense Barnet Themes Outcomes Measures (TOMs) from 83 measures to circa 40 and attach monetary values for each measure.
5. The new set of TOMs (Appendix 2).
6. To allow financial or in-kind material contributions from suppliers to Voluntary, Community and Social Enterprises (VCSEs) but should not exceed 10% of the Total Proposed Commitment.
7. That a Social Value Matrix is embedded in the Invitation to Tender/Quote, replacing the social value question in the tender documents.
8. Amend the rules of the Social Value Impact Fund to allow for the reinvestment of funds from liquidated damages and financial contributions back into the community.

1. Reasons for the Recommendations

Background:

- 1.1 The Public Services (Social Value) Act (2012) requires all public sector organisations (and their suppliers) to look beyond the financial cost of a contract and consider how the services they commission and procure might improve the economic, social and environmental well-being of an area.
- 1.2 In 2021, the council introduced the first social value policy. This:
 - Set the weighting for the tender evaluation of 20% - this was an increase from 10%.
 - Introduced a set of TOMs [developed in consultation with colleagues from across the council] to ensure our then priorities were being supported through Social Value initiatives.
 - Introduced the Social Value Toolkit – which was a self-help guide for suppliers and bidders.

The aims of the refreshed Social Value Policy:

- 1.3 During the 2022/2023 fiscal year, the council earmarked £1.3 billion for contracts exceeding £100,000, as outlined in the Annual Procurement Forward Plan 2022-2023 (APFP 22-23). Despite this sizable allocation, our current policy and framework lack the mechanisms to quantify the prospective social value derived from those contracts or provide essential tools to track outcomes. However, envisioning the adoption of our proposed framework, the potential would have been vast - generating a minimum of £69 million in social value

commitments, equipping contract managers with outcome tracking capabilities, and establishing a robust infrastructure to rectify non-deliverables.

1.4 Aside from aligning social value to our new corporate plan and strategies to ensure we are delivering on our corporate priorities, the intent behind refreshing the policy is to:

- improve compliance from suppliers
- set clear benchmarks for social value offers
- implement simple but robust monitoring and reporting processes

1.5 The proposed changes below will help to achieve greater positive outcomes for our communities by leveraging more social value from our contracts. Updating the policy and enhancing our framework will ensure social value has a clear structure, and better positions the council to create significant social, economic and environmental impact in the borough.

1.6

Proposed change/addition	Rationale
<p>A minimum expectation of 5% reinvested in social value initiatives by suppliers on contracts over £100K.</p>	<ul style="list-style-type: none"> • A minimum expectation will allow the council to quantify social value project the total social value suppliers have committed to and track annual basis. • The lowest amount committed to will still have a significant impact • Based on the contracts in the aforementioned APFP 22-23, the minimum expected reinvested in the community is c. £69m (of our monetary value would be equal to one of the following: <ul style="list-style-type: none"> ○ 17,250 new full-time jobs paid at London Living Wage ○ 34,500 tonnes of CO2 emissions saved through decarbonisation ○ £6.9m in financial or materials contributions to support VCSEs ○ 138,000 weeks of work experience or placements • It will allow the council to be more transparent when reporting SV. • It quantifies social value commitments which makes it easier for LBE objectively. • Not all local authorities have minimum expectations in their policies do have stated they now see more consistency in the commitments Those local authorities have an equal or higher minimum expectation • We are proposing a 5% minimum to mitigate any commercial risks value to our communities.

<p>A minimum of one employment outcome expectation for each million pound (reviewed on a tender-by-tender basis).</p>	<ul style="list-style-type: none"> • One of the priorities in the new corporate plan is to reduce poverty; been identified as a key solution to reducing poverty, in particular if at a London Living Wage or above. Therefore, this requirement will be a tangible commitment to reducing poverty in the borough. • We recognise this may not be appropriate for all contracts, thus discretion will be permitted, subject to contract managers providing reasoning. A minimum of one employment outcome would be our default position for procurement. • Additionally, this requirement is consistent with most local authority providers including The Barnet Group.
<p>Liquidated Damages Clauses (LADs) for non-delivery of Social Value commitments</p>	<ul style="list-style-type: none"> • Including LADs in our policy will provide assurance against suppliers not to uphold their SV commitments. Where there are genuine reasons for non-delivery, we would work with the supplier to find a solution which could include a different measure. • It promotes transparency and ensures accountability. • The new social value framework is built around monetary values for commitments, therefore it is easy to quantify commitments, calculate the liquidated damages and then write them into contracts. • Harrow Council has Liquidated Damages Clauses in their Social Value Framework, worthy to note because we share legal services making the process more straightforward. • Whilst implementing LADs does pose some risks such as potentially suppliers not wanting to engage with contracts to fail and the complexity in drafting clauses, how they will ensure the risk level remains low. HB Public Law, who have experience with LAD clauses, will work with our procurement team to ensure the council follows legal procedures for every step on the process. Procurement and HB will, from the commencement of the procurement process consider the application of LAD requirements in the specification, how this is reflected in the tender documents, in particular how it will be scored and how it aligns with the requirements of the Contracts Regulations 2015 and the contract. • Also, LADs would only be used as a last resort – mainly for businesses that do not meet social value commitments and choose not to engage with LBB.

<p>Condense Barnet TOMs from 83 measures to circa 40 and attach monetary values for each measure.</p>	<ul style="list-style-type: none"> • A reduced list of TOMs will enable us to focus on our priorities in a r • Although, a broad list of measures gives suppliers variety of options scattergun effect as resources are spread and that can dilute impact • Furthermore, measuring the impact of numerous social priorities be data collection becomes fragmented, making it harder to assess the measures/interventions. Therefore, this will make it easier to monit impact. <p>Monetary values (weighting system)</p> <ul style="list-style-type: none"> • For all documents and proposed changes and additions to be aligne unison, we need to assign a monetary value to each measure. • Suppliers would be unable to quantify their SV commitments to mee expectation if we used a different evaluation method. • The values have been agreed by the Social Value Task Group, and th highly we prioritise a measure. • This would be used as our weighting system and will be accompanie further highlight our priorities.
<p>Allow financial or in-kind material contributions but should not exceed 10% of the Total Proposed Commitment.</p>	<ul style="list-style-type: none"> • This will give us more resources to invest into our communities to m Although, we want suppliers to understand the landscape of our VC communities, the council has a greater understanding of those need • It limits undirected spending and ensures funds go to causes and pro benefit most from it. • It can be a catalyst for local development as it can help bolster the f VCSEs, enabling them to continue their valuable work. • In-kind contributions can help suppliers build better connections wi • Contributions being capped at 10% gives smaller businesses a chanc larger corporations, who generally have more spending power, can' social value responsibilities with financial transactions.
<p>Embed Social Value Matrix in the Invitation to Tender/Quote and replace social value question in the tender documents.</p>	<ul style="list-style-type: none"> • This is the tool suppliers will use to fill out their commitments. It gui produce clearly defined commitments where crucial information suc milestones, the method to be applied and responsible person(s) are • The tool quantifies the commitments, making it easier for the evalu bids objectively. • It will give a structure to how suppliers present their SV offers as, cu be convoluted. • It works in unison with the TOMs and will make it easier for us to tra from the stated commitments, to a contract, and to the monitoring <p>Method Statement:</p> <ul style="list-style-type: none"> • Method statements are crucial in evaluating offers as it gives insight plans to deliver their commitments. A strong method statement sho evaluator feeling confident that offers are realistic and attainable. • “Any other benefits” section gives the supplier the opportunity to p not in the remit of the refreshed TOMs. This will ensure that we are prescriptive and gives suppliers the opportunity to be innovative.

<p>Social Value Impact Fund to reinvest funds from liquidated damages and financial contributions back into the community.</p>	<ul style="list-style-type: none"> • This fund was written into the existing policy; however, it was not in looking to introduce it following the publication of this updated poli cabinet approval. • Liquidated Damages and financial contributions will feed into this fu • Funds will be reinvested to facilitate community growth including su initiatives. • The Social Value Panel, a multiagency group that will be formed con residents, VCFS partners and local businesses, will decide the eligibil a portion of the funds will be redistributed. • As the criteria has not been decided, the fund can be shaped to targ as tackling inequalities and reducing poverty.
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2. Alternative Options Considered and Not Recommended

2.1 Alternative approaches were considered, including proceeding with the current policy or replicating another local authority’s framework; however, the general consensus between the Social Value Task Group was that would limit our opportunities of extracting as much value as possible from our supply chain as we felt most frameworks were not ambitious enough. The proposed policy and framework will be unique to Barnet Council but influenced by best practices from other organisations.

3. Post Decision Implementation

3.1 Following approval, the Social Value Policy will be published and will enter the implementation stage detailed in the Social Value Policy and Framework Action Plan in appendix 3. This identifies the key actions as:

- Communication will be made to internal and external stakeholders to announce adoption.
- The new TOMs and the updated Toolkit will be published.
- Training will be developed and rolled out across the organisation to support existing and new contract managers to ensure everyone understands the framework and importance of social value.
- Establishing monitoring and reporting expectations

4. Corporate Priorities, Performance and Other Considerations

Corporate Plan

4.1 Our Plan for Barnet 2023-2026 puts Caring for People, our Places and the Planet at the heart of everything we do. The Social Value Policy has been designed to support every facet of our vision as it will create employment, learning and procurement opportunities for residents and local businesses, contribute to reducing poverty and community wealth building, resource Borough of Fun initiatives and advance our journey to net zero. It will also empower our residents as they will be part of the decision-making process for how funds in the Social Value Impact Fund will be reinvested back into the community.

Corporate Performance / Outcome Measures

4.2 The Social Value Policy will facilitate a diverse range of initiatives, therefore it requires a monitoring tool that captures all activities. We have developed a monitoring tool that works

in tandem with our TOMs (see appendix 2). It collects quantitative and qualitative data which will enable us to demonstrate impact in diverse and creative ways.

Sustainability

- 4.3 Sustainability measures make up 31% of the new TOMs which is a considerable increase compared to our previous TOMs where they only accounted for 8%. This increase demonstrates our ambitions to achieve carbon neutrality through our supply chain by no later than 2042. In our Sustainability Strategy, we highlighted that over 95% of the organisation's footprint was through our supply chain. Therefore, we feel this drastic shift in the TOMs percentage is justified.
- 4.4 Although suppliers cannot be prescribed the social value measures they need to commit to, they will be encouraged to consider the environmental impact of their activities and will be supported to develop a sustainable organisational model.

Corporate Parenting

- 4.5 This purpose of this policy is to create opportunities for the people and places in the borough, and eradicate our environmental footprint. On that premise, this policy has the potential of having an impact on looked after children and care leavers, as it may generate employment and learning opportunities for them. However, it is unlikely to have a negative impact.

Risk Management

- 4.6 The proposed additions and changes have countless benefits, but they are not without any risk. Below illustrates how the risks will be managed:
- a) Implementation of some elements in this policy such as Liquidated Damages Clauses will be phased as they will take longer to develop. This will enable the council to focus other elements of the framework and ensure they are fully functional prior to introducing a component that requires more attention.
 - b) Liquidated Damages Clauses will be written by our legal services and our procurement team. They will be carefully crafted to ensure the measures used for quantification are structured and reasonable.
 - c) Bids will have to remain competitive, so suppliers are unlikely to increase the value of their quotes, particularly that price and quality have a higher weighting in tender evaluations. However, the procurement team will monitor any increases in price offers in tenders and any decline in the number of suppliers submitting bids. Discussion about what needs to be adjusted following conclusive evidence will be had.
 - d) Benchmarks are consistent with other local authorities, but they will be reviewed annually to ensure we are striking the right balance of extracting maximum social value whilst receiving offers that are great value for money.
 - e) The TOMs will be reviewed annually by the Social Value Task Group to ensure they continue to reflect our priorities.
 - f) Introducing a panel decision over an individual recommendation, will mitigate risks associated with awarding funding.
 - g) All organisations funded through the Social Value Impact Fund are subject to due diligence checks to mitigate risks further.

Insight

- 4.7 The proposed additions and changes are a combination of the best practice in Social Value from local authorities across the UK, with a hyper focus on London boroughs, and mechanisms we have developed that we are confident will enhance our Social Value framework.
- a) The recommendations do not have direct impact on data used by other services. However, the social value outcomes from suppliers will be shared with relevant service areas across the organisation.
 - b) Social value outcomes will be continuously monitored and evaluated to ensure that the highest impact is achieved for Barnet residents.

Social Value

- 4.8 The Public Services (Social Value) Act 2012 requires all public sector organisations (and their suppliers) to look beyond financial cost of a contract and consider how the services they commission and procure might improve the economic, social and environmental well-being of an area.
- 4.9 This paper and policy highlights how we will maximise our opportunities of creating social value for our communities.

5. Resource Implications (Finance and Value for Money, Procurement, Staffing, IT and Property)

- 5.1 The proposed additions and changes will strengthen our governance and awarding system, and will identify whether we are receiving great value for money.
- 5.2 The only recommendation that will have a financial cost is implementing the Liquidated Damages Clauses as they need to be developed by HB Public Law. The total cost is expected to be circa £2,000 and will be paid from the existing council budgets.
- 5.3 The proposal is not reliant on any additional support from other services

6. Legal Implications and Constitution References

- 6.1 The Public Services (Social Value) Act 2012 (the Act) requires public authorities to have regard to the economic, social and environmental well-being of their local area through their procurement activities. The requirement under the Act applies to all above Public Contracts Regulation 2015 threshold procurements. Public authorities are only required to consider matters that are relevant to what is proposed to be procured and, in doing so, must consider the extent to which it is proportionate in all the circumstances to take those matters into account.
- 6.2 The Council's Social Value Policy is much wider and extends beyond the requirements of the Act. The Council can rely on their wellbeing powers pursuant to the Local Government Act 2000 to put into place a wider Social Value policy.
- 6.3 Care has to be taken to balance the requirements of the Public Contracts Regulations 2015 and the Council's Social Value policy when undertaking a procurement. This is to ensure that public procurement rules are not infringed by scoring social value beyond the contractual requirements of the procurement.
- 6.4 The proposals will have legal implications, in particular the Liquidated Damages Clauses. The contracts will contain liquidated damages clauses that will reasonably reflect the monetary loss to the Council arising from a failure to deliver on contractual social value commitments.

In the event that contractors fail to comply with their social value commitments the liquid damages clauses will be enforced. HB Public Law will guide us on the legal practice for every recommendation.

6.5 Under the Council's Constitution, Part 2D the terms of reference states that Cabinet is responsible for the following functions:

- Development of proposals for the budget (including the capital and revenue budgets, the fixing of the Council Tax Base, and the level of Council Tax) and the financial strategy for the Council;
- Monitoring the implementation of the budget and financial strategy;
- Recommending major new policies (and amendments to existing policies) to the Council for approval as part of the Council's Policy Framework and implementing those approved by Council;
- Approving policies that are not part of the policy framework;

6.6 Management of the Council's Capital Programme;

7. Consultation

7.1 The proposals do not require any formal consultations as we are setting the foundation for Social Value, however we plan to share the new framework with our partners Barnet Together who represent the VCFS sector, The Barnet Group, local businesses and residents, with the view to collaborate with them to further develop it when we have sufficient data.

7.2 Three businesses, who submit tenders to local authorities, were met at the Unlocking Social Value Conference 2023, and they provided insight on what challenges they face when submitting tenders and how the process can be made easier for them. Therefore, as well as looking to make the most of our social value potential, we also wanted to simplify the process for bidders.

8. Equalities and Diversity

8.1 Equality and diversity issues are a mandatory consideration in the decision-making of the council.

8.2 Decision makers should have due regard to the public-sector equality duty in making their decisions. The equalities duties are continuing duties they are not duties to secure a particular outcome. The equalities impact will be revisited on each of the proposals as they are developed. Consideration of the duties should precede the decision. It is important that Council has regard to the statutory grounds in the light of all available material such as consultation responses. The statutory grounds of the public-sector equality duty are found at Section 149 of the Equality Act 2010 and are as follows below.

8.3 A public authority must, in the exercise of its functions, have due regard to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

8.4 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- d) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- e) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- f) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

8.5 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

8.6 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- Tackle prejudice, and
- Promote understanding

8.7 Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act. The relevant protected characteristics are:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation
- Marriage and Civil partnership

8.8 The public sector equality duty considerations are key for the development of our programme of activity as well as our Corporate Plan.

8.9 The proposed additions and changes to the Social Value Policy will positively contribute to the elimination of discrimination and will advance equality within our communities. The policy focuses on creating opportunities for people in the borough, minimising disadvantages suffered by people, tackle prejudice, reduce inequalities and promote understanding amongst our diverse communities.

8.10 For employment opportunities, the Barnet TOMs have a higher weighting for people considered to be in a disadvantaged position when seeking employment, which includes people with protected characteristics. This is in place to address systemic inequalities, encourage equal opportunities and expand talent pools.

8.11 The monitoring tool used by suppliers and contract managers will track the characteristics of the people presented with opportunities. Tracking this data will enable us to measure inclusivity, identify disparities, set benchmarks and identify success strategies.

9. Background Papers

9.1 None