

**Public Services (Social Value) Act**

**Cabinet**

**Date: 23<sup>rd</sup> October 2013**

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Author:	Cabinet Member for Finance and Director of Law and Democratic Services
Wards:	All
Locality Affected:	All
Parishes Affected:	All

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**1. Purpose and Reasons**

- 1.1 The Public Services (Social Value) Act 2012 (the “Act”) came into force on 31st January 2013. It places a requirement on public bodies to consider how services over the EU procurement threshold, which they commission and procure might improve the economic, social and environmental well-being of the area in which they operate.
- 1.2 This necessitates an urgent requirement for the Council to demonstrate compliance with the Act.
- 1.3 As a consequence of the requirements of the Act, revisions to the Council’s Contract Standing Orders are required.
- 1.4 Cabinet is asked to note the requirements of the Act and the need for the Council to adopt a protocol for administering its responsibility under the Act.
- 1.5 Cabinet is asked to note that a guidance note explaining the legal requirements will be placed on the Council’s website so that members of the public can be informed immediately of the Council’s approach to the Act.

**2. Recommendations**

Cabinet is recommended to:

- 2.1 Seek the approval of the Council to a revision to Contract Standing Orders as specified in paragraph 3.5 below, and authorise the Director of Law and Democratic Services to make necessary changes to the Council’s Constitution.
- 2.2 Authorise the Board Director Commissioning, in consultation with the Cabinet Member for Finance, the Director of Law and Democratic Services and relevant Service Heads, to develop and maintain an appropriate protocol and internal guidance to assist in the procurement process to ensure that Social Value is duly considered, and to provide a format on the Council’s website for the public to view the Council’s policy with appropriate links to the procurement process pages.

**Public Services (Social Value) Act****Cabinet****Date: 23<sup>rd</sup> October 2013**

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- 2.3 Note the Guidance on the legal requirements attached for publication on the Council's website (Appendix 1).

**3. Detail**

- 3.1 The Act places a requirement on commissioners to consider how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area and to consider whether to undertake a specific consultation.
- 3.2 The Act applies to public service contracts and framework agreements to which the Public Contracts Regulations 2006 apply (the EU threshold currently stands at £173,934). It will not apply to service contracts awarded by calling- off frameworks.
- 3.3 Steps in the procurement process must be devised and included to ensure the requirements are adequately addressed early in the process, before publishing an advertisement or seeking an expression of interest. There is an exception if there is an urgent need to procure a service (provided the urgency it is not caused by undue delay by the Authority).
- 3.4 In relation to the requirement for consultation, potential service users and organisations that represent them in the community could be consulted as well as other agencies that provide or commission services.
- 3.5 The proposed changes to Contract Standing orders are as follows:
- 3.5.1 The addition of the definition: "Social Value" - the duty to consider economic, social and environmental well-being and to consider whether to undertake any consultation under The Public Services (Social Value) Act 2012 in accordance with Council policy and guidance.
- 3.5.2 The addition to paragraph 5.1 (a) of the following:- "consider Social Value before commencing procurement, take into account relevant Social Value measures and consult with the Head of Service responsible for the relevant service, the Director of Law and Democratic Services and the Board Director of Resources;
- 3.6 It could be that the method of determining Social Value to deliver the Council's priorities for each relevant procurement, be determined by the Head of Service responsible for the relevant service, in consultation with the Director of Law and Democratic Services and the Head of Commercial Services.
- 3.7 It is felt that the Council's priorities, outlined in the approved Corporate Strategy, already provide a good starting point for defining Social Value and so the
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**Public Services (Social Value) Act****Cabinet****Date: 23<sup>rd</sup> October 2013**

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Council's definition of Social Value could be defined by the delivery of the Council's priorities.

**4. Alternative Options**

- 4.1 The Council is obliged to comply with the provisions of the Act.

**5. Implications, Diversity Impact Assessment and Risk Management**Financial and Procurement Implications

- 5.1 The Council must meet any additional costs for the administration of the requirements and consultation required by the Act. Any extra cost involved in the provision of social value will be taken account of in the evaluation process before a contract is awarded.

Legal and Human Rights Implications

- 5.2 The Council has a statutory obligation to implement the provisions of the Act. Legal and Human Rights considerations have been taken fully into account in compiling this report and the recommendations of this report are compatible with convention rights.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 The Act imposes additional administration/consultation on Heads of Service.

Links to One Swindon, Strategic Objectives, Plans and Policies

- 5.4 The purpose of the Act is to improving the economic, social and environmental well-being of the area when commissioning services across the Council and with partners. It is considered that there is great potential for meeting the Public Sector Equality Duty through the process of considering Social Value under the Act.

Diversity Impact Assessment

- 5.5 A Diversity Impact Assessment will be undertaken in relation to each service being procured.

Risk Management

- 5.6 Internal resource – setting up governance and procedures to be followed.
- 5.7 Community expectations – risk of confusion as to provisions of the Act and nature or extent of consultations.

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**6. Consultees**

- 6.1 The Board Director, Resources (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

**7. Background Papers**

- 7.1 None

**8. Appendices**

- 8.1 Appendix 1 - Draft Guidance Note.

**9. Key Decision/Decision in Forward Plan**

- 9.1 This is not a Key Decision and is included in the Cabinet Work Programme / Forward Plan for October 2013.