

**PUBLIC SERVICES AND GOVERNMENT****Analysis of the Impact and Value of the Sustainable Procurement  
Duty in Procurement**

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Blake Stevenson Ltd

**Introduction**

The Sustainable Procurement Duty<sup>1</sup> ('the Duty') is laid out in the Procurement Reform (Scotland) Act 2014 and has three main strands. Firstly, public bodies<sup>2</sup> must consider how they can improve the social, environmental and economic wellbeing of the area in which they operate through procurement, with a particular emphasis on reducing inequality. Secondly, it requires public bodies to think about how procurement processes can facilitate the involvement of small and medium enterprises (SMEs), third sector bodies and supported businesses and, thirdly, how public procurement can promote innovation. Public bodies must then act with a view to securing the intended benefits through procurement activities.<sup>3</sup>

**Scope of the research**

In November 2019, the Scottish Government commissioned Blake Stevenson Ltd to undertake analysis of the impact and value of the Duty. The aim of the research was to provide evidence of how the Duty is contributing to Scotland's national outcomes and overarching purpose,<sup>4</sup> and to provide information on the opportunities and barriers which affect the implementation of the Duty by public bodies. The key objectives of the research included the following:

- collection and analysis of qualitative and quantitative data including evidence of the following:

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<sup>1</sup> Scottish Government, Public Sector Procurement, Sustainable Procurement Duty, <https://www.gov.scot/policies/public-sector-procurement/sustainable-procurement-duty/>

<sup>2</sup> When we refer to 'public bodies' throughout this document, we are referring to bodies to which the Procurement Reform (Scotland) Act 2014 applies. A directory of public bodies can be found here: <https://www.gov.scot/publications/national-public-bodies-directory/>. In the context of procurement, they may also be referred to as a 'contracting authority' or 'procuring organisation'.

<sup>3</sup> Procurement Reform (Scotland) Act 2014, <http://www.legislation.gov.uk/asp/2014/12/section/9>

<sup>4</sup> Scottish Government, National Performance Framework, <https://nationalperformance.gov.scot/>

- how, and to what extent, public bodies are using procurement to improve the economic, social and environmental wellbeing of their area (including community benefit requirements)
  - the extent to, and ways in, which public bodies are supporting SMEs, third sector bodies and supported businesses to be involved in procurement processes
  - how public bodies are promoting innovation
  - the contribution of the Duty to the delivery of policy intentions
  - contribution of public bodies to the achievement of the national outcomes through procurement.
- provision of recommendations on actions required at national, sectoral, and local levels to improve how public bodies can demonstrate their compliance with the Duty and impact on national outcomes.
  - provision of recommendations on how the impact of sustainable public procurement should be evaluated on an ongoing basis (short, medium and long term).

## **Methodology**

Our research methodology included a desk-based review of annual procurement reports published by public bodies, interviews with key informants, as well as in-depth interviews with, and an online survey of, public bodies.

## **Key findings**

Below, we summarise the key findings emerging from the research. We discuss how public bodies are implementing the three strands of the Duty before exploring the Duty's contribution to policy intentions and national outcomes, the enablers and barriers to implementing the Duty and issues around evidencing its impact.

### **Improving economic, social and environmental wellbeing**

Community benefit requirements are a key mechanism that public bodies use to facilitate improvements in economic, social and environmental wellbeing. These place contractual requirements on suppliers to provide activities of benefit to the community as part of delivering a contract with a public body. Use of these is widespread – analysis of annual procurement reports published by public bodies indicates that 81% of public bodies included community benefit requirements in contracts awarded in 2018-19. Public bodies use these requirements to leverage significant benefits for the local community including, most commonly, employability outcomes, such as providing work placements, apprenticeships, training and job opportunities; financial and material support for community organisations and clubs; charitable donations and fundraising activities; measures designed to reduce the environmental impact of procurement; and business support for SMEs, social enterprises and the third sector.

While information provided by public bodies demonstrates that community benefit requirements have delivered significant positive impacts, often public bodies do not record the impact of the requirements systematically or in a way that can be shared

with Government or others. This is a key area for consideration and improvement in the future.

In terms of environmental wellbeing, public bodies reported taking action through a range of measures including activities to increase the use of renewable energy and of recycled materials, and to reduce the amount of waste sent to landfill. However, public bodies often provided a lack of detail in their annual procurement reports about how they have promoted environmental wellbeing and, while this does not necessarily indicate a lack of action, interviews with key informants and representatives of public bodies suggested that this is an area where public bodies require more support to fulfil their duties more effectively.

Similarly, there were some examples of public bodies using procurement processes to promote the use of the real Living Wage, fair work practices and fairly and ethically traded goods among its suppliers. However, there was, in general, less information available about these aspects of the Duty and it is therefore unclear how, and to what extent, public bodies have promoted these policies through procurement activities.

### **Involving SMEs, third sector bodies and supported businesses in procurement processes**

Public bodies have taken a range of steps to make procurement opportunities more accessible to SMEs, third sector bodies and supported businesses. These include advertising opportunities through Public Contracts Scotland, dividing contracts into lots, sub-contracting opportunities through the supply chain, and supplier development activities.

However, there remains scope for further progress. This is particularly true with respect to third sector bodies, where research participants reported that there has been less progress than with SMEs and supported businesses. Interviewees reported a lack of understanding or awareness among public bodies of what third sector bodies can offer, as well as a lack of capacity and skills in the third sector to bid for contracts. The feedback indicates that support may be required to address these gaps.

### **Promoting innovation**

There are some examples of public bodies achieving the Duty's requirement around promoting innovation but, overall, public bodies provided a lack of detail about how they have done this. It may be that innovation is more widespread but is not being reported in sufficient detail. However, findings from our interviews indicated that public bodies require support to better understand how innovation is defined, and how to report on it more effectively.

### **The Duty's contribution to policy intentions and national outcomes**

The Procurement Reform (Scotland) Act 2014, and the Duty set out within it are key vehicles contributing to delivering on Scotland's overarching purpose "to create a more successful country, give opportunities to all people living in Scotland, increase the wellbeing of people living in Scotland, create sustainable and inclusive growth

and reduce inequalities and give equal importance to economic, environmental and social progress”.<sup>5</sup> The actions of public bodies contribute to delivering on individual national outcomes, and the Duty is one way in which they do so.

There are several examples of where actions being delivered to address the Duty support delivery of the national outcomes. For example, business support for SMEs and third sector bodies delivered as part of community benefit requirements contributes to the national outcome related to having “a globally competitive, entrepreneurial, inclusive and sustainable economy”, and actions to reduce or eliminate the procurement of single use plastic is contributing to the outcome to “value, protect and enhance our environment”.

However, research participants noted that in many public bodies systems and processes are not yet sufficiently sophisticated to fully understand how organisations are contributing towards national priorities through procurement. Tightening the link between policy and procurement staff in an organisation was considered to be central to this going forward.

Furthermore, interviewees emphasised the role of procurement teams in ensuring they work with supplier organisations to prioritise delivery of community benefits which link to policy priorities. While some organisations already take this pro-active and collaborative approach, others do not.

### **Enablers and barriers**

We identified a number of enablers which research participants believed to be key to building on the impact already delivered through the Duty. These included strong leadership; improved capacity and resources within procurement teams and across public bodies more widely; effective contract management (including robust monitoring of impact); more extensive sharing of good practice; sustainability featuring more heavily in assessment processes (and being a scored component where appropriate); and building strong relationships with suppliers pre- and post-tender.

Barriers identified included lack of time and resource to fully consider the Duty in each procurement exercise; a lack of funding; insufficient skills and knowledge to implement the Duty effectively; inadequate monitoring of impact; risk aversion; and a lack of ambition and creativity. However, it should be noted that these barriers were not experienced uniformly and many organisations were able to put in place systems to mitigate these challenges.

### **Evidencing the impact of the Duty**

While information provided in recent procurement reports indicates that the Duty is making a significant impact, evidencing the full extent of the impact of measures taken to fulfill the Duty remains challenging. Many bodies find evidencing their impact difficult – research participants cited resource constraints, inadequate systems, information spread across different parts of organisations, lack of skills,

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<sup>5</sup> Scottish Government, National Performance Framework, <https://nationalperformance.gov.scot/>

and lack of willing as key barriers to this being done effectively. Individual public bodies have responsibility for ensuring that this evidence is available, however continuing support from the Scottish Government will be important in ensuring this happens.

## **Summary of progress to date**

The research has found that the Duty has led to a step change in procurement practice and there has been significant progress since the Duty was introduced. There are many examples of public bodies taking action to improve social, economic and environmental wellbeing, involve SMEs, third sector bodies and supported businesses, and promote innovation. Scotland is ahead of many other countries in its approach to sustainable procurement practices, and there is evidence that the Duty is contributing to the achievement of national outcomes and the Scottish Government's overarching purpose.

However, public bodies and stakeholders recognise that much more remains to be done to take implementation to the next level. There is room for progress across all three strands of the Duty, but promoting innovation appears to be the area where public bodies need most support.

Austerity and budgetary challenges have undoubtedly limited some of the potential for change, but despite these challenges there is more that public bodies can do to deliver impact. Creativity and ambition in relation to implementing the Duty are not universal and there are many lessons to be learned from organisations that are at the forefront of successful implementation.

Levels of understanding of the Duty still vary significantly between organisations and between levels of staff within organisations. Comprehensive training and guidance, including a suite of Sustainable Procurement Duty tools, is available from the Scottish Government to help public bodies comply with the Duty. This is welcomed by many but take-up is not universal and research participants voiced concerns about how detailed and cumbersome the tools are. There is, however, an ongoing review of these tools and this is an opportunity to ensure that they are streamlined and user-friendly.

## **Recommendations**

The recommendations outlined below recognise the barriers, challenges and lessons identified through the research. In setting out these recommendations, we recognise that, while the Scottish Government has a role to play in supporting public bodies, ultimately, responsibility for meeting the requirements of the Duty lies with individual public bodies.

### **Recommendations for public bodies**

Recommendation 1: Public bodies should continue to improve the level and quality of information provided in annual procurement reports in order that the full impact of the Duty can be better understood across organisations.

Recommendation 2: Public bodies should continue to grow their capacity to address the environmental wellbeing element of the Duty, by accessing existing support and learning from good practice.

Recommendation 3: A relatively low number of public bodies make any reference to ethical supply chains in their annual procurement reports. It is unclear whether the gap is in information provided in reports or whether there are gaps in practice. If the former, then public bodies must work to include more comprehensive information in their annual procurement reports. If the latter, then public bodies must re-visit their practice and consider how ethical supply chains may be better encouraged and achieved.

Recommendation 4: Public bodies should continue to work to develop levels of commitment and understanding among their staff of the opportunities that the Duty offers for positive change and the benefits that implementing the Duty have for the body. Staff should be aware that considerations related to the Duty apply throughout the procurement process, from developing the requirement to selecting suppliers, evaluating bids and managing the contract.

Recommendation 5: Public bodies to work towards improving systems for monitoring progress against the delivery and impact of the Duty to ensure that more comprehensive information can be provided through annual procurement reports and impact can be better understood.

Recommendation 6: It is crucial that evidence collected by public bodies about the delivery and impact of the Duty goes beyond cost savings and considers other areas of social, economic and environmental impact, to demonstrate the contribution of these activities to wider value for money impact.

Recommendation 7: Public bodies should take a more active role in sharing good practice with their suppliers and with other public bodies in their sector and beyond.

Recommendation 8: Public bodies should consider whether questions related to the Duty can, where appropriate, form scored elements of more contracts than is currently the case<sup>6</sup>; and ensure that staff have the necessary skills to make judgements around sustainability when assessing bids. Where scoring is not deemed to be appropriate, public bodies should consider whether the value of requiring this information is outweighed by the additional burden placed on bidders, and on staff in the assessment process.

Recommendation 9: Public bodies to re-visit, and to more regularly review, the balance in assessment processes between cost and the quality of the offer from suppliers (including any offer related to elements of the Duty).

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<sup>6</sup> In doing this, it is important that public bodies award scores appropriately, in proportion to the scale of the contract and in a way that does not unfairly benefit any particular supplier or group of suppliers. For example, it would not be appropriate to award points to a supplier just because it is an SME, although evidence of the suppliers' activities to involve SMEs in sub-contracting opportunities might be appropriate, depending on the scale of the contract.

## **Recommendations for sectoral bodies**

The following recommendations are made for the four Procurement Centres of Expertise in Scotland:

Recommendation 10: Explore opportunities to provide further support for public bodies with monitoring and evidencing progress with and impact of the implementation of the Duty, including community benefit requirements. This could include signposting bodies to existing support and guidance.

Recommendation 11: Continue to support public bodies with the development of their annual procurement reports by, for example, providing templates or guidance for minimum content.

Recommendation 12: Identify further opportunities for public bodies to share learning and examples of effective practice from their experience of implementing the Duty.

Recommendation 13: Explore opportunities for further supporting public bodies with their implementation of the Duty, especially guidance around the promoting innovation and environmental wellbeing aspects of the Duty. This could include signposting bodies to existing support and guidance.

Recommendation 14: Facilitate and co-ordinate opportunities for public bodies to provide feedback to the Scottish Government on the existing support and guidance. This feedback is critical to enable the Scottish Government to continuously improve the support and guidance and to ensure it meets the needs of the sector.

## **Recommendations for Scottish Government**

Recommendation 15: There is no Procurement Centre of Expertise specifically for registered social landlords (RSLs), but there are other umbrella bodies that support organisations in this sector. It may be worthwhile for the Scottish Government to explore whether RSLs require further support with implementing the Duty and how this might be delivered.

Recommendation 16: Support public bodies to work towards ensuring a tighter link between procurement policy and practice and local and national policy objectives.

Recommendation 17: Work with partners to put in place or re-introduce opportunities for sharing good practice on sustainable procurement between public bodies, both sectorally and cross-sectorally focused, to encourage more creative and ambitious approaches to addressing the Duty.

Recommendation 18: Continue to work with public bodies to improve the quality and depth of information provided on the delivery, impact and effectiveness of the Duty through the annual procurement reports. Re-visit the data template issued for the first time last year to ensure it is fit-for-purpose so that full and relevant evidence is captured, drawing on learning from this research.

Recommendation 19: Use the ongoing review of the Sustainable Procurement Duty Tools to consider options for refining the tools to ensure that they are more user friendly.



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