

Community Benefit Clauses

A Guide for Public Sector Procurement Agencies

Community Benefit Clauses (CBCs)

Community Benefit 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 be viewed as contributing to the Best Value and sustainable procurement agendas, and allow organisations to contribute to the achievement of outcomes which benefit their local communities by specifying contractual requirements which seek to deliver such wider social benefit. Examples of Community Benefits which can potentially be included as contractual clauses include:

- Equal opportunities and support for the disadvantaged
- Supply chain initiatives
- Provision of facilities for all
- Contributions to achievement of education and training targets
- Support for community initiatives
- Environmental targets
- Support for the promotion of economically successful areas / enterprises

CBCs are clearly lawful tools to include in public procurement contracts. The EU procurement rules specifically provide a solid legal basis for their inclusion in all circumstances. So they can be used in contracts that:

- are of a lower value and not subject to EU procurement rules, and those lower value contracts (with a cross-border interest) that are so subject and
- in contracts that are above threshold to which the EU procurement rules do apply,

When using CBCs in contracts covered by the EU procurement rules, keep to the following do's and don'ts:

- The inclusion of CBCs must not disadvantage or discriminate against suppliers based in another Member State
- The community benefits need to be linked to the 'core purpose' or subject matter of the contract
- Reference to the use of CBCs must be made clear from the outset of the Procurement and included in contract terms. They must therefore be drawn up at the start of the procurement process and included and reflected thereafter.
- Community Benefits should fit with your organisation's strategic objectives
- Use of the CBCs will still represent value for money/best value for your organisation

In some circumstances, CBCs may not be appropriate where a contract is covered by the EU procurement rules and so their inclusion should be considered on a case by case basis in conjunction with employment, procurement and legal representatives where necessary to ensure that all relevant policy and legal requirements are considered.

Why are CBCs Important?

The inclusion of appropriate CBCs in public procurement contracts can engender significant benefits for both the public sector organisation in question, and local economies and communities, including:

- better supporting the achievement of an organisation's strategic aims.
- the use, by Public Bodies, of their spending power and market leverage to add value to the communities in which they are active
- helping to create conditions for social enterprises to become more involved in the delivery of public services, creating the possibilities for more user-focused, efficient services.
- improved access for citizens and communities to opportunities for community learning and development
- the delivery of social benefits which enhance community wellbeing, e.g. improvement in health, crime reduction, regeneration of facilities, improved education and skills

How can Ready for Business help?

As part of our role in leading the Developing Third Sector Markets programme, Ready for Business will provide targeted support in the use of Community Benefit Clauses. We have been at the forefront of the development of CBCs and will use our skills and experience to engage with and support participants in the programme. This will facilitate an environment of knowledge sharing with public sector commissioners which will lead to an increased application and implementation of CBCs within the mainstream procurement commissioning process in Scotland. Our key support activities include:

- Introducing a Partners for Change Programme which will accelerate relationship building, form a shared agenda, tackle barriers to intelligent commissioning head on, and create a solid platform for the roll-out of CBCs
- Conducting Champions forums which will engage with key public sector champions with a consistent message around CBCs
- Holding themed service design workshops focused on the role and application of Community Benefit Clauses
- Supporting individual procurement agencies to develop CBCs
- Assisting public sector bodies with CBC tender evaluations and implementation
- Supporting private sector organisations that seek to deliver CBC commitments
- Providing specialist legal advice to public bodies
- Developing case studies documenting the learning from experiences with CBCs – these case studies will be made readily accessible
- Developing a CBC guidance document which procurement officers can access. This will cover the key aspects relating to CBCs, including but not limited to: policy context; how to develop a policy on CBCs; how and when to develop CBCs; weighting, scoring and evaluating CBCs; legal considerations; and FAQs

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