

Scottish Procurement Policy Note:

SPPN 1/2024

FAIR WORK FIRST IMPLEMENTATION – PUBLICATION OF UPDATED FAIR WORK FIRST IN PROCUREMENT GUIDANCE

Purpose

This policy note provides notice of an update to Fair Work First (FWF) in Procurement Guidance. Updated guidance on Fair Work First in Procurement which replaces the 2018 Best Practice Guidance and Toolkit has been added to the [Sustainable Procurement Tools](#).

Key Points

- this policy note supersedes SPPN 6/2021 - Fair Work First implementation - Scottish public procurement update, which was first published in September 2021, and has now been withdrawn.
- Fair Work First in Procurement policy has been in place since September 2021 and this refreshed guidance has been published to support the implementation of that policy.
- it builds on [statutory guidance](#) published in May 2022. It is hosted on the [Sustainable Procurement Tools](#) and is designed to support public bodies to implement Fair Work First through their procurement activities - it includes model questions and a new table of definitions and intended benefits for each of the seven Fair Work First criteria.

- Public bodies are responsible for their own procurement decisions and Fair Work First in Procurement guidance is distinct from, but complementary to, Fair Work First guidance relating to public sector grant funding.

SPPN Status

This SPPN is not to be construed as legal advice or a substitute for such advice and should not be read as such. Public bodies should seek their own legal advice in relation to any questions and issues they may have.

Background

The [sustainable procurement duty](#) of the Procurement Reform (Scotland) Act 2014 requires public bodies to consider how their procurement activity can be used to contribute to social, economic and environmental well-being, with a particular focus on reducing inequality, and to act in a way to secure these improvements.

The Act also makes some specific requirements with respect to a public body's policy on payment of the real Living Wage and Statutory Guidance under the Act was updated in May 2023 to reflect developments to Fair Work First in Procurement policy.

Ministers wrote to public sector leaders on 10 September 2021 setting out their expectations for public bodies to lead the way by implementing the Fair Work First criteria through their employment practices, relevant grants funding and public contracts. Public bodies were advised to have fully developed internal procedures so that Fair Work First was incorporated in all relevant procurement processes from financial year 2022/23.

Fair Work First in procurement

Fair Work focuses on the positive working practices that can be delivered through a public contract, and can be used as a vehicle to provide meaningful social impact beyond the workplace, in communities and the wider economy.

Fair Work First is central to achieving the Scottish Government's priority for sustainable and inclusive growth, and must be at the heart of employment practices, procurement and funding. [Statutory Guidance](#) requires public bodies to consider how to address fair work practices in public contracts.

Fair Work First encourages businesses bidding for a public contract to commit to adopting the following:

- payment of at least the real Living Wage
- provide appropriate channels for effective workers' voice, such as trade union recognition
- investment in workforce development
- no inappropriate use of zero hours contracts
- action to tackle the gender pay gap and create a more diverse and inclusive workplace
- offer flexible and family friendly working practices for all workers from day one of employment
- oppose the use of fire and rehire practices

Public bodies should apply Fair Work First criteria in all procurement processes, where relevant and proportionate to do so.

Support

The Scottish Government's Sustainable Procurement Tools are available to all public bodies and include indicators and guidance to support Scottish public sector buyers to consider and act on a range of sustainable factors, including Fair Work First.

The refreshed Fair Work First in procurement guidance has been developed with key procurement, and other, stakeholders and is available from the [Sustainable Procurement Tools](#) website alongside with the rest of the full suite of sustainable procurement resources.

Monitoring

For annual reporting requirements (Procurement Reform (Scotland) Act 2014, [s15 - procurement strategy](#) and [s18 - annual procurement reports](#)), public bodies are reminded to collect information and establish monitoring arrangements to enable the reporting of Fair Work First within regulated procurements.

Action Required

Public bodies are asked to note the availability of the updated Fair Work First in procurement guidance, to help them apply Fair Work First criteria in all procurement processes, where relevant and proportionate to do so.

Dissemination

Please bring this policy note to the attention of all relevant staff, including those agencies, non-departmental public bodies and other sponsored public bodies within your area of responsibility.

Contact

Enquiries about this SPPN should be addressed to
scottishprocurement@gov.scot