

1. To what extent do you agree or disagree that mandating large contracting authorities with spend over £100m p.a. to set 3-year targets for their procurement spend with SMEs and VCSEs and publish annual progress against these targets, would help increase spend with SMEs and VCSEs?

Agree

If you wish to explain why you do or do not agree that the proposed measure reflects or delivers the policy intent described above, please do so here. [NB 2000 character limit]

Social Enterprise UK broadly supports mandated targets and public reporting for VCSE spend to encourage transparency in the procurement process. We have seen the impact that transparency can have on increasing VCSE spend through programmes such as the Buy Social Corporate Challenge, so we understand how reporting is an important tool for highlighting areas of existing progress, as well as signalling where opportunities for improvement lie.

However, we believe this proposed measure must go further to ensure accountability of contracting authorities. Government should require all recipients of contracts in excess of £100m to also set 3-year targets. We know from SME targets that approximately 50% of government spend with SMEs is indirect and would assume similar demographics for VCSEs. Not including large suppliers in these targets therefore feels like a missed opportunity to grow both VCSE and SME provision.

There must also be consideration of the capacity of contracting authorities to undertake this reporting – from an FOI request last year, we know that just 256 of 432 English local authorities had a list of all suppliers of council goods, services, and works for last financial year. The implementation of VCSE and SME spend targets and reporting requirements would supersede capacity in many parts of the country, so capacity-building is essential for standardising reporting quality.

Social Enterprise UK have worked with 12 government departments through the Contract Readiness program (commissioned by DCMS) to provide clear, consistent benchmarking on VCSE spend for contracting authorities using our database of social enterprises and open data sources. We would welcome the opportunity to work in partnership with government on the development of this database to provide a clear, auditable database for all of government on what constitutes a VCSE.

[1874 characters]

2. To what extent do you agree or disagree that extending the requirements of section 70 of the Act to publish information on (i) all payments made under public contracts and (ii) payments under notifiable below-threshold contracts, would help increase spend with SMEs and VCSEs?

Agree

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Social Enterprise UK supports greater transparency in the procurement process to enable increased understanding and scrutiny of how services are procured. Publishing information on spend, especially under below-threshold contracts, could create greater visibility for VCSEs as tier 2 suppliers in bigger contracts, as well as allowing incoming VCSE suppliers to better understand opportunities to work with the public sector. This could support the government in their goal of increasing opportunities for VCSE organisations which are well-placed to deliver quality services and social value within their communities but can struggle with access and visibility.

However, while we broadly support all transparency and reporting ambitions, this is with the caveat that without a data framework and clear methodology around VCSEs – social enterprises in particular – this data may be less useful. Additionally, without clear mandates and repercussions, this may place an impossible burden on contracting authorities unless delivered in a joined-up way.

There is also an important cultural piece for commissioners around understanding the breadth and capability of the VCSE sector. We know from Contracts Finder that the “suitable for VCSE” box is rarely ticked as there is an assumption that VCSEs cannot deliver at certain scales or in certain categories. It will be important therefore to use this data to debunk such myths in order to drive an increase in spend and activity.

[1476 characters]

3. To what extent do you agree or disagree that requiring contracting authorities to exclude suppliers from bidding on major contracts (+£5m per annum) if they cannot demonstrate prompt payment of invoices to their supply chains (within an average of 60 days) would help improve late payment by suppliers to the public sector?

Agree

If you wish to explain why you do or do not agree that the proposed measure reflects or delivers the policy intent described above, please do so here. [NB 2000 character limit]

A 60-day requirement should be the minimum, but we would like to see it set to at least 30 days. This reflects what the Fair Payment Code recommends for SMEs, and would also reduce barriers for social enterprises, where healthy cash flow is crucial and late payments are often a barrier to entry.

We would also suggest altering the wording of this recommendation to a 'maximum of 30 days' rather than an 'average of 60 days', to reflect the importance of prompt payment of invoices. [481 characters]

4. To what extent do you agree or disagree that there should be flexibility for contracts for people focused services to be awarded without competition?

Agree

If you wish to explain why you do or do not agree that the proposed measure reflects or delivers the policy intent described above, please do so here. [NB 2000 character limit]

Legacy procurement frameworks and commissioning approaches were not designed to deliver cost-effective and high-quality service provision. Excess competition and ineffective social value application mean that VCSEs with the capability to deliver quality services are marginalised from contracts, subjected to onerous contracting processes which distract from delivery, and placed on short-term contracts, meaning embedding quality provision is difficult.

This is especially true for services which support the most vulnerable. Allowing greater flexibility for contracts for people-focused services to be awarded without competition would enable a greater focus on the delivery of quality, trauma-informed care which acknowledges procurement as a public policy mechanism, rather than a means to outsource and encourage competition only on price. Greater flexibility will therefore support the government in opening opportunities for quality VCSE suppliers.

It is important to point out that the existing provision for reserved contracts is very rarely used. This would suggest that the awarding of contracts without competition is a cultural challenge as well as a legislative one. In other words, it's not enough to create a permissive regime - thought must also be given to how to encourage reserved contract use in appropriate circumstances. Consideration should therefore be given on how this can be promoted across government, emphasising the benefits and opportunities that this opens up.

[1492 characters]

5. Are there other services delivered to vulnerable citizens (beyond adult and children's social care) that warrant procurement processes not permitted in the Procurement Act 2023? Please include i) the CPV code where possible and description of the services; ii) the nature of the problem faced; iii) the optimal policy solution(s). [NB 2000 character limit]

We believe it is more helpful to think of in-scope services as being 'people-centred' than 'people focussed'.

A service may reasonably be deemed 'people-focussed' simply because it aims to address an immediate human need. 'People-centred', however, reflects the fact such services are delivered most valuably when they focus on eg, the personal experience, trauma, barriers, ambitions, relationships, and strengths of each individual to sustainably target the root cause of the issues that have led them into the service.

We believe the most effective policy solution to best create 'people-centred' services is to allow commissioning authorities to take all services falling under the CPV codes listed out of the 'buy' route of the basic 'make or buy' decision.

This would allow the authority to decide that the service does not need to go out to competitive tender. Instead, the collaborative co-creation of such services alongside residents and the local VCSE organisations that serve and represent them could fall within the in-house 'make' route.

This could be based on a long-term partnership between the authority and the community that take such provider organisations and services out of the structures of the inappropriate procurement regime.

1249 characters

6. Do you have any examples where people-focused services have been procured well? Do you have any suggestions for changes to the processes available under the Procurement Act or guidance that could improve procurement of these services? [NB 2000 character limit]

By 'procured well', we are referring to when services have been procured that are cost effective and high-quality, delivered by VCSEs. There is precedent for this kind of commissioning, but it is the exception rather than the rule.

Where we have seen people-focused services commissioned well, it has come about because of early partnerships, pre-commissioning collaboration, capacity building, and bravery on behalf of the commissioning authority. There must be top-down encouragement and validation, supported by appropriate local infrastructure - for example, regional care cooperatives - to ensure social value is embedded into the procurement processes. Regional care cooperatives connect suppliers to local authorities and suppliers, and there must be an embedded commitment to lining these actors up to ensure partnerships are delivered with ambition, commitment, and intention.

Children's care in Greater Manchester provides an example of commissioning working well. 50% of children's residential care in Greater Manchester was previously delivered by private equity firms with significant profit extraction (including offshoring) and evidence of declining quality of provision, placement breakdown, and children being housed out-of-area. To address this problem, regional care cooperatives and local

authorities formed the GM VCSE Children in Care Taskforce to reenergise the local care sector in Manchester. This collaboration allowed for the creation of a long-term plan for transforming the sector. Since the first residential home under this new agreement has opened, Social adVentures, a VCSE children's care provider, has only spent £1000 on agency staff costs, and all the children in their Salford residential home are from the local area. They are recognised as a quality care provider in their area. This demonstrates the value of early collaboration, capacity-building, and bravery during the pre-commissioning stages of public services. [1957 characters]

7. To what extent do you agree or disagree that contracting authorities should be required to undertake a public interest test and publish it when making sourcing decisions?

Agree

If you wish to explain why you do or do not agree that the proposed measure reflects or delivers the policy intent described above, please do so here. [NB 2000 character limit]

The extent to which we support this measure depends on what the public interest test looks like; there is a lack of clarity in terms of what exactly this test would entail. Existing public interest tests are often superficial and fail to account for the kind of changes needed within the procurement process to deliver meaningful social value. For example, a sole focus on KPIs or usage of the TOMs framework would not adequately address the social value needs of a given place or community, and any test using just these metrics would not be of sufficient value.

We would support the mandating of public interest tests where contracting authorities account for the social value delivered by their decisions across the contract delivery lifecycle. These kinds of tests could encourage a more holistic procurement approach, and open more opportunities for VCSEs which deliver embedded social value.

However, measurement and process will determine whether tests are meaningful, whether they have unintended consequences, and whether they complement other policy (e.g. social value approaches and flexible contracting). [1115 characters]

8. To what extent do you agree or disagree that requiring authorities to set an award criteria which relates to the quality of the supplier's contribution to jobs, opportunities or skills for all public contracts over £5m and with a minimum evaluation weighting of 10%, will help to deliver social value that supports economic growth?

Agree

If you wish to explain why you do or do not agree that the proposed measure reflects or delivers the policy intent described above, please do so here. [NB 2000 character limit]

While the contributions of suppliers to delivering jobs, opportunities, and skills is an important aspect of social value, it is a narrow interpretation of it and does not truly reflect the depth and spectrum of social value potential. This is especially true because job creation is often seen as a tick-box exercise, and criteria used to measure job creation often do not take account of the quality of jobs provided – for example, whether they are supporting those furthest from the labour market. Additionally, any social enterprises employ those furthest from the jobs market as a core part of their social mission, and this embedded value often goes unaccounted for by existing measuring criteria.

Furthermore, an explicit focus on jobs, opportunities, and skills excludes other areas where meaningful social value may be delivered, especially by VCSEs. This one metric alone does not provide sufficient certainty that social value will be delivered.

We do, however, broadly support the need for improved and transparent reporting requirements, to ensure organisations are not gaming the procurement process and are delivering on their social value commitments, rather than making hollow promises when bidding. Social Enterprise UK would welcome the opportunity to support in shaping the reporting process, to ensure a range of social value metrics are accurately tracked and delivered on, to ensure social value suppliers delivering social value are appropriately acknowledged and supported, and that social value delivery is tracked and reported on at the end of every contract. One way in which this could be supported is by introducing mandatory social value audits every three years for public bodies and large businesses. [1732 characters]

9. To what extent do you agree or disagree that, where authorities have set social value award criteria relating to jobs or skills, mandating that they also set at least one KPI on social value delivery, and subsequently report performance against a social value KPI (published in the contract performance notice), will support transparency of progress against social value commitments?

Agree

If you wish to explain why you do or do not agree that the proposed measure reflects or delivers the policy intent described above, please do so here. [NB 2000 character limit]

The mandating of at least one social value award criteria relating to jobs and skills and one KPI on social value delivery could support the transparency of progress against social value commitments – as a minimum standard first step, and one which will not necessarily deliver optimal results. Rather, an approach which combines holistic

measurement and support to improve awareness and practice is needed to ensure social value is embedded in delivery.

Any criteria developed to measure social value delivery must be inclusive of the embedded social value created by social enterprises, and authorities must be equipped with knowledge of how social value can be embedded into service delivery rather than added on as an afterthought. For example, social enterprises which deliver employment opportunities to those furthest from the job market as part of their social mission must be acknowledged for their contribution to social value creation, and this must be reflected in reporting.

It's also important to acknowledge that social value needs differ across localities, and therefore while the standardisation of metrics is important, authorities must take account of local needs and be agile in their approach to social value. One way of ensuring social value metrics deliver for their local areas is by creating 10 or so focus areas for social value delivery. Social Enterprise UK would be happy to co-design such a framework.

It is also important that there is accountability for those organisations failing to deliver on social value criteria, or for failing to report on it. Social Enterprise UK would welcome the opportunity to co-design these criteria, to ensure they accurately reflect social value delivery by VCSE organisations, and encourage greater transparency and accountability in the procurement process. [1821 characters]

10. To what extent do you agree or disagree that requiring contracting authorities to use standard social value criteria and metrics selected from a streamlined list (to be co-designed with the public sector and suppliers) in their procurement of public contracts will help to deliver social value in a proportionate manner?

Neither Agree nor disagree

If you wish to explain why you do or do not agree that the proposed measure reflects or delivers the policy intent described above, please do so here. [NB 2000 character limit]

We agree that requiring contracting authorities to use standard social value criteria and metrics selected from a streamlined list will help to deliver social value in a proportionate manner. However, it is necessary that the social value metrics used in this measurement acknowledge the integrated and embedded value created by mission-driven organisations, so social value is seen as more than merely a nice to have add-on by suppliers. Social Enterprise UK would welcome the opportunity to co-design a framework which ensures social value is embedded into public sector contracts across combined authorities, local authorities, and the devolved nations, and a mandatory reporting system on social value across all public bodies. This is something SEUK has been calling

for for years. This must also be accompanied by accountability and validation through reporting and monitoring of impact data.

Whilst we would certainly agree that the inconsistent approach to social value implementation over the last decade and complete lack of standardisation has been a challenge, it is important to remember that the wording of the Social Value Act was deliberately broad. This allowed contracting authorities to apply the most relevant areas of social value to their area and strategic priorities. We believe it is therefore important that standardisation does not prevent innovation, and that there is still the scope for contracting authorities to add to the standard criteria in order to reflect local contexts.

[1508 characters]

11. To what extent do you agree or disagree that contracting authorities should be permitted to define the geographical location of where social value will be delivered as described above? Do you have any suggestions for innovative ways of delivering social value including by creating more flexibility in the current requirements in the Act on relevance and proportionality?

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Innovation in social value comes from co-creation, partnership, and in diversity and quality of provision - not flexibility in geographic measures, which may allow gaming of 'easier' (and less impactful) social value delivery. Therefore, contracting authorities should work closely with communities before putting contracts out to tender, especially with hyper local services such as housing. This can ensure that the social value delivered is specific to the needs of the local community.

Again, accountability is key - a common framework should be created to monitor and report on social value across the devolved nations, combined authorities, and local authorities. Social Enterprise UK would welcome the opportunity to support in designing this framework. [744 characters]