



# social value

## **Section 5: Promoting Local and the Living Wage**

### **Learning from the Maximising Social Value Road-shows**

**August 2013**

The following summarises the key learning from a series of NAVCA road-shows, where public sector delegates from around the country debated different approaches to implementing the Social Value Act. We would like to thank all those that contributed their time, experience and opinions to these events.

Information on the Act itself and structured guidance on its implementation can be found at <http://www.navca.org.uk/social-value-bill>

This report is made up of delegate's opinion and comment, and unless otherwise stated should not be relied upon as legal opinion.

## Promoting Local

The Social Value Act is about securing social, economic and environmental value for a 'local' area. However, it is recognised that favouring local can run contrary to EU Procurement Directives if applied in the wrong way. The general consensus was the need to think more creatively in this area, and this can be seen in a number of strategies and frameworks where there is a focus on local economic growth. To comply with procurement regulations, contracts cannot be limited to providers from a particular area or a particular sector, and demands cannot be placed on providers that would discriminate on those from other areas. However, it is legitimate for local authorities to buy services that seek to reduce local unemployment, promote a thriving voluntary sector and support SMEs. It is not limiting contracts to certain providers, but expecting all providers to support the council's objectives.

Management of the supply chain was another area that was seen to hold great potential for maximising social value.

Delegate's comments:

- The Birmingham Business Charter is one of the tools for implementing social value in Birmingham; it's very much about the 'local agenda'. The Business Charter is the way we are integrating social value into all providers contracts and trying to spread social value down the supply chain, while also protecting some of the smaller (and usually local) organisations further down the supply chain.
- It doesn't need to be a local organisation, but it needs the organisation to give to your locality and that's when social value has a local impact – are out of area organisations going to work with and support some of our small organisations? Are they going to develop a local franchise? How is the value of their profit going back into our area?



- Obviously where local business does win, there is the Local Economic Multiplier effect, but this is one part of it.
- There is an argument of do we want to keep Serco out or actually do we want to benefit the community and if they are coming in to give social (and economic and environmental) value then we have to see that as a good thing. I just think there are some real opportunities here – there is an argument that could be made that the North East in one of the poorest areas in the country so actually our economic case is that we want to favour local providers. It's a strategic priority to bring investment into the local areas.
- That's where we could come unstuck in procurement terms
- Well people have done it. Scotland has done it, so there has to be ways of doing it, as long as we can be brave and do it. I think if you set out your policy and say this is our direction of travel and this is what outcomes we are aiming to achieve; we're not saying you can't bid, but we are saying the economic argument is we want to keep the money in the North-East, we don't want great chunks of it going off to London, to headquarters. We want to support our local economy and grow it, so as a bidder show us how you will contribute to that.
- I think a useful way to think about local is that you want to procure a service that fits in with other services. You've often got the service that already fits with the community because it's grown up in that community and it represents that community. So the fit is already there and when someone else sees the risk of someone else coming in the fit doesn't feel right. And also there's fit between one service and other services. So when I've commissioned really effective services, they're good not only in and of themselves, that's important, but it's actually that they also fit into the strategic picture and what other services there are in situ. So there is a bit of system fit to it.
- On the other hand, how do you stimulate the market, how do you bring in innovation? Do current local providers want to live in a culture and society where there isn't innovation, where someone can't bring a brilliant idea into a community, can't upset the world and change things for the better?



- But even if it's linked to strategy, you can't stipulate who a contractor employs. Yes, they may need certain qualifications etc, but you can't stipulate they come from a certain place can you? No, but you can stipulate that they advertise the jobs locally, possibly that they do a guaranteed interview scheme for local people, provide briefing sessions etc.
- But if you set these targets and just forget about them, they won't get done, as we've seen with some of the big developments. If there is some emphasis on this, it's more likely to get done. Otherwise we will see large organisations promise a lot of social value and just think it's not legally binding, why should we bother delivering? There has to be some penalties for this type of behaviour.
- Targets can't just be forgotten about, but if for whatever reason you can't write something in a contractual obligation (for example the number of people employed form a particular postcode), you can ask the provider to voluntarily report on it. Just the fact that they know you are measuring it is likely to see a positive impact in figures.
- Birmingham – some of the providers have voluntarily taken on the living wage so that's showing provider innovation and lead and we're profiling the early adopters, saying look at these organisations who have got care and support contracts and have chosen to do this as responsible employers

## The Living Wage

A number of areas are looking at how they can implement the living wage through the Social Value Act. See Birmingham's Living Wage Policy and other examples in the [frameworks and strategies](#) section of our website. Mark Cook of Anthony Collins Solicitors made it clear that a blanket approach is not advised, and that if using this as a requirement, it can only apply to the staff working on the contract, not to all the contractors staff. The EU Parliament has clarified this in response to a parliamentary question about living wage contract conditions:

"Living wage conditions may be included in the contract performance clauses of a public procurement contract 'provided they are not directly or indirectly discriminatory and are indicated in the contract notice or in the contract documents'. In addition, they must be related to the execution of the contract. In order to comply with this last condition,



contract performance clauses including living wage conditions must concern only the employees involved in the execution of the relevant contract, and may not be extended to the other employees of the contractor.

This [article](#) in Local Government Lawyer by Deborah Ramshaw, Head of Procurement at Dickinson Dees looks at the implications of the living wage and EU Procurement.

Delegate's comments:

- There are different approaches to implementing the living wage – one is to specify it is a requirement and a condition of the contract, and not just that the organisation winning the contract will pay the living wage but will require its subcontractors to do so. Another approach was to require varied bids where you ask organisations to submit a set of pricing based on the living wage and one not. Then as a buyer, you need to decide if it is affordable.
- We're also asking for current contractors to sign up voluntarily.
- We are paying council staff living wage, and promoting support of it through tender documents, but not making it a requirement or scoring it.
- How would the living wage work for contracts that are using overseas labour? We couldn't expect them to pay the same living wage could we?
- Don't forget that you can only require a company to pay living wage for staff that are working on your contract; you can't insist the whole work-force is paid it. Is it a problem that this would result in a two-tier workforce in terms of wages?

For the summary document 'Learning from the NAVCA Maximising Social Value Road-shows' go to <http://www.navca.org.uk/maximising-social-value>

Find other resources on social value at [www.navca.org.uk/socialvalue](http://www.navca.org.uk/socialvalue)

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