

## House of Commons Public Bill Committee Procurement Bill: call for evidence

### What is a social enterprise?

Social enterprises are businesses which have a legally binding social and/or environmental mission and trade to deliver that mission. They generate the majority of their income from trade, so are different from charities. They reinvest the majority of their profits back into delivering their mission, which makes them different from traditional businesses. They are majority controlled in the interests of their social mission, which means that shareholders and other stakeholders do not have priority over decision making.

This definition is not just limited to the UK and is in line with the international definition of social enterprise developed by the Social Enterprise World Forum.

More information can be found [online](#).

### Size and scope

- Social enterprises are one of the fastest growing form of businesses in the UK, with the most recent government estimates suggesting over 130,000 are currently operating.
- Social enterprises contribute £60bn to the UK economy and employ 2 million people. More information can be found through Social Enterprise UK's report [The Hidden Revolution](#).
- The sector is equivalent to 3% of UK GDP and the UK is an established global leader in the social enterprise sector.
- Social enterprises have become increasingly embedded in the delivery of public services. A conservative estimate would put the total value of contracts delivered by social enterprises on behalf of the public sector between £2-3bn a year.
- Overall, 51% of social enterprises trade with the public sector.
- Around one in five social enterprises (20%) have trading with the public sector as their main source of income.
- Public service delivery is critically important to our largest social enterprises, with 43% of social enterprises which have over £1m in turnover trading with the public sector as their main source of income.

### Additional information

For more information about anything in this submission, please contact Dean Hochlaf, Head of Policy, Social Enterprise UK ([dean.hochlaf@socialenterprise.org.uk](mailto:dean.hochlaf@socialenterprise.org.uk)).

Social Enterprise UK is the national body for social enterprises and has over 2,500 members. We collect data, provide policy support for government and practical help for social enterprises.

## Executive Summary

- Public procurement is of critical concern to the social enterprise sector. With over half (51%) of all social enterprises trading with the public sector, and one in five (19%) reliant on the public sector as the main source of their income
- Social enterprises will welcome the decision to award contracts on the basis of “most advantageous” tender and a commitment to maximising “public benefit” in public sector contracting
- However, several gaps remain. Addressing these will enhance the capacity of the procurement process to deliver value to the taxpayer, improve the quality-of-service provision, and maximise the social benefits of public expenditure:
  - Provide clear guidance for public sector on the importance of social value and the need to maximise social, economic, and environmental impact through public spending.
  - Embedding social value into the new procurement framework, for example making social value one of the KPIs that contracts are measured.
  - Giving the new Procurement Review Unit the power to investigate public sector bodies for properly implementing social value and consider systemic engagement of social value.
  - Ensuring that recipients of public sector contracts should have to work based on Open Book Accounting principles, where commissioners can see the margins/profit that will be generated through delivery of a contract.
  - Introducing a duty of “market stewardship” for public bodies so that they consider the wider ramifications of their decisions on social enterprises, voluntary organisation and SMEs and encourage them in their supply chains.

## Social Enterprises and the public sector

### **Social enterprises have a strong commercial relationship with the government.**

In the State of Social Enterprise 2021, it was found that 51% of social enterprises traded with the public sector. This means at least 50,000 social enterprises in the UK are receiving some form of income from the public sector.

An estimated 20,000 social enterprises reported that trading with the public sector was their main source of income. If we include those that reported receiving local authority grants as their main source of income, then almost 30% of all social enterprises have the public sector as their main source of income.

Over a quarter (28%) of respondents that traded with the public sector, reported it had come from a central government department, while nearly two-thirds (65%) reported it came from a local authority.

In the previous State of Social Enterprise survey in 2019, it was found that 7,600 social enterprises had the public sector account for 100% of their income. These social enterprises will have worked in critical sectors including health, social care, and education.

## Social value and the Procurement Bill

**If we want to realise the potential of public sector procurement to level up the country, we need to encourage the use of social value through the procurement system.**

HM Government has committed to expanding the use of social value within procurement to maximise the social, environmental and economic wellbeing of local areas. In practice this means working with local suppliers, encouraging contractors to reduce their CO2 emissions, encouraging the hiring of more apprentices and people from marginalised community. This is critical to delivering the levelling-up agenda and achieving Net Zero.

Social value is included in the National Procurement Policy Statement but was originally not included in the Bill itself. Lords' amendments mean that there is now reference to social value in the Bill, but this must be retained and the proposals by government to remove these amendments resisted.

[New research as part of the Social Value 2032 programme](#)<sup>1</sup> has found that **the UK has potentially missed out on £726bn of added economic, social, and environmental benefit through public sector procurement over the past decade**. This means hundreds of thousands of apprenticeships and job opportunities, thousands of green spaces, hundreds of community assets and the resulting strengthening of communities that has gone unrealised through weak processes.

### **Draft Amendments**

We recommend the following amendments:

- Clause 11 should include specific reference to “maximising social value” as something that a contracting authority must have regards to, in line with the Social Value Act and the National Procurement Policy Strategy.
- A new clause should be added to the Bill mandating that HM Government provides guidance to the public sector on how to implement social value.
- Clause 50 should be amended to mandate that social value should be one of the three key performance indicators that a contract authority measures in relation to contracts over £2m.

We believe that these amendments would align the Procurement Bill with existing government strategy and guidance as well as provide a safeguard that social value will not disappear. It will also ensure that we have the data available to carry out public sector procurement effectively.

## **Open Book Accounting and public sector contracts**

**Improving transparency in public procurement will help prevent price gouging and ensure value for taxpayers.**

A recent investigation by [The Observer](#) found that the top ten largest providers of children social care services made £300m in profits in the past financial year, with profits rising by 14%. Currently, those that win public sector contracts do not have to state the amount of profit or surplus that they expect to generate through a contract. This means that there is significant scope for excessive profits in public sector contracts, with value and risk not being fairly squared between private companies and the taxpayer.

A 2015 investigation by the National Audit Office found that information on surplus/profits was only available on 31% of contracts – there has not been a further investigation since then.

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<sup>1</sup> Social Value 2032 is a partnership between Social Enterprise UK, Suez Recycling and Recovery UK, PwC, Jacobs and Shaw Trust

Social Enterprise UK does not believe that no profit or surplus should be generated through contracts, and profits are essential for the stability of suppliers. However, the Procurement Bill is an opportunity to ensure that there is fairness in public sector contracting.

Promoting open book accounting would help to deal with this and is considered best practice by the Cabinet Office and National Audit Office but is currently not universally implemented.

### **Draft Amendment**

We recommend the following amendment:

- A new clause should be introduced into the Bill to ensure that all recipients of public sector contracts have to declare the expected profit/surplus they expect to generate through the contract and that they report on that surplus each financial year.

This would need to be accompanied by guidance for procurement teams and suppliers to enable a fair comparison between potential suppliers.

## **A duty of “Market Stewardship”**

**The Procurement Bill should better consider how the procurement process can enhance the overall market for public sector contracts, helping to encourage more social enterprises, small businesses, and charities into the supply chain.**

Delivery of public services is complex, and we need a range of providers, rather than relying on one provider or a specific type of provider (e.g., for-profit companies). There is also growing evidence that social enterprises are providing *better quality services for local people*.

In health for example, social enterprises have an average CQC rating of Good and Outstanding; whilst peers have an average between Requires Improvement and Good.

Social enterprises also report higher levels of staff engagement - the latest research on a form of social enterprise, public service mutuals, demonstrates that these social enterprises on average have a happier workforce and 68% of social enterprises working in public services introduced a new system or product, improving innovation and productivity.

Unfortunately, the Bill does not place any duty on contracting authorities to consider the impact of their decisions on a range of providers, such as social enterprises or SMEs. There is a risk that in ignoring these organisations today, there may not be the providers that the public sector needs in the future and reducing innovation in our supply chains.

### **Draft Amendment**

We recommend the following amendment:

- A new clause which creates a duty of “market stewardship” for all contracting authorities to consider the impact of their decisions on the market for contracts.
- This new clause would specify the impact on social enterprises, charities and SMEs which need to be actively supported to bid for and deliver public sector contracts and encourage their development in supply chains, in line with HM Government’s Green Paper.
- It is already HM Government’s policy to encourage contracts to be awarded to these organisations. A new clause would, therefore, align with existing government priorities.

## Procurement Review Unit

The Green Paper proposed a Procurement Review Unit to support the implementation of the new rules and ensure that the law was being followed by contracting bodies. Whilst that is important, it is also important that the wider structural issues are not ignored and that there is focus on how we can generate better outcomes from public procurement. If we merely ensure that the rules are followed without considering impact, we may create compliance but not improve the overall system of public sector commissioning.

### **Draft Amendment**

We recommend the following amendment:

- Clause 96 should be amended to ensure that the appropriate authority can investigate the implementation of social value by contracting authorities and the overall outcomes and quality of contracts awarded by a contracting authority.
- A new clause should be added to implement the Green Paper's recommendation that the appropriate authority should have expertise from Social Enterprises, Voluntary Organisations and SMEs.

*We are grateful to the support of procurement experts at Julian Blake, Stone King & Mark Cook, Anthony Collins Solicitors for their help in drafting these amendments in relation to social value and the roles of the VCSE sector in public services.*