

Research Report:

# Public Procurement and the Third Sector in Scotland

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Survey of Public Sector Commissioners and  
Procurement Professionals

July 2016



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## Section 1

# Introduction

**This report presents the results of the third survey of public sector commissioners and procurement staff in Scotland. Where possible and useful, it compares the findings with the surveys produced in 2012<sup>1</sup> and 2014<sup>2</sup>.**

### 1. About the Study

This study has been prepared by Ready for Business, a Third Sector-led consortium of organisations<sup>3</sup> delivering the **Developing Markets for Third Sector Providers Programme** on behalf of the Scottish Government ([www.readyforbusiness.org](http://www.readyforbusiness.org)). This Scottish Government programme works with public sector commissioners and buyers to encourage the adoption of social value in public procurement and to increase the role of the Third Sector<sup>4</sup> in delivering public services.

This study has been designed to explore the awareness, attitudes, behaviours and aspirations of public sector staff that play a role in commissioning and purchasing services. It focuses on those areas where the Scottish Government's agendas relating

to Sustainable Procurement and support for an Enterprising Third Sector converge. In particular, it examines the awareness and use of **Community Benefits in Procurement Clauses (CBCs)** in procurement and **Public Social Partnerships (PSPs)**, two of the key elements of the Developing Markets for Third Sector Providers programme.

### 1.2 Method

The online survey on which this study is based was conducted between March and April 2016 and was consistent in approach with previous surveys. Appropriate public sector stakeholders were invited to participate, including: direct mailing based on contacts developed through delivery of the Developing Markets programme, an invitation to members of the Community Benefits in Procurement

Champions Group, and through e-bulletins and direct email correspondence by a number of partners.

In total, **119 public sector staff responded to the survey**. The characteristics of respondents in terms of organisational profile, geographic coverage, and field of responsibility are shown in the table below. The survey yielded responses from 28 of the 32 local authority areas in Scotland.

<sup>1</sup> Ready for Business, Embedding Social Value through Sustainable Procurement, May 2012

<sup>2</sup> Ready for Business, Sustainable Procurement, Social Value and the Third Sector in Scotland, April 2014

<sup>3</sup> The Ready for Business consortium includes: Ready for Business LLP, KPMG; MacRoberts LLP; Sustainable Procurement Limited and Social Value Lab

<sup>4</sup> 'Third Sector' is a term covering the voluntary sector, charities, and social enterprises (including social firms and supported businesses)

Comparison of survey respondents		2012	2014	2016
Type of agency represented	Local Authority	53%	56%	↓ 48%
	Government	11%	13%	↓ 10%
	Executive Agency	5%	6%	↓ 2%
	NDPB	12%	14%	↑ 18%
	NHS/CHP	8%	9%	→ 9%
	University/College	2%	2%	↑ 3%
	Other	8%	0%	↑ 9%
Geographic coverage	Local	56%	56%	↓ 55%
	Regional and National	44%	44%	↑ 45%
Main responsibility of respondents	Governance	4%	8%	↓ 6%
	Service Management	9%	18%	↓ 2%
	Commissioning	13%	12%	↓ 6%
	Procurement	70%	55%	↑ 71%
	Third Sector Liaison	5%	7%	↓ 6%
	Other	-	-	→ 10%

## Section 2

# The Scottish Model of Procurement

This section examines the awareness and approach of Scotland’s public sector in relation to the public procurement reform agenda and the introduction of the Procurement Reform (Scotland) Act 2014 and its implications.

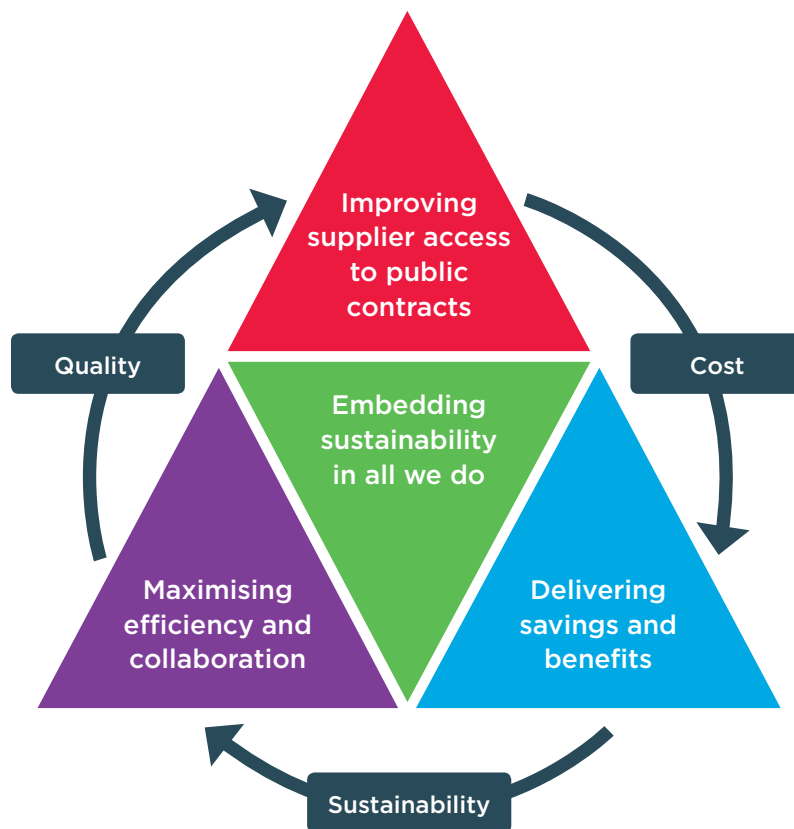
### The Procurement Reform (Scotland) Act 2014

In 2009 the Scottish Government set out on a route to embedding sustainable procurement into public sector practices with the publishing of the Sustainable Procurement Action Plan and the roll out of the Marrakech

Approach training, tools, and techniques. This ultimately led to the passing of the Procurement Reform (Scotland) Act by Parliament in May 2014, which came into force in April 2016. Allied with EU Procurement Directives that contribute to the Europe 2020 Strategy, the Act has established a national

legislative framework for sustainable public procurement, ensuring that procurement spending achieves as much public benefit as possible and is conducted in a fair and transparent way. The Act and the Directives offer a solid basis for the Scottish Model of Procurement.

## Scottish Model of Procurement



The Model views procurement as an integral part of policy and service delivery and considers procurement to be key to Scotland’s economic future. It provides the Government with the powers and tools to ensure public procurement delivers genuine value for the people of Scotland and looks beyond the traditional mix of cost and quality.

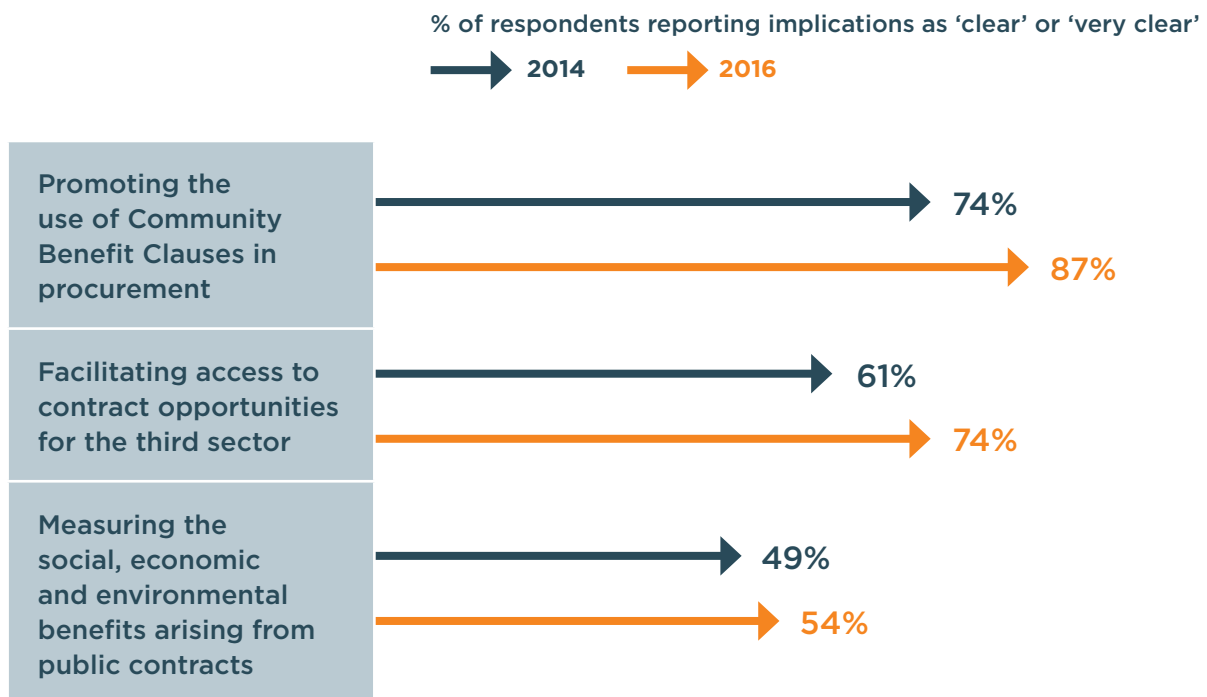
The considerations around sustainable procurement are becoming increasingly familiar to the public sector in Scotland. The recent survey findings indicate that more than three-quarters of respondents (77%) now have

‘in-depth’ knowledge of, or are ‘reasonably well informed’ about sustainable procurement. This represents a steady increase from 48% in 2012 and 72% in 2014.

The survey findings show that awareness of the Act is very high (99%). Unlike the results in 2012 and 2014, awareness is not only high among public sector respondents responsible for procurement and Third Sector engagement, but also those respondents holding responsibility for public sector commissioning, governance, or service management.

There is also a growing understanding of the more **detailed implications of Act.** The evidence at this stage indicates that almost nine-in-ten commissioners/purchasers (87%) are clear about the implications of the Act for promoting the use of CBCs, and three-quarters (74%) are clear about facilitating access to contract opportunities for the third sector. There is slightly less clarity in relation to measuring the social, economic and environmental benefits arising from public contracts (54%), however there appears to also be a positive direction of travel.

### Clarity of implications for selected aspects of the Act



### The Concept of Social Value

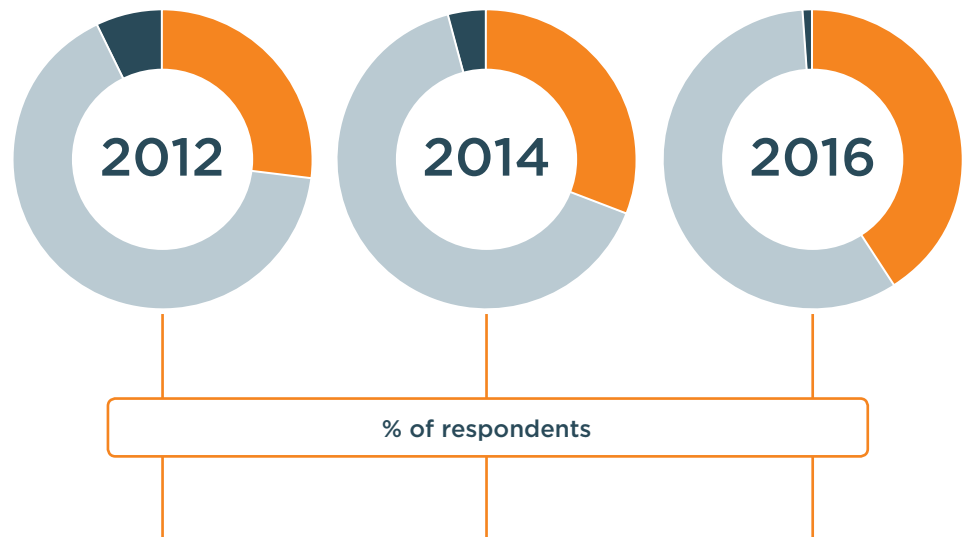
The concept of Social Value is a key element of the procurement reform agenda. Traditionally public procurement was focused on buying outputs (quantified delivery) for the best price possible. Procurement strategy and practice as increasingly embraced the concept of Social Value: taking the full

social, environmental and economic implications of commissioning and procurement into consideration in designing and delivering public services to secure the best deal for the people of Scotland.

The survey shows that, although this is a complicated area, identifying and securing the wider social value from commissioning and procurement

is becoming more embedded. The survey findings show that the proportion of public sector respondents that ‘always’ identify and value the outcomes relevant to wider corporate objectives (social value) has increased (from 27% in 2012, to 31% in 2014, to 41% in 2016) and the proportion who ‘never’ do so has decreased (from 7% in 2012, to 4% in 2014 to 1% in 2016).

### Frequency by which respondents identify and value wider outcomes



	2012	2014	2016
Always	27%	31%	41%
Often or Sometimes	66%	65%	58%
Never	7%	4%	1%



## Section 3

# Involving the Third Sector

**This Section examines how the public sector commissioners and buyers view the role of the Third Sector in co-designing and delivering public contracts.**

### Understanding the Third Sector

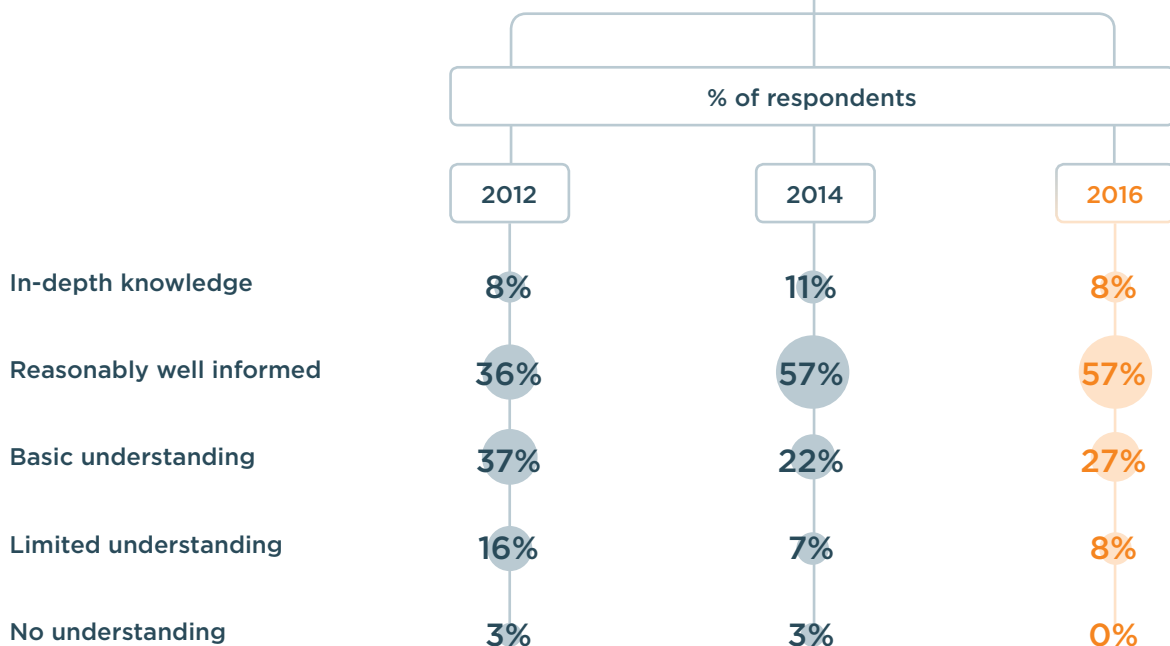
If public sector commissioners and purchasers are to work productively with the Third Sector they must first understand the role and contribution of these suppliers.

The survey results suggest that public sector understanding of

the Third Sector in relation to public contracts has risen and subsequently plateaued over the last four years. The proportion of respondents reporting a reasonable or in-depth knowledge of the Third Sector has remained stable at around two-thirds of all respondents (65%). Encouragingly, 92% of public sector respondents now hold at least a basic

understanding of the Third Sector, which is an overall increase across the period. Importantly, no respondent reported ‘no understanding’ of the Third Sector’s role in tendering for and delivering public service contracts.

### Reported understanding of the Third Sector in tendering for and delivering public service contracts?



“We have a commitment to encourage Third Sector bids, deliberately challenge all tenders to consider the possibility of Lots, particularly geographic Lots which may benefit local Third Sector. We consider ring fenced contracts.”

### Working with the Third Sector

More and more public sector commissioners and purchasers are working with Third Sector suppliers.

The survey research shows that approximately three-quarters of the respondents (74%) have contracted directly with a Third Sector organisation and one-

third (32%) have previously contracted with a consortium that involved a Third Sector organisation.

More than one-third of the public sector commissioners and purchasers that responded to the survey (38% of all) reported that their public authority has a strategic approach to contracting with the Third Sector.

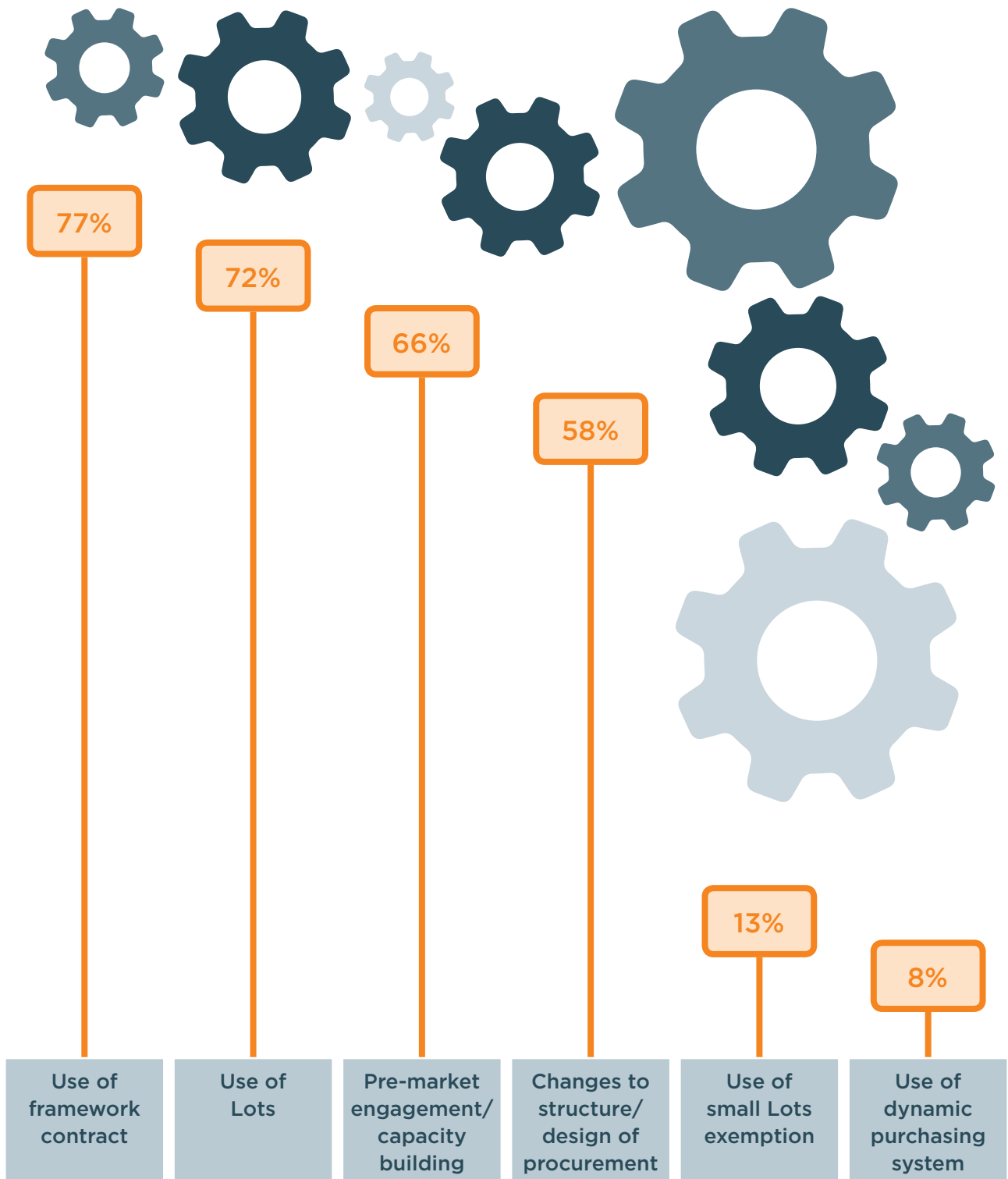
There are a number of best practice options that the public sector can take to facilitate Third Sector engagement in the procurement process. The most widely cited measures adopted by respondents include the use of framework contracts, lots, supplier pre-engagement or capacity building, and changes to the structure or design of the procurement to reflect Third Sector considerations.



“We consider use of the Third Sector suppliers in all of our tender strategies and have a commitment to awarding a number of contracts to the Third sector each financial year.”

“The Council in partnership with the local Social Enterprise Network developed a Community Benefits in Procurement guide for staff, contractors etc. which has been widely distributed and which lists the services and products of all local social enterprises looking to develop procurement opportunities.”

## Mechanisms to Facilitate Third Sector Supply



## Section 4

# Community Benefit Clauses

This section provides an overview of the awareness and use of Community Benefits in Procurement Clauses (CBCs) as one of the recognised measures in the Act, designed to maximise social value from public contracts.

### Awareness of Community Benefit Clauses

Community Benefit in Procurement Clauses, commonly referred to as Community Benefit Clauses (CBCs), are contractual clauses in tender documents that enable the inclusion of a range of economic, social or environmental conditions into public contracts.

“The first question that we should ask when developing any contract specification should be: Can we include a community benefit clause?”

**John Swinney, Cabinet Secretary for Finance and Sustainable Growth, March 2010**

CBCs are generally well-known in Scotland. In the latest survey, almost all respondents (99%) indicated that they were aware of CBCs to some extent, with nearly two-thirds (63%) now ‘fully aware’ of CBCs (rising from 41% in 2012 and 58% in 2014).

Commissioning and procurement professionals continue to regard CBCs as a useful tool. As in previous surveys, most

respondents (83%) reported CBCs as either helpful or very helpful as an approach to building economic, environmental or social conditions into public contracts (81% in 2012, 85% in 2014).

The introduction of CBCs is aided by the active promotion and sharing of information about them within public authorities. Encouragingly therefore, the latest 2016 survey found that 50% of respondents were able to identify a designated Community Benefit Officer or Champion in their organisation (a continuing rise from 36% in 2012 and 42% in 2014).

### The Use of CBCs

Guidance on the use of CBCs is now becoming more widely available from the Scottish Government, Ready for Business and others. Reflecting this, a growing proportion of respondents (70%) report having used externally produced CBC guidance (54% in 2014). A similar proportion (68%) also reported the use of in-house policy and guidance (47% in 2014) and more than two-in-five (43%) mentioned the adaptation of existing Standing Orders to include CBCs (29% in 2014).

There is continuing evidence of public sector officers using CBCs in tender procedures, with

“CBCs help introduce bigger contractors to the idea of using smaller organisations they would not come into contact with and they enable employment opportunities for harder to reach groups.”














just over three-in-five of survey respondents (61%) reporting having been involved in applying a CBC in the last 12 months (37% in 2012 and 65% in 2014).

CBCs are increasingly more widely used, going beyond the type of construction contracts in which such clauses were originally featured. In the most recent survey 18% of respondents reported CBCs being applied by their public authority in all contracts (8% in 2012 and 12% in 2014) and only 6% reported they were not used at all.

Nonetheless, the 2016 survey results highlight Building Construction, Maintenance and Supplies as the area in which CBCs are still most widely applied, although there have been notable advances reported in the use of CBCs in all categories with the exception of Environmental Services.

“We use CBCs only where relevant and proportionate. In some cases we make use of voluntary community benefits, included as unscored evaluation criteria.”

**Areas where CBCs are applied** (% of respondents)

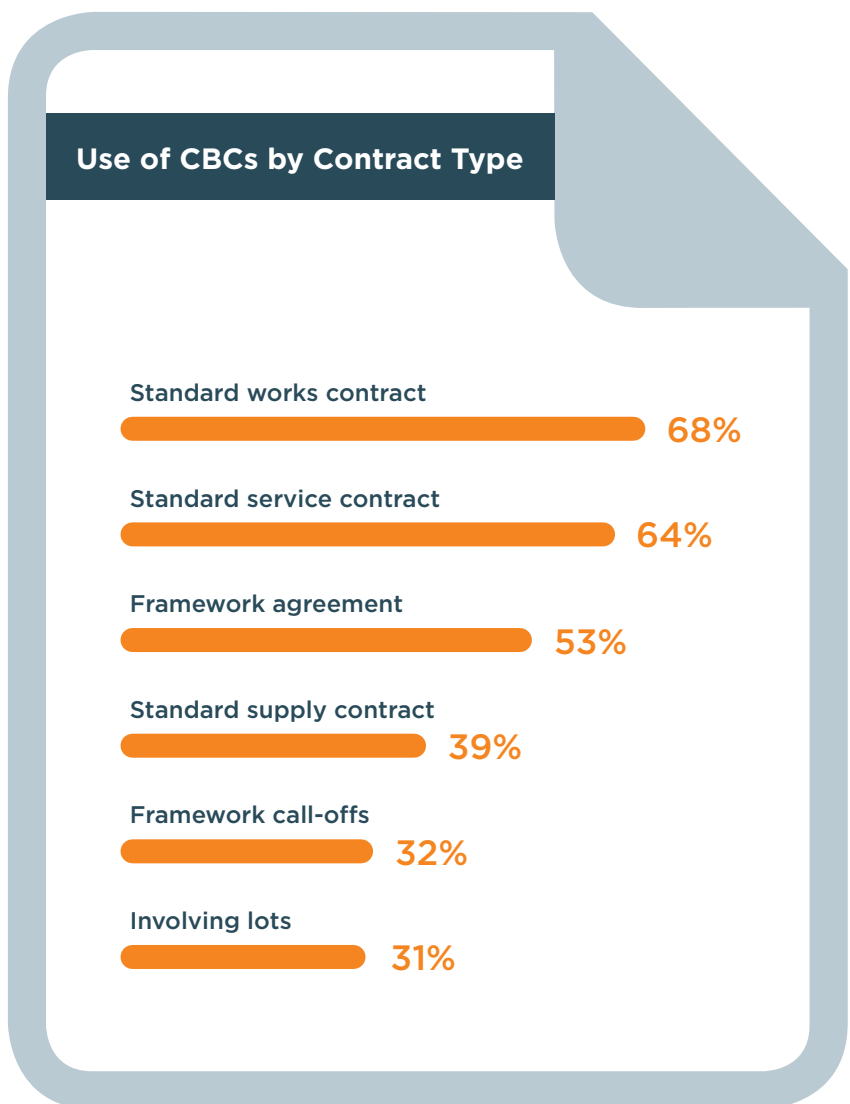
	<b>2014</b>	<b>2016</b>
 Building construction, maintenance and supplies	63%	76%
 Care and Social Work	16%	38%
 Facilities management	27%	38%
 Corporate services	21%	31%
 Professional services	16%	29%
 Roads	20%	27%
 Environmental services	26%	24%
 Vehicles and transport	7%	19%
 Education	11%	15%
 Other	6%	11%
 Medical services - acute care (2016 only)	-	3%
 Medical services - non-acute care (2016 only)	-	3%
 Medical equipment and supplies (2016 only)	-	2%

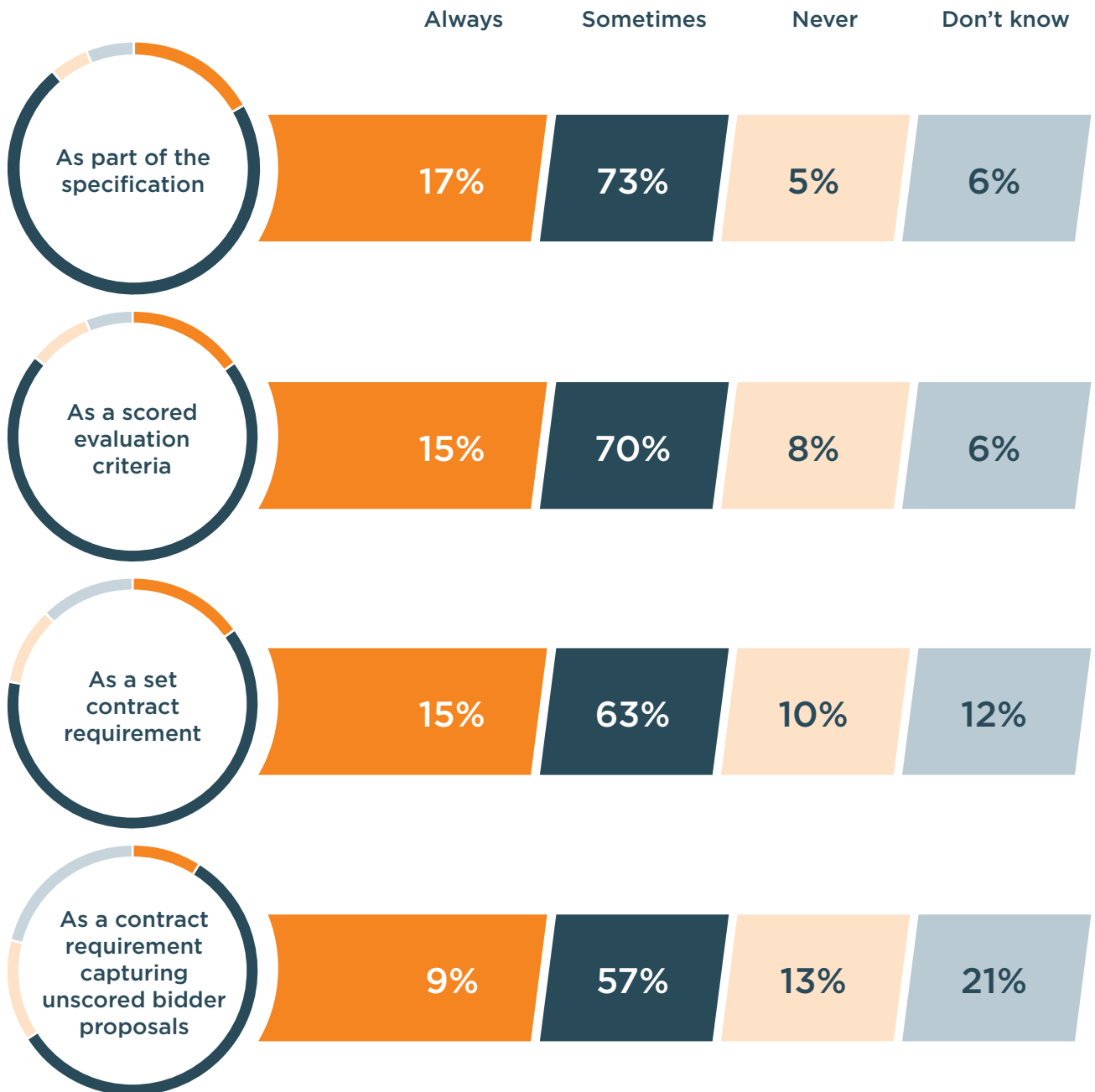
“It focuses the organisation on deciding the area of community benefits it wants to target. It sets a new reality for contractors on how they work with organisations.”

The evidence suggests that CBCs are now being fairly widely applied across all contract types, although still predominantly used in ‘standard’ works and service contracts (reported by around two-thirds of respondents in each case).

“We include CBCs in all ‘relevant’ and appropriate contracts which are managed by the central procurement team.”

CBCs can be applied in a number of ways. The survey results suggest that CBCs are being most widely included in the specification, as scored evaluation criteria, and as a set contract requirement. Less commonly they are used as a contract requirement capturing unscored bidder proposals.





“We have been using them for several years and have developed a system focused mainly on employability but also recycling, support for third sector organisations which have delivered excellent results of significant value.”



The research also indicates that Scotland's public sector continues to find CBCs a useful tool to secure wider social, economic and environmental impact from procurement. More than four-in-five respondents to the 2016 survey (83%) have described CBCs 'fairly' or 'very' helpful (81% in 2012 and 85%).

<b>Views on CBCs</b> (% of respondents)			
	2012	2014	2016
Very helpful	41%	38%	35%
Fairly helpful	40%	47%	48%
Neither helpful nor unhelpful	18%	14%	10%
Fairly unhelpful	1%	1%	1%
Very unhelpful	0%	0%	0%

As part of the survey research, a number of suggestions have been made by public sector respondents to improve the use of CBCs, including:

- All community benefits delivered by contractors, regardless of whether they are a contractual requirement, should be taken into account by purchasing authorities.

“We have many suppliers that offer voluntary community benefits that are not contractual, but deliver good benefits. These are not reported through Community Benefit Reporting because they are out of scope.”

- The use of CBCs beyond construction contracts should be accelerated and deepened.

“A lot of contractors, particularly smaller ones, still don't understand CBCs and there are we still haven't made any in-roads into getting CBCs from service contracts.”

- Further good practice examples on CBCs should be produced and disseminated.

“I think the new Procurement Reform Act is good but experience has not offered much success stories yet so once we start to use them more it might be easier to actually see the evidence of this.”

- Further clarification required on the circumstances in which it is appropriate to use CBCs.

“Because building in CBCs can come at a cost to Councils, there is a balance to be had or a decision to be made by Councils on what is appropriate. Procuring officers are not always best placed to identify, capture, evaluate, monitor or report sustainability outcomes within their contracts due to some of the specialist knowledge needed.”



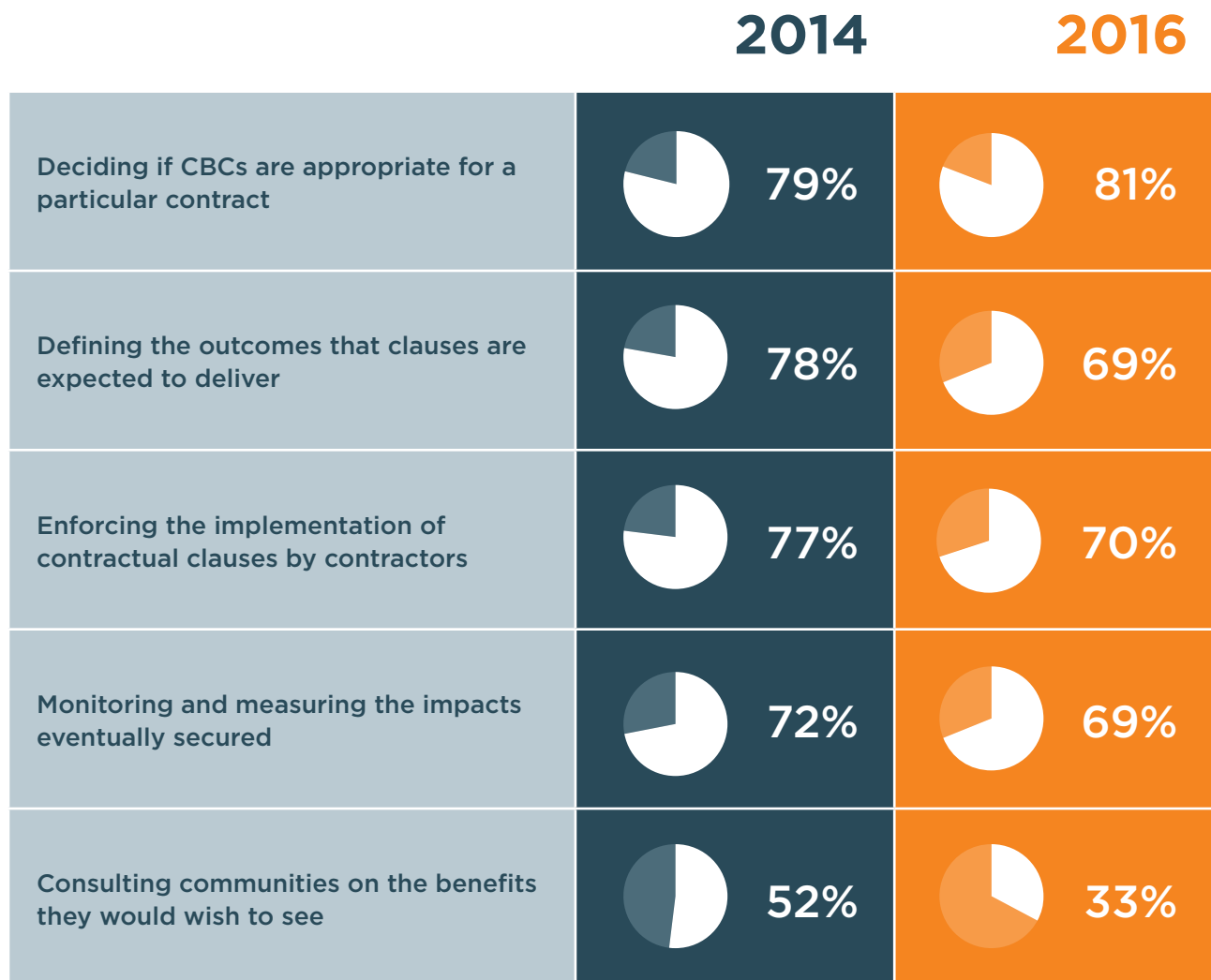
The evidence also suggests that procurement professionals are finding it increasingly straightforward to apply CBCs. More than half of respondents (52%) described it as ‘easy’ or ‘very easy’ to implement CBCs (up from 37% in 2014) and less than one-third (29%)

considered the clauses ‘difficult’ to implement.

More and more public sector organisations appear to be taking a strategic approach to using CBCs in procurement and putting in place systems to implement CBCs. In most

respects a large majority of respondents have reported workable systems now in place to identify, define, enforce and monitor CBCs. However, the feedback suggest the need to find better ways of consulting communities on the benefits they would wish to see.

**Respondents reporting a workable system in place for selected aspects of implementing CBCs** (% of respondents)



## Section 5

# Public Social Partnerships

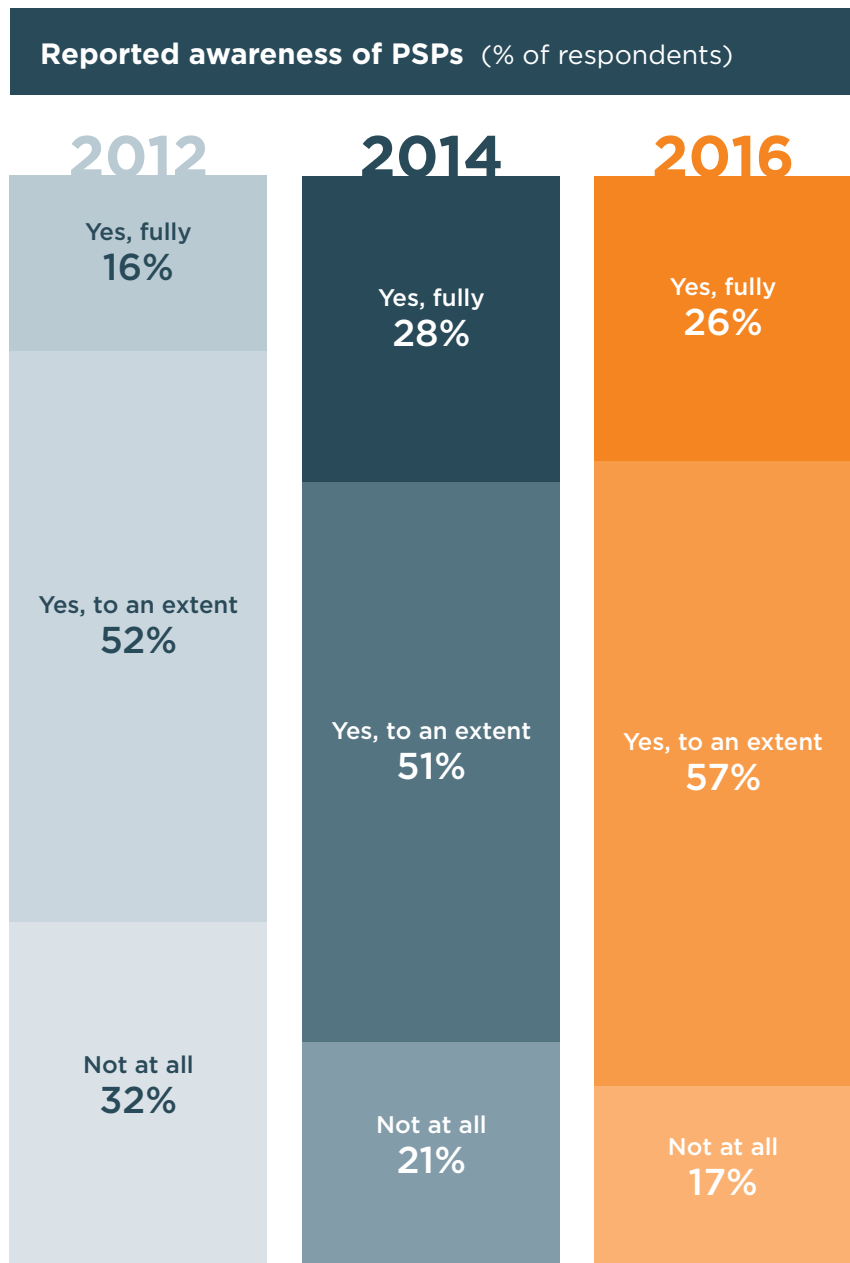
This section reports on the awareness and use of Public Social Partnerships.

### Awareness of Public Social Partnerships

Public Social Partnerships (PSPs) are strategic co-production arrangements between the public sector and the Third Sector, aimed at co-designing services around service user needs. After a pilot period, the services can be commissioned through a competitive tendering process.

The latest survey indicates that awareness of PSPs within the public sector is consistently high with 83% of respondents reporting some level of awareness of PSPs.

With awareness of PSPs now reasonably high, the challenge now seems to be to translate knowledge into action. While the research findings are encouraging in that they indicate four-in-ten commissioners/purchasers (41%) actively considering PSPs as part of their approach when designing or re-tendering services, less than one-quarter (23%) of respondents have stated that they never consider PSPs in service (re) design.



## The use of Public Social Partnerships

This year’s survey findings show that only a minority of respondents (12%) have personally participated in a PSP in the last 12 months, suggesting a slight decline on 2014. There is still therefore considerable scope to increase participation by commissioners and buyers.

Where commissioners and buyers become involved in PSP projects they seem to find the process a positive and beneficial one. Of those that have participated the survey indicates that two-thirds (67%) have found it either helpful or very helpful.

The feedback from commissioners and purchasers point to reasonably widespread professional and organisational benefits from the process. Most notably these benefits have been reported in relation to improved partnership working with and understanding of the Third Sector.



“It is more about the PSP approach than a PSP in itself. Stakeholder collaboration (including Service Users where possible) is crucial and should be part of the Procurement Journey. The Pilot stage can be important but not mandatory.”

“Through PSPs we engaged the Third Sector engaged directly in the design and delivery of the service. It opened up significant six figure contracts that were previously not on offer.”

Although the overall feeling towards PSPs was positive, there were also some concerns about the procurement phase and recognition that support will be required.

“PSPs allow a period for innovative service development. However, the next stage, requiring public procurement of the developed services, has yet to be tested.

“After redesign, contracting authorities either do not tender the requirements or if they do, they are picked up by more commercially focused organisations.”

“I think the involvement of third sector partners is very necessary, but co-production can place a very significant burden on commissioning staff and not always create something different from what has been in place before.”

## Benefits of PSPs

Improved partnership working with the third sector



Increased understanding of how the third sector operates



Increased understanding of how to deliver and implement service re-design



Increased frequency of partnership working with the third sector



Financial efficiencies



Service delivery solutions are more innovative



“Through PSPs we engaged the Third Sector engaged directly in the design and delivery of the service. It opened up significant six figure contracts that were previously not on offer.”

## Section 6

# Conclusions

This section draws out the main messages from the study.

### Main Messages

This study has provided the latest in a series of biennial snapshots of the views and practices of commissioning and procurement professionals in Scotland's public sector. It highlights continuing progress in realising social value from public contract opportunities and in unlocking market opportunities for Third Sector suppliers.

The main findings outlined from the 2016 survey are as follows:

- The awareness of the Procurement Reform (Scotland) Act and its implications is high. The concept of social value and its role in commissioning and procurement is increasingly well understood. However, further work is required if commissioners and buyers are to adequately define and measure the social value that they are securing.
- The understanding of the what the Third Sector can bring to public service delivery is generally high. A strategic approach to engaging with the Third Sector is service design is steadily emerging across the public sector.

- Community Benefit Clauses are now well known, well used and viewed as helpful. CBCs are also beginning to be applied more widely, although further support, guidance and best practice examples are required to aid effective implementation.
- There is a high level of awareness of the Public Social Partnership approach, although there is further scope to translate awareness in action. There is also the need to realise and disseminate evidence from the pilot phase of current PSP projects to engender confidence that successful procurement outcomes can be achieved after market testing.

Overall, the findings confirm a further shift in culture, policy and practice in the public sector of the duties that follow from the Procurement Reform (Scotland) Act 2014.

**Further information and support**

To obtain further information about the Developing Markets for Third Sector Providers programme please use the following contact details:

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**Web: [www.readyforbusiness.org](http://www.readyforbusiness.org)**





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