



West Lothian Council
**Community Benefits in Procurement
Procedure**

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1. Introduction and Definition

West Lothian Council (the council) is committed to working with communities and businesses to secure Community Benefits in council contracts where it is proportionate and relevant to do so. Community Benefits clauses are contractual requirements which deliver wider Social, Economic or Environmental benefits in addition to the core purpose of the contract, requiring suppliers to commit to social benefit without imposing any additional cost to the council.

As part of the wider [Sustainable Procurement Duty](#), the [Procurement Reform \(Scotland\) Act 2014](#), section 24, defines a Community Benefit as a contractual requirement imposed by a Contracting Authority relating to:

- i) Training and Recruitment, or the availability of Sub-Contracting Opportunities, or,
- ii) Which is otherwise intended to improve the economic, social or environmental wellbeing of the authority's area in a way additional to the main purpose of the contract in which the requirement is included.

Community Benefits, whilst intended to benefit the wider community, can also support the delivery of council policies and priorities. The council's [Corporate Procurement Strategy](#) (the Strategy) defines the vision for procurement as;

“to achieve superior procurement performance through advanced sustainable procurement practices for the benefit of the council and its stakeholders”

The council believe that Community Benefits are a key step in meeting our Corporate Objectives, as defined in the [West Lothian Council Corporate Plan](#), and will therefore consider Community Benefits for all relevant and appropriate procurement projects.

Depending on the value, duration and nature of the contract, there is significant potential to improve the wellbeing in West Lothian in the following areas;

- Generate employment and training opportunities for priority groups
- Provide vocational Training
- Up-skill and support the existing workforce
- Equality and diversity initiatives
- Make sub-contracting opportunities available to SME's, third sector and supported businesses
- Supply chain development activity
- Build capacity within community organisations
- Educational support initiatives
- Minimise negative environmental impacts

Community Benefits provide a means of achieving sustainability objectives through public contracts and frameworks as long as considerations are compatible with the procurement principles of equal treatment and non-discrimination, transparency and proportionality.

2. Context and Legal Framework

Scotland's purpose is to focus Government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increased wellbeing and sustainable & inclusive growth.

Enacted through the Procurement Reform (Scotland) Act 2014, the Sustainable Procurement Duty aims to make best use of public money, helping government organisations achieve their overarching purposes and strategic objectives.

Prior to conducting any regulated procurement* activity, The Sustainable Procurement Duty requires contracting authorities to think about;

- How it can improve the Social, Environmental and Economic wellbeing of the area in which it operates, with a particular focus on reducing inequality.
- How its procurement processes can facilitate the involvement of SME's, third sector bodies and supported businesses
- How public procurement can be used to promote innovation

**Regulated spend = £50,000 and above for Goods and Services and £2m and above for Works contracts.*

A contracting authority must have regard to section 8 (2) of the Procurement Reform (Scotland) Act 2014 and apply the Sustainable Procurement Duty in a proportionate way. Community Benefit requirements in contracts must also be objective and should not give preference to any particular group, ensuring that they do not directly or indirectly discriminate against individuals and groups covered under the protected characteristics of the [Equality Act 2010](#).

A threshold of £4million is set at or above which Community Benefit requirements must always be considered. The contracting authority must;

- Before carrying out the procurement, consider whether to impose community benefit requirements as part of the procurement exercise
- Include a summary of the community benefit requirements it intends to include in the contract, or, where it does not intend to include requirements, a statement of its reason for not doing so.

[Fair Work First](#) and Community Benefits may be viewed as a subset of the Sustainable Procurement Duty. While the Procurement Reform (Scotland) Act 2014 has a specified threshold at which Community Benefits must be considered, application of the Sustainable Procurement Duty means that Fair Work First and Community Benefits may be achieved below this threshold.

3. Community Benefits Commitment

The council is committed to maximising Community Benefits from regulated procurement activities as required through the Sustainable Procurement Duty, whilst working with communities and businesses to secure environmental, social and economic value, and will include Community Benefits in council contracts where proportionate and relevant to do so.

Through the delivery of Community Benefits, the council seeks to support the Scottish Government in achieving its purpose outlined in the National Performance Framework:

“to focus government and public sector on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth”

Any Community Benefits delivered should be reflective of the Scottish National indicators, and should reflect the needs of West Lothian’s local communities. Contractors are encouraged to be innovative in their delivery of Community Benefits.

As the council is committed to maximising Community Benefits from its procurement activities, it is important that a methodology is developed which increases the possibility of securing Community Benefits for the West Lothian Community.

4. Community Benefits in West Lothian Council

In accordance with the Standing Orders for the Regulation of Contracts (Standing Orders) and Corporate Procurement Procedures, any supplies or services contract with an estimated aggregate purchase value of £50,000 and above and £250,000 and above for Works contracts must be tendered. Procurers (council officers with delegated purchasing authority) must consider the inclusion of Community Benefits and wider Sustainable Procurement criteria on a case by case basis from the outset of each tendering process.

There are three types of Community Benefit;

Contractual Community Benefits are mandatory requirements which are legally enforceable and establish the council’s procurement requirements, using clear definitions, unambiguous language and are measurable with the tenderer’s response and tender evaluation criteria.

Voluntary Community Benefits place no contractual obligation on the tenderer to submit any Community Benefits as part of the tender process, and are not evaluated. Should any Community Benefits be offered as part of the submission, these will be incorporated into the award contract as contract conditions. Voluntary Community Benefits are particularly beneficial where contracts may be of low value and deemed not proportionate to consider contractual benefits.

Construction Project Community Benefits are slightly different from the standard types of Community Benefits. West Lothian Council has adopted the National Skills Academy for Construction Client Based Approach.

Full definitions of the types of Community Benefits can be found at Appendix 1.

Although there is no formal requirement for the consideration of Community Benefits in contracts with an estimated value of less than the stipulated values for Goods, Services and Works contracts, it is strongly recommended to consider Community Benefits for every contract and apply where appropriate.

The Community Benefit clause to be selected is dependent on the value and nature of the contract. An Evaluated Community Benefit is scored as part of the tender evaluation process and requires the contractor deliver a range of benefits to achieve a set threshold of points. A Non-Evaluated Community Benefit mandates that the successful contractor is required to select a benefit from the council's Community Benefits [Wish List](#).

The introduction of Community Benefit clauses within the tendering process is founded on the assumption that value for money can be demonstrated, without any detriment to the main requirements of the contract, and is compliant with current procurement legislation.

It is expected that Community Benefits should be reflective of the contract to be awarded; the greater the value, the greater the level of Community Benefits expected. For all contracts, regardless of value, there is an expectation for contracted suppliers to adhere to Fair Work Practices, promotion of the Real Living Wage and Prompt Payment in the Supply Chain.

Procurers will ensure that the desired Community Benefits outcomes are clear, realistic and measurable and that specifications contain clearly defined benefits or outcomes that are proportionate to the duration, value and complexity of the contract. Clearly specified benefits will ensure that contractors are aware of requirements being sought and that Community Benefits submissions may be evaluated in a clear and consistent manner.

5. Identifying Potential Community Benefits

This procedure provides guidance to procurers on the process for achieving Community Benefits in all types of procurement activity. Procurers are expected to show that due regard has been given to sustainability criteria in all procurement exercises (including call offs via Framework Agreements).

A Community Benefits Flowchart can be found at appendix 2. The main contacts for each of the specific Benefits can be found on the [WLC Community Benefits List](#).

For regulated procurement activity, during the Contract Strategy development stage, there is a requirement to incorporate Sustainable Procurement factors and undertake a Sustainability Test, as part of the Scottish Government Sustainable Procurement Tools. When developing the Contract Strategy, procurers will decide on the proposed methodology for implementing Community Benefits, in line with the Contract Complexity, Value and Risk. Should contracts not be suitable for inclusion of Community Benefits clauses, then this must be detailed within the Contract Strategy and subsequent Tender Outcome Report following the award of any tender. Community Benefits that have been identified to be realised and form part of any award must also be detailed within the Tender Outcome Report.

For any type of Community Benefits to be included in regulated procurements, procurers are required to issue a Community Benefits statement within the Contract Notice. Sample Contract Notices for all types of Community Benefit are available within the [Contract Notice Guidance Document](#).

6. Community Benefits Matrix and Wish List

To assist procurers to select relevant and proportionate Community Benefits for tenderers to review, a points-based Community Benefits Matrix has been developed. This ensures a consistent approach is adopted throughout the council to deliver and realise Community Benefits.

This methodology will be used as part of the contract award criteria within tenders to determine the extent to which tenderers commit to delivering Community Benefits as part of the main tender opportunity.

Each tender will be allocated a minimum number of points per Total Estimated Contract Value, correlating to the number of Community Benefits to be achieved throughout the lifetime of the contract, with awarded contracts having these implemented as contract conditions. The points matrix can be found below;

| Band Ref | Total Estimated Contract Value | Community Benefits Points to be delivered |
|----------|--------------------------------|---|
| 1 | £0 - £49,999 | 30 |
| 2 | £50,000 - £99,999 | 50 |
| 3 | £100,000 - £199,999 | 80 |
| 4 | £200,000 - £299,99 | 100 |
| 5 | £300,000 - £399,999 | 200 |
| 6 | £400,000 - £499,999 | 300 |
| 7 | £500,000 - £999,999 | 400 |
| 8 | £1,000,000 - £1,999,999 | 500 |
| 9 | £2,000,000 plus | 600 |

WLC Community Benefits Points Matrix

e.g. if the total estimated contract value was £120,000, then the minimum number of Community Benefit points to be achieved by the contracted supplier throughout the lifetime of the contract would be 80.

To maximise the benefit aligned to community need, this approach is supported by the inclusion of a list of example standard Community Benefits; [WLC Community Benefits List](#) and a list of relevant local community benefits that Service areas will support via the [WLC Community Wish List](#). Each benefit has an allocated number of points, which would be the points achieved by the supplier if that Community Benefit was delivered.

The Wish List will enable local community organisations and community groups to request help for projects and initiatives and to be support through highlighting any activities or support that could be provided to them. Organisations will be able to request for additions to the Wish List via an online form, which will be reviewed and published on the Wish List if accepted. Support for organisations to ensure their requirements can be advertised on the Wish List will be provided. Each item on the Wish List is allocated points and delivery of these will count towards the total number of community benefits points to be achieved by suppliers.

Tenderers are encouraged to review the Community Benefits List and Community Wish List and confirm any requests that could be included as part of their tender response, in line with the relevant number of Community Benefits Points to be achieved by contracted suppliers.

The Community Benefits Matrix and link to the Wish List, will be subject to regular review.

A flowchart and supporting documentation for achieving Community Benefits via the National Skills Academy approach is provided here: [CITB Community Benefits Toolkit](#)

7. Scoring and Evaluation Process

The default position for the council is that where appropriate, Community Benefits are to be scored in all tendering activity. Whilst each procurement exercise should be considered individually, procurers should aim to maximise the percentage of the award criteria attributed to Community Benefits, assuming that this is proportionate to the requirement, and relevant to do so.

The weighting attributed to the evaluation on Community Benefits will be detailed within the Contract Strategy Document and Stated within the Contract Notice. All Community Benefit criteria within tenders must be fair and be capable of 'like for like' evaluation based on published award criteria. The Invitation to Tender Document (ITT) will detail Community Benefits requirements in each specific contract, and how these will be evaluated.

During the Tender Evaluation process, tenderers will be scored based on their proposed methodology to their commitment to delivering their proposed Community Benefits, in line with the total Community Benefit points attributed to the subsequent contract. The tenderers submitted proposals will be analysed and scored based on the weighting allocated to Community Benefits as part of the wider Evaluation Criteria. The score will form part of the final evaluation and subsequent award ranking. Once the contract has been awarded, the successful contractor must deliver the Community Benefits as per their tender submission.

To allow Community Benefits to be evaluated against objective criteria, procurers should stipulate specific and quantifiable Community Benefits proposals. This will ensure that performance against submitted proposals can be measured during contract and supplier management, post award.

8. Implementation and Management of Community Benefits

Procurers must ensure that robust arrangements are in place to monitor the delivery of Community Benefits post Contract Award. The following information should be requested and included in the contract documentation:

- A council single point of contact who will be responsible for ensuring the delivery of the Community Benefit proposal
- A clear statement of the actual outputs to be monitored
- The format of monitoring information arrangements
- The frequency of monitoring information arrangements
- A means of verifying the monitoring information

Contractual Community Benefits must have clear definitions and key performance indicators (KPI's) so that a contractor's performance may be measured (as part of the council's Contract and Supplier Management Framework). Responses to the Community Benefits question will be included as contract KPI's.

KPIs will be monitored and reported back to the CPU Lead Officer on a regular basis.

Officers will ensure that Community Benefits are reviewed and monitored in accordance with the Contract terms and conditions and the performance of Community Benefit delivery will be a standard agenda item on all Contract and Supplier Management Framework meetings.

Suppliers will be required to agree to the Action Note of any Contract and Supplier Management Framework meeting whereby monitoring delivery against the Contractual Community Benefit requirements as detailed in the contract. Completed / realised

Community benefits must be confirmed by suppliers through completion of the [WLC Community Benefit Supplier Form](#).

Failure to deliver a contractually obligated community benefit may be linked to contractual remedies. Contractual remedies are the legal terms and conditions set out in the contract in relation to any breach of the contract. The Council will consider using dispute remedies as a means of encouraging suppliers to meet their contractual obligations in relation to Community Benefit delivery.

Voluntary Community Benefits will be subject to contract management processes and will be measured and reported to quantify the benefits delivered by the contract. However, they cannot though be enforced using legal remedies.

Procurers may contact the relevant officers within the [WLC Community Benefits List](#) to seek assistance with monitoring the implementation of Community Benefits. For example, Procurers should contact the Access 2 Employment service for assistance with monitoring all targeted recruitment and training Community Benefits.

The approach to monitoring the Community Benefits requirements should be no less rigorous than that applied to other core elements of the contract. Without robust monitoring arrangements in place, the council will be unable to track progress or check whether the contractor has fulfilled their obligations. Subsequently, the council may be open to legal challenge from bidders that were not awarded the contract if procedures are not in place to monitor the winning contractor's performance on the Community Benefits element of the contract.

9. Monitoring and Reporting of Community Benefits

Section 18(2) of the Procurement Reform (Scotland) Act 2014 requires Annual Procurement Reports to contain:

“a summary of any community benefit requirements imposed as part of a regulated procurement that were fulfilled during the year covered by the report”

To ensure that Community Benefits offered are actually delivered requires effective monitoring arrangements and systems.

The CPU will record all Community Benefits information for each contract within the Benefits Tracking document. This will include details of the secured benefit and associated contract.

The monitoring and reporting requirements for a contract relates to the way the Community Benefits are measured.

The impact of Community Benefits to the area of West Lothian will be monitored through the use of the [WLC Community Benefit Supplier Form](#), which allows suppliers to provide data on the number of achieved Community Benefits that are specific to West Lothian.

Progress on Community Benefits realised against those achieved at time of tender will be reported as part of the quarterly Procurement Monitoring Report to the Corporate Procurement Working Group.

10. Compliance

For both evaluated Community Benefits and non-evaluated Community Benefits the contract documents will include the expected delivery and associated timescales. The council will proactively contract manage Community Benefits in accordance with the Contract and Supplier Management Framework to ensure compliance. In the event of any contractor not able to deliver the Community Benefit(s) offered, the parties will work collaboratively to identify alternative equivalent benefits. In the event of non-compliance, the council may seek to recover the cost equivalent to the value of the expected Community Benefits.

Additional points are awarded if the bid supports people in a number of priority groups:

- Homeless
- Those with a disability
- Parents from the five key groupings; parents with three or more children, minority ethnic parents, parents with a child under one year old, parents who are under 25 years of age, parents with a disability,
- Ex-offenders
- Recovering drug users
- Underrepresented groups such as the BME community
- Veterans

The list of Community Benefits is not exhaustive and innovative Community Benefits can be discussed and agreed between the Council and the Contractor. The Community Benefits should be in line with the Community Benefits Requirements Indicators stated in Scottish Government's Statutory Procurement Guidance.

Appendix 1 – Definitions of Community Benefits

1. Evaluated Contracts

For all Supplies/Services contracts with an estimated value of over £50,000 and all Works contracts with an estimated value over £250,000 the recommended approach (where appropriate) to Community Benefits is the use of an Evaluated Community Benefits Clause as this provides an objective methodology for the inclusion and evaluation of Community Benefits within a tender.

Where an Evaluated Community Benefits Clause is to be used, buyers will use the [Community Benefits Points Matrix](#) to assign a minimum number of Community Benefits Points based on the total estimated contract value and duration of contract.

To allow Community Benefits to be evaluated against objective criteria, after allocating a minimum expectation value of Community Benefits Points from the Community Benefits Points Matrix, the tenderer shall determine what Community Benefits they will provide from the [WLC Community Benefits List](#) and [Community Wish List](#). Tenderers will complete a Breakdown of the Community Benefits Points to be provided; a Community Benefits Method Statement; and a timetable for delivery of the Community Benefits within their tender submission which will be scored by the evaluators in line with the Evaluation Criteria detailed within the tender documentation.

Prior to evaluating Community Benefits as part of the tendering process, buyers need to establish a specific weighting for Community Benefits proposals within the defined contract award criteria (e.g. 10% Community Benefits).

2. Non-Evaluated Contracts

For non-evaluated contracts (a contract value below £50,000 for supplies and services and £250,000 for works) Community Benefits will still be sought in tender exercises, however any proposals submitted by tenderers as part of their tender submission will not be scored as part of the tender evaluation.

For non-evaluated Community Benefits, buyers will use the [Community Benefits Points Matrix](#) to assign a minimum number of Community Benefits points based on the total estimated contract value.

Buyers should ensure that Community Benefits proposals within a tenderers submission are not scored, evaluated or taken into account when determining the winning tender. However, where a contract is awarded to a bidder whose Tender Submission includes Community Benefits, these will be incorporated as contract conditions and thereby enforceable as part of the contract.

The decision to evaluate Community Benefits within the contract award criteria shall be considered on a case by case basis. It is recognized that in certain circumstances, the evaluation of Community Benefits proposals may not be appropriate.

3. Construction Projects

For construction projects, Procurers should note that the council has adopted the National Skills Academy for Construction Client Based Approach

The National Skills Academy guidance provides a toolkit to deliver targeted recruitment and training Community Benefits (e.g. apprenticeships, jobs, leadership training etc.) across a variety of construction project values and construction project types (e.g. residential houses, highways and roads, schools, house repairs etc.).

Once suitable targeted recruitment and training Community Benefits have been identified via the National Skills Academy guidance, The Service Lead Officer in conjunction with the CPU Lead Officer, will implement the National Skills Academy approach and include the appropriate Community Benefits Clause within the construction project tender documentation

Procurers must always liaise with the CPU Lead Officer and Legal Services for assistance with the wording of Community Benefits within contract

documentation. The samples set out in the National Skills Academy guidance are provided as examples only and may not be appropriate for every construction project. It is vital that Procurers seek advice from Legal Services in relation to the clauses intended for use on a project by project basis to ensure they are appropriate. Please note that legislation changes periodically and legal advice is essential to ensure that clauses reflect the present legal position.

Appendix 2 – Community Benefits Flowchart

