



Civil society priorities for procurement in Scotland

a strong, healthy and just society, living within climate limits

Our updated '10 Asks' for new regulations and guidance

A coalition of civil society coalitions identified 10 priorities¹ for procurement reform in Scotland and played a key role in campaigning on them during the passage of the Procurement Reform Bill through the Scottish Parliament.

While the Procurement Reform (Scotland) Act 2014 included some aspects of the ten 'asks', Ministers argued that some others could be better addressed through new regulations and/or guidance. Members of NIDOS, the Scottish Council for Voluntary Organisations, the Scottish Fair Trade Forum, the STUC, Stop Climate Chaos Scotland and Nourish Scotland are jointly calling on the Scottish Government to include these updated priorities in the forthcoming procurement regulations and statutory guidance. Public bodies' procurement strategies should spell out the high standards expected of contractors and public contracts should be required to deliver quality outcomes consistent with social, economic and environmental policy aims and benefits. Therefore, for example, tax dodgers, and polluters and companies which breach, e.g. minimum wage/health and safety laws, would be excluded.

1) **SUSTAINABLE AND ETHICAL INTENT:** The Scottish Government should embed sustainable and ethical considerations at the heart of the procurement process, ensuring these are central in the approach to implementation of new European Directives in Scottish Regulations and in the principles underpinning the range of forthcoming statutory procurement guidance. These considerations include environmental/social impacts – including in food procurement, issues of blacklisting and 'umbrella companies', tax dodging here and in developing countries, embedding ethical/fair trade, securing minimum employment standards and payment of the Living Wage, support for human rights.

2) **A STRONG HEALTHY AND JUST SOCIETY:** Procurement policy, regulations, guidance and strategies should refer to the established definition of sustainable development, supporting the above sustainable and ethical intent. The five guiding principles of sustainable development are already agreed, including by the Scottish and UK Governments, as: living within environmental limits; ensuring a strong, healthy and just society; achieving a sustainable economy; promoting good governance; and using sound science responsibly.

3) **REDUCING GREENHOUSE GAS EMISSIONS:** Guidance should support the public bodies climate change duties by requiring suppliers to publish information on carbon emissions attributable to their business and/or attributable to the whole life cycle of goods and services. Public bodies should be encouraged to focus on procuring low carbon products and services wherever possible. They should support workplace environmental representatives, including in access to appropriate training/facility time.

4) **PERSON-CENTRED PROCUREMENT:** Guidance, strategies and practices must differentiate between the purchasing of 'things' and the buying of 'services'. A race to the bottom should not be contemplated in services for the vulnerable, and we welcome the differentiation made in the Act for health and social care contracts. However, there are many other areas where services are procured that have a significant impact on people – youth work, for example – and these too need contracts that provide workers with decent pay and security, and which enable relationships to develop with vulnerable clients. Weightings in the evaluation of bids should be adjusted accordingly to reflect

¹ www.stopclimatechaos.org/sites/default/files/Procurement-10asks-final.pdf

workforce matters. Such contracts should be fully and sustainably funded. Public bodies should be raising standards by using procurement to promote implementation of the Living Wage and through support for the Ethical Care Charter and the UN Guiding Principles on Business and Human Rights.

5) **SCOTTISH LIVING WAGE:** We want to see all contracting authorities stipulate payment of the Living Wage as a condition for performance of the contract. This can be done within EU law. However, the Scottish Government, which disagrees on that point, can still - and should - bring in the strongest possible statutory guidance on promoting the Living Wage through procurement. There should be a Code of Practice, with guidance on the legal position, good practice, uprating, accreditation, s52 statutory guidance and the PPP protocol on the two tier workforce.

6) **BLACKLISTING/UMBRELLA COMPANIES:** Regulations, guidance and strategies should make it clear that companies engaged in blacklisting or using 'umbrella companies' to exploit workers will be excluded from public contracts. The Welsh Government has promised to ban the use of umbrella companies by public contractors. It should be done here too.

7) **EMPLOYMENT STANDARDS:** Procurement should be used to drive up employment standards, with consequential benefits to the Scottish economy. This includes: full compliance with the public sector equality duty, trade union recognition, adherence to collective agreements and the two tier workforce provisions, proper training and ending other poor employment practice such as zero hours contracts. Greater earnings equality should be linked to government support - encouraging companies to lower pay multiples, improving employee motivation and wider socioeconomic equality. Companies which breach employment/health and safety laws should be ineligible for public contracts.

8) **TAX DODGING:** Procurement must be used, as part of massively stepped up efforts to tackle tax dodging and tax avoidance, here and in developing countries. This could bring in much-needed billions for the public purse. There should be pre-qualification disclosure of company taxation policies, not just of illegal tax evasion. Country by country reporting should be a condition and companies registered in tax havens should not be eligible. Public bodies should be able to evaluate a tender on the basis of which company pays tax or not, with penalty clauses for tax evasion and aggressive tax avoidance, post contract. Assessment of bids could make use of the Fair Tax Mark and/or other similar checks developed in future that monitor companies' tax behaviour, locally and globally.

9) **ETHICAL AND FAIR TRADE:** Ethical and responsible trading policies have the potential to transform lives around the world. The opportunity to sell products for a fair price and to work in safe and decent conditions could help millions work their way out of poverty. Public procurement rules and guidance should help Scotland to cement its status as a Fair Trade Nation and help Scotland meet its human rights obligations under international frameworks like the UN Guiding Principles on Business and Human Rights. Procurers should be empowered to prioritise fairly traded products wherever these are available, especially when no locally sourced alternatives exist. Public contractors must ensure that there are necessary monitoring practices in place to ensure that their suppliers/subcontractors all adhere to high labour standards, such as those in the Ethical Trading Initiative Base Code. Contractors should consider utilising monitoring bodies, e.g. Electronics Watch.

10) **PROMOTING POSITIVE SOCIAL OUTCOMES:** Social impact and other measures - such as Oxfam Scotland's Humankind Index - should be used to look at areas such as community benefit, environmental and health impacts, local jobs and businesses in examining the relationship between public spending and social outcomes. Public procurement should be used to encourage the creation of training and employment opportunities for Scotland's young people. A commitment to recruit apprentices should be considered a condition of performance by contractors. In Scotland, public procurement is seen as the primary lever of economic growth. If we were to look at its primary role as promoting positive social outcomes, we would begin to change the way public money is used in Scotland.

This document represents areas of broad consensus and specific proposals do not necessarily represent the policy positions of all supporting organisations. For the more detailed positions, including on how regulations / guidance should include these priorities, please refer to each organisation's response to the Scottish Government 'Public Procurement' consultation.