

REPORT TO: Cabinet

MEETING DATE: 10 November 2020

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: Sustainable Procurement Policy

1 PURPOSE

- 1.1 The purpose of this report is to present the proposed Sustainable Procurement Policy for approval.

2 RECOMMENDATIONS

- 2.1 Cabinet is recommended to approve the proposed Sustainable Procurement Policy (set out in Appendix 2 to this report), to agree the key areas identified in the Policy, and to support the work towards meeting the key priority area under the Council's Climate Change Strategy 2020-2025 Outcome 1, which is 'Sustainable Procurement' with the specific action to "Produce and implement a revised and updated Sustainable Procurement Policy, to ensure that goods and services are procured ethically and responsibly, from ethical and sustainable sources, including through the supply chain and sub-contractors".
- 2.2 Cabinet is requested to note that this proposed Sustainable Procurement Policy has been developed with input and feedback from Zero Waste Scotland through their capacity building mentoring programme undertaken by ProCirc, which supports public bodies to embed circular procurement and deliver circular economy and sustainable outcomes, with an emphasis on proactively supporting green recovery and delivering local benefits.

3 BACKGROUND

- 3.1 East Lothian Council spends approximately £140 million every year on goods, services and works, which represents a substantial opportunity to deliver additional social, environmental and economic benefits to East Lothian through its procurement exercises.

3.2 Under the Climate Change (Scotland) Act 2009 and Procurement Reform (Scotland) Act 2014, as a public body, East Lothian Council is expected to lead by example in reducing carbon emissions, contributing to climate change adaptation, and acting sustainably by improving economic, social and environmental wellbeing of the authority's area, facilitating the involvement of SMEs, third sector bodies and supported business and promoting innovation.

3.3 The main areas of focus of this Sustainable Procurement Policy, which are illustrated in the associated Sustainable Procurement Charter (Appendix 1), are:

- **Promoting equality:** As a responsible employer the council is committed to promoting equal opportunities to all of the East Lothian community, employees and suppliers alike. Consideration of equal opportunities is fully integrated into our procurement practices and is fully committed to the values and ethos of the Equality Act 2010.
- **Facilitating a varied economy:** Facilitating SMEs, social enterprises, supported business and third sector in the procurement process.
- **Promoting innovation:** Influencing the market towards innovative solutions in order to create a catalyst for local job creation, sustainable innovation and market development.
- **Fair work practices:** Encouraging the wider adoption of the Scottish Living Wage by suppliers. To support this the council has adopted the Scottish Government guidance on the selection of tenderers and award of contract which address fair work practices as part of the procurement for relevant contracts.
- **Stakeholder engagement:** Service user and, where appropriate, wider community consultation is an integral part of commissioning considerations.
- **Health & Safety compliance:** Achieving a culture that ensures the council complies with all current Health and Safety legislation and in so doing endeavours to provide safe places and safe systems of work.
- **Fairly & ethically traded goods sourcing:** Embedding Fair Trade into contracts with suppliers where the council has a direct bearing on the required goods, services and works.
- **Healthy, sustainable food provision:** Promoting a sustainable food supply chain by using national Scottish Frameworks (SXL) which supports the use of Scottish produce and the delivery of healthy choices to support healthy eating.
- **Prompt payment:** Making payment of invoices within 30 days of receipt of a valid invoice which supports the cash flow and the ability to trade for SMEs.

- **Information governance:** Providing business transparency and ensuring legislative compliance. Relationship with 3rd parties who handle data on behalf of the council, or with whom we share data are carefully managed.
- **Environmental impact and climate change:** Reducing the council's environmental impact, including carbon emissions, and improving sustainability wherever possible. The Climate Change (Scotland) Act 2009 places duties on the council to deliver services in a way which supports this, and the council's Climate Change Strategy 2020-2025 sets out our commitment to achieving this through both internal activities, such as energy saving within buildings, and our work with partners.
- **Community benefits:** Improving the economic, social and environmental wellbeing of East Lothian by linking to local improvement actions set out in the Local Area Partnerships' Area Plans through the inclusion of specific clauses where appropriate within contracts known as community benefits clauses (CBCs).
- **Conflict of interest:** Any individual whether employee or supplier to declare such an interest before any procurement activity commences, as the best way to handle conflicts of interest is to avoid them entirely.
- **Modern Slavery Act 2015:** Addressing any areas of concern in the tendering process through requiring minimum standards.

3.4 In order to identify and address how the council can optimise economic, social and environmental outcomes, where appropriate, the council will utilise a series of tools provided by the Scottish Government to assist the sustainable procurement process:

- **Prioritisation tool:** Designed to assist early stage strategic planning, and brings a standard, structured approach to the assessment of spend categories.
- **The Sustainability test:** Designed to help embed relevant and proportionate sustainability requirements in the development of frameworks and contracts.
- **Lifecycle impact mapping (whole-life mapping including end-of-life sustainability):** Used to identify and assess the social and environmental impacts of raw materials, manufacturing and logistics, use and disposal or end of life management.
- **Scottish flexible framework assessment tool:** Used to assess current level of performance and the actions required to embed good procurement practice to realise intended sustainable outcomes.

3.5 This Sustainable Procurement Policy has been developed with input and feedback from Zero Waste Scotland through their capacity building mentoring programme undertaken by ProCirc. ProCirc's capacity building work supports public bodies to embed circular procurement and deliver circular economy and sustainable outcomes, with an emphasis on

proactively supporting green recovery and delivering relevant local benefits.

- 3.6 The Council will undertake regular assessment against the Flexible Framework and monitor progress against the resulting Action Plan. The Sustainable Procurement Policy, Best Practice Guidance and Action Plan will be reviewed (and updated) where appropriate, on an annual basis.

Procurement staff will be provided ongoing training on sustainable procurement principles to enable delivery of this policy.

- 3.7 If this Sustainable Procurement Policy is approved, it is the intention to subsequently bring forward for approval detailed guidance documents on the implementation of the Policy, specifically:

- Sustainable Procurement Guidance, with details of the implementation of the Policy to ensure it is embedded across the council, and to provide information on the expectations of the sustainable procurement process for potential tenderers; and
- Procurement Community Benefits Strategy, setting out guidelines on incorporating and providing additional sustainable benefits to the community within the procurement process, to achieve social, economic and environmental sustainability.

4 POLICY IMPLICATIONS

- 4.1 This policy aligns with the wider objectives of the Council Plan 2017-22, East Lothian Partnership's East Lothian Plan 2017-27 and East Lothian Council's Climate Change Strategy 2020-2025.

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report has been through the Integrated Impact Assessment process and no negative impacts have been identified.

6 RESOURCE IMPLICATIONS

- 6.1 Financial - None
- 6.2 Personnel - None
- 6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 Appendix 1: Sustainable Procurement Charter, illustrating the key areas of focus of the Sustainable Procurement Policy.
- 7.2 Appendix 2: Sustainable Procurement Policy

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| AUTHOR'S NAME | Mikel Vallejo, Jennifer Lothian |
| DESIGNATION | Senior Procurement Manager, Sustainable Energy & Climate Change Officer |
| CONTACT INFO | mvallejo@eastlothian.gov.uk jlothian@eastlothian.gov.uk |
| DATE | 20 th October, 2020 |



East Lothian
Council

Sustainable Procurement Charter



East Lothian Council is committed to minimising the environmental impact of goods, services and works procured whilst maximising social and economic benefit for the community it serves.



Promoting equality

As a responsible employer the council is committed to promoting equal opportunities to all of the East Lothian community, employees and suppliers alike. Consideration of equal opportunities is fully integrated into our procurement practices and is fully committed to the values and ethos of the Equality Act 2010. Consideration of equal opportunities is fully implemented into our procurement practices and is fully committed to the values and ethos of the Equality Act 2010.



Facilitating a varied economy

Facilitating SME's, social enterprises, supported business and third sector in the procurement process. Our procurement strategy aims to achieve a mixed economy of suppliers to support and develop our local rural market, particularly, micro, small and medium sized enterprises, Third Sector organisations and supported business. This approach includes that contracts are simplified, standardised and advertised in such a way that SMEs, third sector organisations and supported businesses are aware of the opportunities by using The Public Contracts Scotland (PCS) portal, meet the buyer events and lotting system to help reduce any barriers to involvement in procurement opportunities.



Promoting innovation

Influencing the market towards innovative solutions can focus public spending on sustainable goods, services and works and create an important catalyst for local job creation, sustainable innovation and market development. Our procurement strategy notes the importance of innovation through procurement and we encourage all our suppliers to consider an innovative approach to the way goods and services are delivered.



Fair work practices

East Lothian Council is committed to encouraging the wider adoption of the Scottish Living Wage by suppliers and to support this has adopted the Scottish Government guidance on the Selection of Tenderers and Award of Contracts which address Fair Work Practices as part of the procurement for relevant contracts. The Living Wage is an hourly rate set by the Living Wage Foundation and is revised in November every year. The current rate is £9.00 (November 2019).



Stakeholder engagement

Service user and, where appropriate, wider community consultation is an integral part of commissioning considerations. The strategic importance and complexity of required outcomes will mainly govern the level of consultation undertaken and the choice of the procurement route followed. The final decision on these matters will always be considered in light of what is likely to provide best value for the local community.



Health & Safety compliance

East Lothian Council is committed to achieving a culture that ensures it complies with all current Health and Safety legislation and in so doing endeavours to provide safe places and safe systems of work. This principal extends to those employed to do contracted works for and on behalf of the council. The council will only employ contractors who are fully accreditedSSIP members of Constructionline or equivalent.



Fairly & ethically traded goods sourcing

The council supports the Fair Trade initiative because it reflects our commitment to sustainable development and offers the prospect that marginalised producers across the world will receive fairer deals for their produce. The council will promote the use of fair trade products across all its services and raise awareness of fair trade amongst its staff and customers. The council will (to the extent permitted by procurement legislation) embed Fair Trade into contracts with suppliers where it has a direct bearing on the required goods, services and works.



Healthy, sustainable food provision

The procurement of food considers the wider community focus of improving the health and wellbeing of young people and communities in East Lothian. Promoting a sustainable food supply chain by using national Scottish Frameworks (SXL) which supports the use of Scottish produce and the delivery of healthy choices to support healthy eating. Food security and ethics are of equal importance and the council follows Scottish Government guidance to ensure consideration of the highest levels of animal welfare.



Prompt payment

The effect of late payment on SME's can be significant, impacting cash flow and the ability to trade. As direct support the council has a prompt payment policy and related performance indicator which aims to make payment of invoices within 30 days of receipt of a valid invoice. To make sure this policy flows through all stages of the supply chain, our terms and conditions of contract obliges our contracted suppliers to make payment of valid invoices within a similar 30 day period.



Information governance

East Lothian Council regards information as a valuable corporate asset which must be obtained, processed and protected diligently, lawfully and ethically. The approach to information governance focuses on safeguarding customers, providing business transparency and ensuring legislative compliance. Relationships with 3rd parties who handle data on behalf of the council, or with whom we share data are carefully managed. Contracts include information governance compliance conditions with these arrangements being documented and monitored. We will expect all suppliers to take the same robust approach to information management as we do, even after their contract has expired.



Environmental impact and Climate Change

East Lothian Council is committed to reducing its environmental impact, including carbon emissions, and improving sustainability wherever possible. The Climate Change (Scotland) Act 2009 places duties on the council to deliver services in a way which supports this, and the Council's Climate Change Strategy 2020–2025 sets out our commitment to achieving this through both internal activities, such as energy saving within buildings, and our work with partners. The way that the council procures goods and services can have a huge environmental impact, and by purchasing items which can demonstrate a reduced negative effect on wildlife, natural resources and carbon emissions, we can reduce our carbon footprint and support suppliers to do the same..



Community benefits

Improving the economic, social and environmental wellbeing of the area. Adding value to communities through Community Benefits* or social requirements is intended to ensure that wider local economic and social issues are considered when delivering construction works, service or supplies contracts. This is achieved through the inclusion of specific clauses within contracts known as community benefit clauses (CBCs).



Conflict of interest

Council Officers and Members conducting business on behalf of the organisation have a responsibility to do so in a manner that is objective and ethical. As such we require any individual whether employee or supplier to declare such an interest before any procurement activity commences as the best way to handle conflicts of interest is to avoid them entirely.

Modern Slavery Act 2015

The council adopts a zero tolerance approach to modern slavery and human trafficking. We expect all those who work for and with us to adhere to this approach. As appropriate we will address areas of concern in the tendering process through requiring minimum standards and contract management.

*To find out more about Community Benefits visit:

www.eastlothian.gov.uk/communitywishlist

For more information:

Email procurement@eastlothian.gov.uk or call **01620 827827** and ask for 'Procurement'
East Lothian Council, John Muir House, Brewery Park, Haddington, East Lothian EH41 3HA



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**POLICY
GUIDE**



**East Lothian
Council**

SUSTAINABLE PROCUREMENT POLICY

Benefiting the organisation, community and economy,
whilst minimising damage to the environment.

October, 2020

Sustainable Procurement Charter

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1. Policy Statement

- 1.1. Alongside achieving value for money, East Lothian Council (the council) is committed to maximising the social and economic benefit derived from its procurement and in minimising the environmental impact of goods, services and works that it procures. This policy sets out the principles East Lothian Council will apply to ensure procurement is carried out in a sustainable manner.
- 1.2. This Sustainable Procurement Policy demands a systematic, measured and continuous improvement approach, recognising that sustainable procurement must be meaningful and substantial. The council has declared a Climate Emergency¹ that requires urgent action to make all Council Services net Zero Carbon as soon as reasonably practicable and in any case by 2045 and to lobby, support and work with all relevant agencies, partners and communities to fulfil this commitment. The council has also committed to work with its communities and partners towards making East Lothian a carbon neutral county. Sustainability is embedded within the council's Climate Change Strategy 2020–2025² with the commitment to continue to reduce the environmental impact of East Lothian Council Service provision. Sustainable Procurement is a Key Priority Area for the council as set out in its Climate Change Strategy.
- 1.3. The council spends approximately £140 million every year on goods, services and works, which represents a substantial opportunity to deliver additional social, environmental and economic benefits to East Lothian. It is important that this spending power is used to support key council objectives. This approach is consistent with the position of the Scottish Government, which believes that 'procurement is a key means of achieving the social, economic and environmental benefits that sustainable economic growth demands'.³

2. What is Sustainable Procurement?

2.1. The UK Sustainable Development Task Force defines Sustainable Procurement as:

'The process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis. It results in benefits not only to the organisation, but also to society and the economy, whilst minimizing damage to the environment'.⁴

¹ https://www.eastlothian.gov.uk/news/article/13064/climate_emergency_declared

² https://www.eastlothian.gov.uk/downloads/download/13283/climate_change_strategy_2020-25

³ John Swinney, Cabinet Secretary for Finance, Employment and Sustainable Growth

⁴ John Swinney, Cabinet Secretary for Finance, Employment and Sustainable Growth

We consider this work falls into three themes:

- Environment
- Equality (Social)
- Economic (Social)

3. Aims of the Policy

3.1 Through this policy, the council seeks to:

- Protect and enhance the environment and create better lives, well-being and opportunities for the people of East Lothian through our procurement process;
- Deliver value for money, whilst purchasing environmentally and socially responsible products and services;
- Embed and promote the UN's Sustainable Development Goals locally;
- Ensure the council's commitment to social, ethical, environmental and economic sustainable procurement is communicated and understood by East Lothian Council employees, suppliers and other external stakeholders, Councillors and the wider community as a whole;
- Set the standards of expectation and embed sustainability throughout council services and the wider East Lothian through the supply chain, local businesses and the local economy;
- Align our policies and strategic direction with our partners;
- Point our suppliers and potential suppliers towards the East Lothian Council's expectations and to inform the commercial offer;
- Guide our service managers and corporate management team so they can be clear about East Lothian Council's objectives and shape their procurement activities accordingly.

4. Statutory Obligations

There are a number of important legislative drivers for the Sustainable Procurement Policy.

4.1 The Climate Change (Scotland) Act 2009 and the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019

The Climate Change (Scotland) Act 2009 placed the statutory requirements on all public bodies in Scotland, in exercising their functions, to contribute to carbon emissions reduction targets, help deliver climate adaptation, and act in the way that it considers most sustainable.

Scotland's new Climate Change Act, the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019, set the world-leading target of Net Zero emissions for Scotland by 2045, with strong interim emissions reduction targets of 75% by 2030 and 90% by 2040, relative to a 1990 baseline.

In April 2019 Scotland's First Minister declared a 'Climate Emergency'.

4.2 The Procurement Reform (Scotland) Act 2014

The Procurement Reform (Scotland) Act 2014 established legislation about sustainable public procurement to maximise the social, environmental and economic benefits through effective and efficient procurement activity.

The Sustainable Procurement Duty under the Procurement Reform (Scotland) Act 2014 means that, before carrying out a regulated procurement, consideration must be given to how it can improve the economic, social and environmental wellbeing of the authority's area, facilitate the involvement of SMEs, third sector bodies and supported businesses and promote innovation.

4.3 The Equality Act 2010

East Lothian Council as a public body must comply with the Public Sector Equality Duty (PSED) in the Equality Act 2010 which requires public bodies to have due regard to three equality aims when exercising their functions, including procurement⁵:

- Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct;
- Advance equality of opportunity between people who share a relevant protected characteristic and those who do not;
- Foster good relations between people who share a protected characteristic.

This is referred to as the general duty and is a legal requirement for all procurement that ELC undertakes.

In addition to the general duty, the 2012 regulations contain a specific duty relating to procurement. When awarding contracts on the basis of the most economically advantageous tender, the contracting authority must have due regard to:

- whether the award criteria should include considerations to enable it to better perform the equality duty
- when a contracting authority proposes to stipulate performance conditions in a contract or framework agreement, whether those conditions should include considerations to enable it to better perform the equality duty

The Fairer Scotland Duty places a requirement on ELC to have due regard to how it can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions. Compliance with the Fairer Scotland Duty aligns with the Sustainable Procurement Duty in the Procurement Reform (Scotland) Act 2014.

5. Putting it into practice

Detailed guidance documents will be published on the implementation of this Policy, specifically Sustainable Procurement Guidance and Procurement Community Benefits Strategy. In order to identify and address how the council can optimise economic, social and environmental outcomes, where

⁵<https://www.gov.scot/publications/equality-sustainable-procurement-guidance/pages/policy-context/>

appropriate, we will utilise a series of tools to assist the sustainable procurement process. It is intended to engage with senior managers for the development of the 'Sustainability test' and lifecycle impact mapping in order to embed sustainability within all procurement exercises across the council where possible.

- Prioritisation tool
 - Designed to assist early stage strategic planning, and brings a standard, structured approach to the assessment of spend categories.
- The Sustainability test
 - Designed to help embed relevant and proportionate sustainability requirements in the development of frameworks and contracts.
- Lifecycle impact mapping (whole-life mapping including end-of-life sustainability)
 - Used to identify and assess the social and environmental impacts of raw materials, manufacturing and logistics, use and disposal or end of life management.
- Scottish flexible framework assessment tool
 - Used to assess current level of performance and the actions required to embed good procurement practice to realise intended sustainable outcomes.

6. Links to East Lothian Council Priorities

This policy applies to the procurement of all goods, services and works and supports a wide variety of corporate policies and priorities, including:

- East Lothian Council Plan 2017-2022 [Available on: https://www.eastlothian.gov.uk/info/210603/performance_and_spending/12283/the_east_lothian_council_plan_2017-2022]
- East Lothian Corporate Procurement Strategy 2017-2022 [Available on: https://www.eastlothian.gov.uk/directory_record/257826/procurement_strategy_2017-2022]
- East Lothian Plan 2017–2027 [Available on: https://www.eastlothian.gov.uk/info/210592/community_planning/11857/the_east_lothian_plan_2017-27]
- East Lothian Council's Climate Change Strategy 2020–2025 [Available on: https://www.eastlothian.gov.uk/info/210560/your_council/12389/climate_change_and_sustainability]
- East Lothian Council's Equality Plan 2017-2021 [Available on: https://www.eastlothian.gov.uk/downloads/file/22879/east_lothian_council_equality_plan_2017-21]
- East Lothian Council Economic Development Strategy 2012-2022 [Available on: https://www.eastlothian.gov.uk/site_search/results/?q=economic+development+strategy]
- Area Partnerships' Area Plans [Available on: https://www.eastlothian.gov.uk/downloads/download/12861/area_partnership_area_plans]

7. Monitoring and Review

The council will undertake regular assessment against the Flexible Framework and will monitor and report annually on progress against the resulting Action Plan. The Sustainable Procurement Policy, Best Practice Guidance and Action Plan will be reviewed (and updated) where appropriate, on an annual basis.

Procurement staff will be provided ongoing training on sustainable procurement principles to enable delivery of this policy.