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scotland
SCOTTISH GOVERNMENT



ReadyforBusiness

Embedding Social Value in Procurement

Community Benefit in Procurement Network

22 March 2016

Agenda

10.15 Introduction & Welcome

Roddy Stewart

10.20 Recent publication of 'Guidance under Procurement Reform (Scotland) Act 2014'

Review of Statutory Guidance & discussion:

Robin Fallas & Barbara Morton

1. Community benefits

2. Other aspects of the Sustainable Procurement Duty

11.20 Recent developments on 'Supported Businesses'

Pauline Graham

11.30 Recent developments in case law relevant to CBCs

Robin Fallas

11.45 Round Table update

12.00 Final Q&A

12.30 Close

Implementation Timescales

In Force

Public Contracts (Scotland) Regulations 2015

18th April 2016

Procurement Reform (Scotland) Act 2014
(Sustainable Procurement Duty and Community Benefits)
(Procurement Strategies)

18th April 2016
1st June 2016
31st Dec 2016

Procurement (Scotland) Regulations 2016

18th April 2016

Statutory Guidance

Selection of tenderers and award of contracts
Health and social care services
Sustainable Procurement Duty
Use of community benefits
Procurement strategies & annual reports

Applies to contracts
started from
18th April 2016
onwards

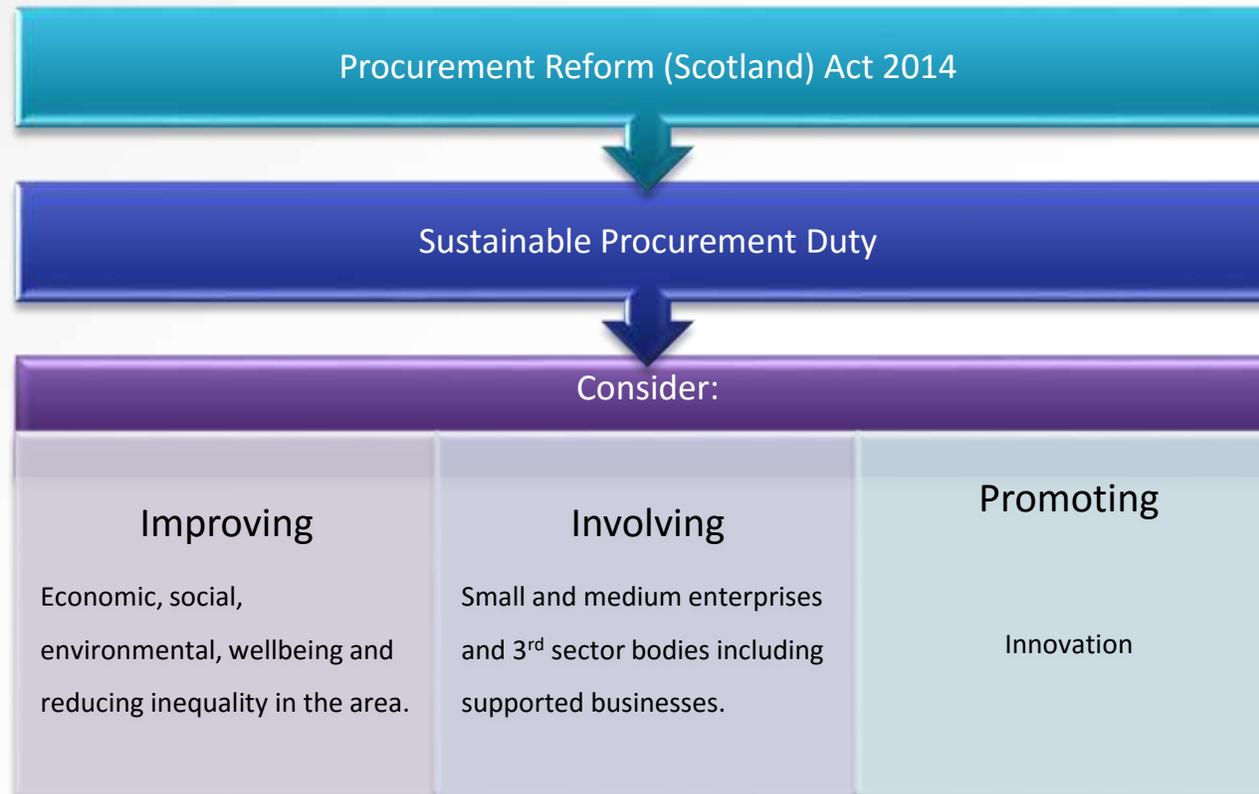
Concession Contracts (Scotland) Regulations 2016

18th April 2016

Utilities Contracts (Scotland) Regulations 2016

18th April 2016

Procurement Reform (Scotland) Act 2014



1. Statutory Guidance: Community benefits

Discussion & feedback:

- a) To what extent does the Statutory Guidance answer any questions you may have had about the new requirements?
- b) Do you have further questions?
- c) Do you have further comments?

2. Statutory Guidance: Other aspects of the Sustainable Procurement Duty

Discussion & feedback:

- a) To what extent does the Statutory Guidance answer any questions you may have had about the new requirements?
- b) Do you have any further questions?
- c) Do you have any further comments?

Update on Supported Businesses

March 2016

- The Scottish Government implement reserved contracts via Scottish regulations. European Directives (**ED**) have set a change in scope for the award of reserved contracts that we must transpose in to Scottish Law. We recognise the uncertainty created by the change of definition from 50% disabled to 30% disabled or disadvantaged.
- As there is no singular authoritative definition of disadvantaged we have written to the European Commission asking if it intends to issue practical guidance on this for purchasers to ensure a consistent approach across all Member States, and if so, when. In the meantime, contracting authorities and those considering the use of reserved contracts should consider what is known and published in this respect.

Update on Supported Businesses

March 2016

- The definition of those businesses who can benefit from access to reserved contracts is in two parts:
- **Firstly**, a supported business' primary aim is the social and professional integration of disabled or disadvantaged persons. This is an entirely new condition. This may be evidenced in the Memorandum and Articles of Association, or similar documentation that underpin the formation of the business.

Update on Supported Businesses

March 2016

- **Secondly**, at least 30% of the employees of those businesses should be disabled or disadvantaged. The precise proportion of staff may fluctuate over time. However with this requirement being underpinned by the main aim of the business being the social and professional integration of disabled and disadvantaged people, then assurances should be evidenced through the HR and resourcing policies of the business.
- Notwithstanding further guidance that may be issued by the European Commission, reference should be made to EU Directive 2014/24/EU, recital 36, for what may be considered as disadvantaged.
- In order to be considered for a reserved contract, businesses will need to fulfil **both** parts of the definition.

Update on Supported Businesses

March 2016

- **EU Directive 2014/24/EU re public procurement, recital 36 states:**
- Employment and occupation contribute to integration in society and are key elements in guaranteeing equal opportunities for all. In this context, sheltered workshops can play a significant role. The same is true for other social businesses whose main aim is to support the social and professional integration or reintegration of disabled and disadvantaged persons, such as the unemployed, members of disadvantaged minorities or otherwise socially marginalised groups. However, such workshops or businesses might not be able to obtain contracts under normal conditions of competition. Consequently, it is appropriate to provide that Member States should be able to reserve the right to participate in award procedures for public contracts or for certain lots thereof to such workshops or businesses or reserve performance of contracts to the context of sheltered employment programmes.

Tools to support Sustainable Procurement



➤ Risk and opportunity assessment

- Environmental, social & economic risk assessment

- ✓ Prioritisation Methodology

- ✓ Sustainability Test

- ✓ Life Cycle Impact Mapping

- ✓ Guidance and case studies

- ✓ Flexible Framework

➤ From risk assessment to procurement actions

Useful links

Guidance under the Procurement Reform (Scotland) Act 2014:

<http://www.gov.scot/publications/2016/03/8410>

<http://www.gov.scot/Topics/Government/Procurement/policy/SPPNSSPANS/policy-notes/SPPN2016/SPPN52016PublicationofStatGuidance>

Implementing the new procurement legislation

<http://www.gov.scot/Topics/Government/Procurement/policy/ProcurementReform/implementEUDirProcRef>

e-learning reference pack

<http://www.gov.scot/Topics/Government/Procurement/policy/ProcurementReform/implementEUDirProcRef/Traininginformation>

Sustainable Procurement

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

Procurement Journey

<https://www.procurementjourney.scot/>



Thank you

