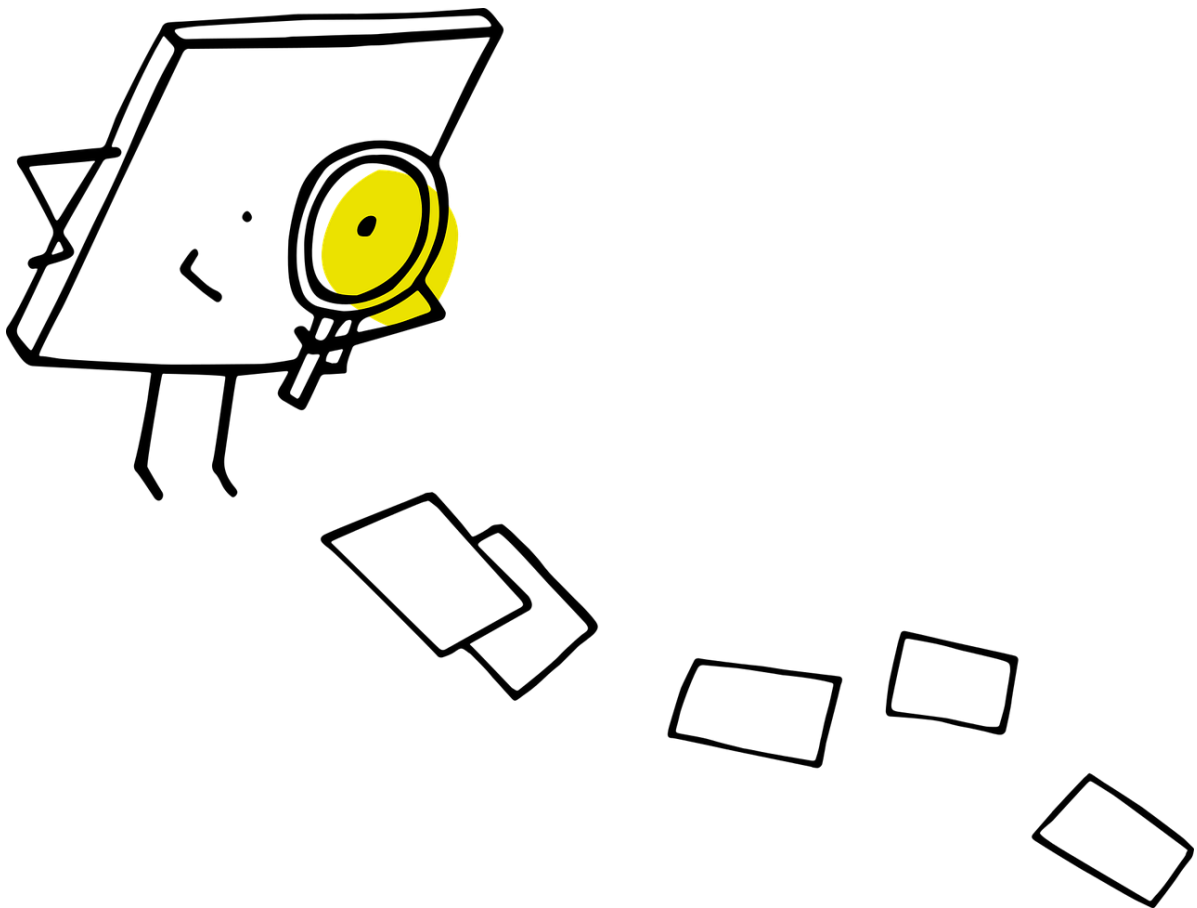


Procurement Scrutiny Inquiry

How can Swansea Council ensure it procures locally, ethically and greenly whilst being cost effective and transparent in its practices?



Why This Matters by Councillor Chris Holley (Convener)



We recognised early on in this inquiry that Procurement is more than just purchasing something, it is also ensuring what you are buying is the most appropriate and fit for purpose. As part of this inquiry, we wanted to ensure the Council is striving to purchase goods or services using this mantra and when doing so are using the most appropriate methods and engaging with the right people. We were keen to see the example of the work being led by Social Services in relation to co-production, where they are getting partners, service users and the public to co-produce contract specifications for services.

Another main driver to carrying out this inquiry was to ensure that we are buying in a sustainable way that is both ethically and environmentally friendly. As a Council we have made a number of local, environmental and ethical commitments and we must ensure we are fulfilling these obligations.

Local procurement development was also highlighted as a key element to our piece of work. We were pleased to hear that the Council has been committed to this aspect for a number of years, which has been complemented by local benefits gained from the Council's Beyond Bricks and Mortar project, which ensures employment opportunities including apprenticeships for local people. We would like to see local procurement developed further as legislation allows.

We also hope that this inquiry has helped to highlight and transmit an understanding of the role of procurement to a wider audience.

We wish to thank the various people that have come along to give us evidence including Business Wales, Swansea Council for Voluntary Service and the multiple private sector contractors we spoke to.

We would also like to thank all the Council departments for contributing to this inquiry at a difficult time with the Coronavirus pandemic and for the excellent work they are doing to ensure goods and service needs are being met. We heard how in Social Services, resources to meet care and support needs, are stretched in ways which have never been experienced historically. This has and is being compounded by experiencing issues around the workforce being impacted directly by COVID and this is having a huge strain on our services and the sector. We wish to thank all staff across the Authority and particularly in Social Services for their continued care and commitment to the public of Swansea.

Our report contains a number of recommendations for Cabinet that we believe will improve Council procurement.

Summary of Conclusions and Recommendations

Procurement Scrutiny Inquiry

Inquiry Key Question: *How can Swansea Council ensure it procures locally, ethically and greenly whilst being cost effective and transparent in its practices?*

Conclusions

1. Procurement being built into the Council's Recovery & Transformation Plan and clearly aligned to the Council's key objectives moving forward.
2. Adherence to legislation and ensuring local policy and practice is clear, effective, transparent and consistently applied is vital.
3. Quality as well as value for money is necessary in order to get the best spend from the public purse.
4. We need to consider how leaving the European Union will affect Procurement in Swansea.
5. There is positive local procurement practice, which can be built upon and embedded further.
6. Not only the Council, but those who enter into contracts with it need to meet the general equality duty.
7. There is evidence of good environmental and ethical practice, which could be built upon and embedded further.
8. There are benefits in collaborating with partners and others in our procurement activities.
9. Effective procurement needs a good framework for monitoring performance and measuring success essential for continuous improvement.

The Panel recommends that:

Long term challenges

- 1 The Council's approach to social value, localism, biodiversity and the natural environment be further integrated and expanded in line with their key principles and current Council pilot programme reviewing this matter.
- 2 Cabinet investigate how the impact of a contract's carbon footprint can be measured with the view to using this measure as part of the Council's procurement practice.
- 3 Cabinet increase the use of nature-based solutions in the Council's procurement practice, when it is assessed as the most sustainable solution.

Medium term improvements

- 4 Cabinet develops a mechanism for measuring the impact of spending on policy commitments in relation to, for example, social benefit, local procurement,

natural environment and climate change (including investigating as to whether this analysis should form part of the internal audit and/or performance monitoring process).

- 5 The Schools' Guide for Procurement is finalised to assist schools in understanding procurement rules and regulations and the best practice that they should follow when undertaking procurement.
- 6 Resources to support procurement activities be reviewed upon enactment of the new UK reform of the UK Public Contract Regulations and the Green Paper to ensure support is fit for purpose in addressing any new or expanded requirements.
- 7 Ensure that the Council develops and maintains direct links with local businesses including developing appropriate communication channels to alert them of up-coming procurement opportunities.
- 8 Cabinet maximises opportunities to involve service users and citizens in the procurement process which will lead to more collaborative, co-produced services.
- 9 Cabinet continues the work to address any areas of non-compliance in Council procurement activity.

Quick wins

- 10 The number of 'open days' are expanded to encourage local firms to tender for Council works and ensure that supplier feedback is obtained in order to understand the issues experienced by businesses, particularly SMEs, when bidding for Council contracts. The Panel felt that this could include for example roadshows and contract and/or subject specific events.
- 11 Cabinet works with the Welsh Local Government Association to press the Welsh Government to develop ways for the impact of key national commitments to be measured across Wales and the sharing of procurement good practice across Wales.
- 12 Cabinet increases the level of training for new starters by making procurement training a mandatory module for those involved in any procurement activity.
- 13 A working group is created for education procurement which includes representatives from schools and the Council's procurement team to help improve consistency in adherence to policy, ways of working and identifying gaps and finding common solutions. The group should consider issues such as addressing perception around building services quotes, to ensure schools have a better understanding of 'like for like' quotes.
- 14 Cabinet focus on reviewing documentation and contract design to further encourage SMEs locally to tender for Council works.

WHY WE PRODUCED THIS REPORT

Overview

- 1.1.1 In selecting this topic and producing this report we wanted to see how the Council is meeting its duties under legal frameworks and to ensure it is working to procure locally, ethically and greenly whilst being cost effective and transparent in its processes.

Selecting the topic

- 1.1.2 The Inquiry into Procurement was originally proposed by the Annual Scrutiny Work Planning Conference in 2019. Following agreement of a Scrutiny Work Programme, the Council's Scrutiny Programme Committee established the Inquiry Panel, and appointed Councillors to the Panel to plan and carry out this work, gather evidence, consider findings, and prepare a report for Cabinet. A strategic overview of the matter was discussed in October 2019 but starting the inquiry was delayed due to the pandemic. It was subsequently included in the scrutiny work programme for 2021/2022 and commenced on the 24 June 2021.
- 1.1.3 This topic was chosen because Scrutiny Councillors felt this was a wide-reaching subject that would benefit from Councillor's review and input.

Intended contribution

- 1.1.4 As a Panel, we believe that we can make a valuable contribution to the Council's procurement process. We recognise that the challenges in this area can often be complex. We also believe that, whilst no one has all of the answers, success will only come from a conversation that everyone is able to contribute to. It is in this spirit that our conclusions and recommendations are offered.
- 1.1.5 Specifically, this report aims to contribute to this vital debate by:
 - a. Providing a Councillor perspective on the issue
 - b. Providing evidenced proposals that will lead to more effective services
 - c. Gaining the views of the public and stakeholders
 - d. Considering and concluding on recommendations from national reports, legislation /directives, and their implications for Swansea
 - e. Identification of good practice/research elsewhere and whether there is any learning for Swansea's approach
 - f. Increased Councillor understanding about procurement
 - g. Greater public awareness of work in relation to procurement.
- 1.1.6 We are also happy to recognise the limitations of the inquiry. Given the complexity of the topic and the time that we had this report provides a broad view of issues and is not exhaustive.
- 1.1.7 Finally, many of our conclusions are in line with the Council's current direction of travel and these are offered to provide reassurance. Others may be either additional or contrary to what has already been agreed. These are intended to offer challenge and to stimulate debate. Where we have made

recommendations, these are intended to help improve the performance of the Council in this area.

Equalities

- 1.1.8 When planning this inquiry, we considered the public and stakeholders, how they might be affected and how we might engage them. We completed the Council's Integrated Impact Assessment (IIA) Screening form which formed part of the evidence pack for the inquiry.

EVIDENCE

Evidence Collected

- 1.1.9 Evidence was collected between 24 June and 10 November 2021. The following evidence gathering activities were undertaken by the Panel:

- a. Strategic Overview by Cabinet Member and Head of Commercial Services
- b. Internal Audit
- c. Cabinet Member/s and Director of Place Directorate
- d. Cabinet Member/s and Director of Social Services
- e. Cabinet Member and Head of Education Planning and Resources
- f. Cabinet Member and Deputy Chief Executive (Corporate Centre)
- g. Roundtable meeting with Stakeholders
- h. Business Wales
- i. Social and local procurement investigated – good practice elsewhere
- j. Public questions, Blog and Call for Evidence
- k. Performance and comparison data, customer satisfaction survey results
- l. Relevant legislation, policy, practice and other useful relevant information

- 1.1.10 For full details of how the evidence was gathered including details of all of the findings please see the findings report for this inquiry. This report can be downloaded [here](#) (pdf).

CONCLUSIONS

2.1 Procurement should be built into the Council's Recovery & Transformation Plan and clearly aligned to the Council's key objectives moving forward.

2.1.1 The Panel was satisfied that procurement is clearly built into the Council's recovery planning moving forward, with its procurement activity aligned to the Council's key objectives.

2.1.2 The Panel was reassured to hear that each departments purchasing and/or commissioning activity is embedded in their departmental service plans. Each service plan is, in turn, guided by the Council's key objectives.

- 2.1.3 The Panel recognises that procurement is an integral part of how the Council provides its services and we agreed it must be a core part of how the Council moves forward through the pandemic and beyond. We were pleased to hear that the Swansea Economic Recovery Plan contains an Action Plan that details, how we are, and will, move forward and the Council's procurement activity is clearly part of that.
- 2.1.4 The commitment to, and financing of, the Council's key objectives are discussed and agreed at Full Council in February each year, as part of its annual capital and revenue budget setting process. The Panel examined some examples of projects that clearly evidence commitment to the key Council objectives and drivers including the new schools' programme, More Homes and the decarbonisation retrofit programmes, highways and the building asset management plan.
- 2.1.5 The Panel, through speaking to each individual Council directorate, has gathered clear evidence that has demonstrated an active commitment to the delivering of the Council's key objectives through a robust procurement process. This can be seen in the work being undertaken right across the Council, it is a credit to the knowledge and expertise of staff and evidences their willingness to work across departments to achieve the desired outcomes.
- 2.1.6 The Panel found that the financial aspects of the Council are clearly examined by the Internal Audit process, although was told that Audit considers compliance rather than strategic direction. Currently, Audit do not look at any non-financial aspects that are linked to how we spend as a Council. This includes the spend alignment to the objectives and commitments made in relation to, for example, equalities, the environment, climate change, local procurement, social benefit and more widely the requirements of the Wellbeing of Future Generations Act. The Panel did ask: if these aspects are not audited, then how are we consistently measuring and understanding the impact of the Council's spend in these key areas?
- 2.1.7 The Panel would like to see the impacts in relation to key commitments clearly measured, monitored and reported. The Panel was unsure whether this should be done via internal Audit, the Council's performance management process, through individual departments and/or indeed whether it is a role more widely of the Welsh Government. The Panel did feel that it potentially needs to be a bit of all three. The Panel does recognise that measuring impact may be very difficult, especially attributing actions directly to improvements made but felt there was a clear need for us to do this. Not only to give assurance that we are using the right policies and mechanisms locally but it will also help us to find out what works well for us in Swansea. The Panel felt that the Welsh Government also has a key role in monitoring impact nationally and in the dissemination of good practice.
- 2.1.8 The Panel therefore recommend that:
- Cabinet develops a mechanism for measuring the impact of spending on policy commitments in relation to, for example, social benefit, local procurement, natural environment and climate change (including

investigating as to whether this analysis should form part of the internal audit and/or performance monitoring process).

- Cabinet works with the Welsh Local Government Association to press the Welsh Government to develop ways for the impact of key national commitments to be measured across Wales and the sharing of procurement good practice across Wales.

2.2 Adherence to legislation and ensuring local policy and practice is clear, effective, transparent and consistently applied is vital.

2.2.1 The Panel concluded that the Council is adhering to the procurement legislative framework and guidance. It agreed that there is a robust overarching governance and assurance framework across the Council which provides a firm basis for specific procurement needs and support.

2.2.2 Evidence shows there to be clear strategies, objectives and linkages through and between corporate and other statutory plans.

2.2.3 There is a robust internal framework for procurement including clear roles and responsibilities, effective authorisation processes, robust policies and procedures and staff training and awareness of procedural rules.

2.2.4 Tight internal controls exist through the Council's Contract Procedure Rules/financial regulations, scheme of delegation, performance and financial monitoring, with assurance then demonstrated through Internal Audit and Scrutiny.

2.2.5 Evidence indicates that the Council conducts an open, transparent and proportionate procurement process. The Panel heard that public sector procurement is highly regulated and governed by legislation. We understand that now the United Kingdom has left the European Union, direct membership of the World Trade Organisation has been established and the rules contained within that membership are included in our practice here in Swansea. We also heard about the UK Public Contract Regulations 2015, and that any breaches by the council could lead to suppliers seeking recourse in the courts.

2.2.6 Evidence gathered suggests the Council acts with integrity and seeks to ensure equity for its potential suppliers. This is done through adhering to statutory UK Public Contract Regulations (PCR), and also, the Council publishes its own standing orders relating to the Council's control of spending and this forms part of the Council's Constitution. The Panel felt that these rules do indeed support staff to deliver effective procurement and that the process is fair, transparent, and non-discriminatory here in Swansea.

The systems that are used and the publication of the tenders through the Sell to Wales portal provides transparency and consistency for the tender process, so I don't see any issues in these processes as they are applied.

Mark Thomas, Days Fleet at roundtable meeting with the Panel on 21 October 2021

2.2.7 The Panel was pleased to hear that each department has dedicated officers responsible for ensuring there are arrangements and mechanisms in place to procure services appropriately. These individuals link with procurement officers

to ensure procurement activity is conducted in accordance with the required rules and regulations.

- 2.2.8 The Panel heard about the key role that the central procurement team play in the overall procurement process. We were reassured to hear that although most of the procurement activity is carried out within individual Council departments the Council's central team of 8 staff, who, along with the Head of Commercial Services, provide professional and strategic advice on all procurement matters. This team has a clear role in ensuring compliance with PCR on all procurement activity undertaken and also other legal requirements such as Wellbeing of Future Generations Act (Wales) and General Data Protection Regulations (GDPR).
- 2.2.9 The Panel recognise and welcome the Council's Internal Audit function which has the primary role of ensuring that whenever any goods or services are procured, the correct process and procedures are followed as set out in the Council's Accounting Instructions Contract Procedure Rules, Spending Restrictions and Procurement Guidance. The Panel heard that audits are scheduled on a rolling basis, with the frequency of each review being determined by the risk score allocated to each audit. The risk score includes for example the amount of income or expenditure attributed, the higher the score, the more frequently the audits are undertaken.
- 2.2.10 The Panel understands the procurement activities of schools are audited separately as a result of their delegated budgets. The Panel was pleased that that the Council works closely with schools to seek to ensure procurement practice is consistent and that correct procedures are being used. We heard that training is provided and a factsheet to aid understanding of the procedure rules and tendering is shared. Officers also work closely with other teams across the Council where appropriate to address issues that might be highlighted through internal audit.
- 2.2.11 A Procurement Guide for Schools is being developed by the Education Directorate that will provide basic guidance on best practice in order to ensure compliance with appropriate rules and procedures. The Panel heard that the overall picture is a positive one in terms of working in partnership with schools and in the outcomes of audits. It agreed with the Head of Education Planning and Resources when he said the most effective and robust controls generally exist where there is ownership of the issues and emphasised the importance of robust financial procedures by schools.
- 2.2.12 The issue of the cost of the Council's building services was raised especially in relation to school's repair work. The Panel was told that there is a misconception about higher pricing. We heard that no credible examples have been put forward in the past and often external contractors will not price fully for the work, so work is not comparable like for like. The Panel felt that this misconception should be addressed with schools were possible, ensuring a good understanding of like for like quotes.
- 2.2.13 The Panel recognised that staff training and development in relation to procurement is essential with the need to ensure that all staff have a good

understanding of procurement, in order for a consistent approach to be maintained. The Panel emphasised the importance of having a good ongoing training programme that will ensure sufficient skill base in the Council and the need to continually strengthen and build upon staff knowledge. The Panel agreed with the Director of Place when he suggested increasing the level of training for new starters and making procurement training mandatory for some modules.

2.2.14 The Panel agreed that the Council has developed a robust and detailed set of contract procedure rules for use in its procurement activities. However, the Panel felt that there is always opportunity for further self-evaluation and improvement and would encourage continued learning through looking at current best practice and peer organisations.

2.2.15 The Panel recommend that Cabinet:

- Increase the level of training for new starters by making procurement training a mandatory module for those involved in any procurement activity.
- Creates a working group for education procurement which includes representatives from schools and the Council's procurement team to help improve consistency in adherence to policy, ways of working and identifying gaps and finding common solutions. The group should consider issues such as addressing perception around building services quotes, to ensure schools have a better understanding of 'like for like' quotes.
- Finalise the Schools' Guide for Procurement to assist schools in understanding procurement rules and regulations and the best practice that they should follow when undertaking procurement.
- Continue the work to address any areas of non-compliance in Council procurement activity.

2.3 Quality as well as value for money is necessary to get the best spend from the public purse

2.3.1 The Panel heard that public bodies in Wales are responsible for spending approximately one third of the total devolved Welsh budget and it is estimated that over the next decade Welsh public services will spend £60 billion. The Panel agreed that Wales has the opportunity to think about how and where to spend that money in the interest of current and future generations, by combining procurement activities with improving economic, social and cultural wellbeing of people and communities in Wales. The Panel was keen to see how Swansea will be part of that thinking and how our communities will benefit locally.

2.3.2 The Panel recognised that a vast array of procurement activity takes place across the many Council services and therefore wanted to ensure that the Council is getting the best spend from the public purse. This should include not only value for money but in the quality of services or items we procure. The Cabinet Member responsible for procurement told the Panel that he was proud of what we have achieved here in Swansea in relation to procurement, with an active and positive procurement team taking the service forward.

- 2.3.3 The Panel was pleased to hear that part of the central procurement team's role was ensuring that value for money is achieved and that purchasing power is optimised between quality and cost when procurement activities are undertaken. The Panel also provide advice on the most cost effective, compliant, and appropriate route to put a tender to market.
- 2.3.4 The Panel was pleased to find that getting best value for money in procurement is not just restricted to getting the lowest price. It appears that best value is defined in the Welsh National Procurement Strategy as *the optimum combination of whole life costs and benefits to meet the customer's requirements*. The Council therefore evaluates tenders and quotations based upon set evaluation criteria that depend on each contract and that can be by price/cost, quality or by price/cost and quality. For example, if the quality is likely to be the most important factor a 70/30 quality/price ratio may be appropriate. We heard that there is no fixed balance between the quality/price, and it will vary depending on the requirement of each procurement exercise. The Panel was encouraged to hear that when services are audited, they are not looked at on the basis on cost alone but the value for money aspect is also evaluated.
- 2.3.5 The Panel heard that the Council has choices when it comes to procurement routes and that the most appropriate to each procurement activity are utilised. In the Place Directorate for example, frameworks are utilised for the majority of procurement activities but that this is varied depending on what is being purchased, these can include regional or national frameworks or use of 'sell2wales' adverts where suitable frameworks do not exist. The Panel also heard that when frameworks are not available, selection is by a robust process to ensure contractors are aligned to the Council's requirements.

Swansea Council have moved away from using the framework that was put in place by Welsh Government and have now gone down a different route. There are benefits of using a framework, it is supposed to reduce the overall procurement costs and the use of internal resource. It also helps to build long term relationships between suppliers and buyers.

Christopher Parker, Computer Centre at roundtable meeting with the Panel on 21 October 2021

- 2.3.6 The Panel asked why the Council has moved away from Frameworks to the Open Tender process for some procurement? The Head of Commercial Services told the Panel that this decision is taken on a case-by-case basis as there is no one size that fits all circumstances. For certain commodity products, where there are multiple competitors in the marketplace, it can make sense to tender openly as we typically source such products on an infrequent basis, and in recent procurement exercises we have seen significant savings from using this open approach, hence our adoption of this route.

2.4 We need to consider how leaving the European Union will affect procurement in Swansea.

- 2.4.1 The Panel was interested to explore how the Council has been affected by leaving the European Union. We heard that procurement can be influenced by

several factors outside of the Council's control, with leaving the European Union on 31st January 2020 being one of them. The Panel heard that whilst leaving the European Union has undoubtedly led to issues with supplies and with increased costs, the concurrent effect of the COVID-19 pandemic has created issues which have compounded the situation. Substantial price increases for materials have been noted across most sectors, with supply chain issues and labour shortages experienced. The sheer level of construction activity has also exacerbated the strains associated with increased prices. Furthermore, lead times have increased with impacts on suppliers who are unable to give clear timescales and costs of supply of items. The sourcing of, and increased cost of materials has been an issue recorded as Corporate Risk.

2.4.2 The Panel was mindful of what the longer term and therefore unknown impacts of leaving the European Union will have on the cost and availability of materials as well as on the workforce locally and would emphasise the importance of continuing to consider this as a 'risk' to the Council and monitored as such.

2.5 There is positive local procurement practice, which can be built upon and embedded further.

2.5.1 Evidence suggests that in Swansea there is clear commitment to, and development of, the local economy with support for local suppliers being evident for a number of years. The Panel heard that the Beyond Bricks and Mortar initiative was developed back in 2009 with a view to securing added benefits from regeneration projects led by the Council. These take the form of community benefits derived from suppliers and are articulated through our contracts.

2.5.2 The Panel heard that the Council's Community Benefit Policy was updated in 2016 and the Council's Beyond Bricks and Mortar team has been responsible for its implementation in conjunction with the procurement team since that time. The scope of this policy is to include community benefit clauses in the procurement of suitable works, goods and services including construction, education, catering and social care activities, where applicable. The Panel understands that the project aims to specifically provide social benefit by:

- Identifying training opportunities and apprenticeships within the project and work with contractors and suppliers to increase the numbers of unemployed, economically inactive or Not in Employment, Education or Training able to access these opportunities
- Encourage the development of more local supply chains.
- Encourage wider community benefits like for example engagement with schools, colleges and participation in community events.

All these have been designed to impact on deprivation and add community benefit locally. In evidencing this the Panel heard that in 2019/20, 2,603 weeks of jobs and training were achieved, 27 new projects commenced, and 63 job opportunities were advertised.

- 2.5.3 The Panel agreed it was vital that we ensure that contractors understand our processes and procedures and feel confident to tender. The Panel looked at how the Council encourages local organisations to bid for contracts with the Council. We heard about how the Council has broken up some projects to enable smaller companies to bid for packets of work that suit their capacity as they will often not have the resources to take on very large projects. The Panel were keen to see this carefully considered when planning contracts, as the size of contracts was identified as an issue by small enterprises and the third sector. The Panel did recognise that whilst doing this the Council must ensure fairness and non-preferential treatment and where it is appropriate to the nature of the contract in question.

A lot of third sector organisations within Swansea are relatively small and they are delivering very localised services to communities and people within communities. That can make it really difficult for organisations to access procurement opportunities. Quite often they won't have everything needed in terms of the tick boxes. Which isn't to say that they're not fit to run the service. It's quite often that the questions asked in a procurement process are not actually the right ones for this type of service.

In order to ensure that local organisations rather than large national organisations are able to apply, there needs to be thinking involved in putting the procurement exercise together that looks at social benefit, social value and a local need. We have had some really good examples of working with procurement to put some of those sorts of clauses in, to try and enable more locally based organisations to apply and therefore get involved in that circular economy stuff.

Amanda Carr (SCVS) at roundtable meeting with the Panel on 21 Oct 2021

- 2.5.4 The Panel was told that the Council regularly reviews its processes so that it can get the balance right between probity and procedure and not having unnecessary barriers to some smaller contractors. The Leader, Councillor Rob Stewart told the Panel that the localism aspect will continue to be a key focus in order to ensure the monies we spend stay as local as possible and it is a key aspect of the Council's procurement strategy.

I think in terms of transparency and consistency this has been tricky for the third sector over the past few years. I don't blame the procurement process itself; it is the move away from historic grant giving or service level agreement arrangements into a procured process. Some organisations have been unable to really understand why that might be happening to them when their service has always apparently performed very well or being really valued, they then feel like they're being kind of excluded because it is just too bureaucratic for them.

I think part of this is about people moving their thinking to a new world of procurement, accepting that is what they have to learn to be able to do now. That certainly is something that SCVS over the past few years has been working on. It's our focus to support people, so rather than supporting people to apply for grants it is about supporting people to submit tenders. I think it's not just about the Council, but it is about the organisations as well...it's about all being on a journey together hopefully. So, it is about transparency, consistency and understanding and communicating that, so that everyone arrives in the same place and understands why it is happening.

Amanda Carr (SCVS) at roundtable meeting with the Panel on 21 Oct 2021

- 2.5.5 The Panel heard about ‘meet the buyer’ events that are held to encourage engagement from providers on main Council contracts and to support market development. The Panel would like to see the number of open days expanded to encourage local firms to tender for council works and encourage supplier feedback. They also felt that the events could be done in a number of ways depending on the requirements of, for example, the contract and could include for example contract and/or trade specific events, roadshows and webinars etc. It was recognised that local businesses are not always aware of potential open days or events, so the Council needs to develop and maintain direct links with local businesses including developing appropriate communication channels to alert them of up-coming procurement opportunities.
- 2.5.6 The Panel welcomed the new supplier guide for potential suppliers that has been developed to assist with the understanding of the Council procurement processes. We heard that the Council has also updated its external website to improve supplier engagement and access to information. The Panel recognise the improvements made in this area but would emphasise the need to continue to review documentation and contract design regularly to further encourage small and medium-size businesses to tender for council works.
- 2.5.7 The Panel was pleased to speak to a representative from Business Wales who is contracted by Welsh Government to provide business support to small and medium size businesses. The only criterion for accessing the support is the business needs to be classed as a Welsh micro-SME, meaning they should employ up to 250 staff and have up to a £55 million turnover. The Tendering Advisor who attended the Panel explained what is done to support these businesses particularly in tendering for public sector tenders and contracts. The Panel heard that Business Wales work with companies to support them to tender and this can include what they need to have in place to meet the minimum requirements, helping with selection questionnaires and in the use of portals like E Tender Wales. It meets with individual businesses and supports them through the tendering process, helping them achieve their desired goal. It also offers early engagement sessions and meet the buyer events. If there is a large contract, it can help facilitate meet the buyer events for the potential contractors to engage with the Council. The Panel was interested to hear that Business Wales not only provides support with tendering but also support business planning, cash flow, funding and marketing.

In addition, Business Wales provides advice in relation to two pledges from Welsh Government: the green growth pledge and the equality pledge. They offer businesses a range of support to, for example, improve their efficiency and to decarbonise, also to help businesses take proactive steps to create a fully inclusive and diverse workforce. They employ sustainability advisors who assist businesses in ensuring they have an environmental policy as part of the ‘Wales is green’ growth pledge.

The Panel did ask how they contact potential clients and were told Business Wales have a good relationship with the procurement officers, particularly in Swansea Council. The Council’s Head of Commercial Services told the Panel

the Council refer people to Business Wales by signposting them directly, as well as having a referral mechanism which is displayed in our literature like the Council's Suppliers Guide. Business Wales also has an active marketing team who proactively advertise the service.

2.5.8 The Panel discussed a desk-based research report that exemplified a selection of different procurement practices taking place in relation to social and local procurement across the UK. We looked at:

- a) The Preston Procurement Model
- b) Cardiff Council's Socially Responsible Procurement Policy
- c) Hywel Dda University Health Board Community Wealth Building
- d) Community Wealth Building in Leeds
- e) Harrow, Making Refurbishment Better

The Panel, after reviewing the information, was particularly interested in the Preston Model, where Preston Council, its anchor institutions and other partners are implementing the principle of Community Wealth Building. Preston is committed to implementing its approach as a 'place builder' for the city by promoting this concept with other large organisations in the area, like for example, the University, colleges, housing associations and the police. They believe this is important because many of these organisations have significantly greater spending powers and assets than the Council and by working together can have a greater impact on the future wellbeing of the city.

We heard from our Head of Commercial Services that the Preston model is something that Swansea Council is familiar with, we have worked with their allied partner the Centre for Local Economic Strategies on this matter. He highlighted the model originally looked at a combined spending of £750 million, of which when they started their process, only had £25 million remaining in their local area. So, they were starting from a different, much lower, base of local supplier involvement as Swansea Council spends some £260 million a year and we are looking at £100 million staying in our area. The Panel recognised Swansea has been looking at local supplier development and social value for a long time. The Panel was pleased to see other Councils are adopting the Beyond Bricks and Mortar approach that was adopted in Swansea many years ago, so others are following Swansea's best practice.

2.5.9 The Panel was interested to explore a question raised by Amanda Carr from SCVS, namely do we, or can we use localised solutions that involve the public, private and third sector expertise? The Head of Commercial Services replied to this question. He said with regard to the point on consortia procurement the Council is open to this approach and we do work with multiple stakeholder groups across the Council to engage with all sectors including the third sector and the Council has published specific guidance on this matter.

I understand that localism is really important across all services and I'd just like to cite Beyond Bricks and Mortar approach as something that I've always wanted to see, with that kind of local social benefit clause, spread more widely across tendering. And when I talk about small organisations, I would consider SCVS as a small organisation in the scheme of definitions of procurement. It is also very difficult for an organisation of the

size of SCVS to get involved in procurement as well, so I am not talking just incredibly small but also some of the organisations that might be our larger voluntary organisations within Swansea such as SCVS.

Amanda Carr (SCVS) at roundtable meeting with the Panel on 21 Oct 2021

2.5.10 Whilst excellent work is being done in Swansea in improving community benefit and local procurement, the Panel hoped pending changes in legislation will allow Councils to build upon this local procurement activity. The Panel did recognise Beyond Bricks and Mortar is an effective vehicle for moving this agenda forward but did feel it should not be the only route to progressing our local procurement behaviour, feeling we must embed this aspect in a wider range of activities for it to make a bigger impact here in Swansea. We felt that it is important that we consider how we work with the third sector, especially the smaller organisations, and the difficulties they may experience should be recognised and considered in our procurement process were possible.

2.5.11 We heard the regulation and policy relating to procurement is about to go through a period of significant change with an expected reform of the UK Public Contract Regulations. This may allow more flexibility for the Council to consider, for example, enhanced social value criteria. The Panel was interested to hear that the Council's Commercial Services is currently supporting a pilot programme into this matter and welcomed hearing it is the current focus for further development in this area.

2.5.12 The impact of the UK Government's Procurement reform is currently an unknown factor; the published Green Paper indicated the removal of the light touch regime from the new rules. This could have a huge impact on the work currently being undertaken within procurement and could result in more contracts coming into the scope of the rules. If this is the case, both Commissioning, and Procurement teams which are currently under resourced, could have additional pressures upon them due to this proposed change.

2.5.13 The Panel recommend:

- Resources to support procurement activities be reviewed upon enactment of the new UK reform of the UK Public Contract Regulations and the Green Paper to ensure support is fit for purpose in addressing any new or expanded requirements.
- Cabinet focus on reviewing documentation and contract design to further encourage SMEs locally to tender for Council works.
- The number of 'open days' are expanded to encourage local firms to tender for Council works and ensure that supplier feedback is obtained in order to understand the issues experienced by businesses, particularly SMEs, when bidding for Council contracts. The Panel felt that this could include for example roadshows and contract and/or subject specific events.
- Ensure that the Council develops and maintains direct links with local businesses including developing appropriate communication channels to alert them of up-coming procurement opportunities.

2.6 Not only the Council, but those who enter into contracts with it need to meet the general equality duty.

- 2.6.1 The Panel heard Swansea Council is committed to 'A more equal Wales', this being a society that enables people to fulfil their potential no matter what their background or circumstance. The Equality Act 2010 requires purchasers to ensure they do not discriminate in the provision of goods or services.
- 2.6.2 The Panel was reassured to hear compliance with the Act is embedded in all the Council's tender documentation and frameworks. This includes the frameworks used for contractors which set out clear requirements to evidence commitment to, and maintenance of, policies for both equal opportunities and safeguarding.
- 2.6.3 The Panel agreed with, and emphasised the importance of, taking equality into account at an early stage in any procurement process/activity, which we believe will help to ensure goods and services procured are fit for purpose.
- 2.6.4 Evidence gathered suggests the corporate process is followed for procurement to ensure compliance. This is done through the Integrated Impact Assessment process, which is used for screening of, and full reporting of projects in order to understand impacts. Where required a more detailed stage 2 evaluation to understand more in-depth equalities impacts is undertaken. Integrated Impact Assessments (IIA) are used and follow through the procurement process for all large projects that require Cabinet approval. Advice on IIAs is sought from the Council's Access to Services Team who provide support and advice on equalities matters.
- 2.6.5 The Panel found standard terms and conditions are used which require all our providers to evidence commitment to equal opportunities as well as for community benefits/social value, modern slavery, Welsh language and safeguarding. A selection questionnaire is used to establish whether providers meet these required standards before awarding contracts. Also, for some areas of the Council like some Social Services, contracts have further specific selection questions asked for each contract depending on their requirements.
- 2.7 There is evidence of good environmental and ethical practice, which could be built upon and embedded further.**
- 2.7.1 Evidence suggests there is a Council vision in relation to environmental and ethical practice with aims and objectives within the Council's corporate plans which are acted upon daily in departmental procurement activities. The Panel looked at a number of examples of activity taking place across council services. One of these being the Council's pension fund which selects investments based on consideration of ethical, environmental and social governance commitments and is committed to a significant divestment of holdings related to fossil fuels.
- 2.7.2 Swansea Council has shown its commitment to environmental and ethical practice through agreeing a number of pledges, including for example, signing a Charter on Climate Action in December 2020, pledges to become carbon-neutral in the next decade and zero tolerance to racism. Swansea is a City of Sanctuary and proud to be a Home Office dispersal city for refugees and asylum seekers, a Dementia Friendly city and a World Health Organisation

Healthy City. The Council has also embedded the United Nations Convention on the Rights of the Child (UNCRC) into the way it set its policies.

- 2.7.3 The Panel welcomes the pilot project which seeks to review and renew our focus on social value aspects, in line with a review of procurement legislation that is being undertaken by the Welsh and UK governments (where legal changes which allow an enhanced focus on social value). The Council has already had success in delivering socially beneficial outcomes, for example energy efficient homes and electric vehicles. The Panel were keen to ensure that that the Council's procurement practice enhances our activities to address climate change and our environment commitments.

Most contracts now come with the carbon net zero sort of criteria that all businesses are going to need to hit. Swansea had been good with this and other aspects particularly in relation to the new Council home building in the city, they have very efficient solar panels and charging points outside the front of the houses, so future proofing, so to speak. There are not many other Councils in Wales that are building houses to this standard, so it is good to see.

Rhys Morgan, LBS Building Merchants at roundtable meeting with the Panel on 21 Oct 2021

- 2.7.4 The Panel was pleased to hear the Council's procurement terms and conditions ensure suppliers note their conformance to key obligations, through completion of a supplier suitability questionnaire (SSQ) which covers modern slavery, equal opportunities, Welsh language and safeguarding. Tendering contractors are also required to address compliance with the above requirements within their tender submissions. All SSQ questions are checked by central procurement.
- 2.7.5 Swansea Council has a well-being duty under the Well-being of Future Generations in Wales Act 2015 to improve social, economic, environmental, and cultural well-being in Wales and the Panel believe action to meet the well-being needs of both current and future generations is being taken. The Panel heard the Beyond Bricks and Mortar Team identifies the community benefit requirements of all Council projects, with procurement forming part of the Council's sustainability risk assessment, thereby helping to set appropriate targets that focus on recruitment and training, supply chain initiatives, the Welsh government community benefit tool, and other community benefits such as working with the community on particular projects. The Panel were particularly keen to emphasise the importance of the Council's commitment to the development of local apprenticeships.
- 2.7.6 The Panel was pleased to hear each department keeps close links with the Procurement Team on such matters to maintain consistency of approach. They have regular team meetings to ensure this, by feeding back any issues and lessons learnt and sharing good practice. There is also ongoing liaison around advice on use of information, templates and tools available to use.
- 2.7.7 The Panel was interested to explore the sustainability statement documentation used and particularly who is involved in putting it together. The Panel wanted to understand the role of the planning ecologist in this process.

We felt an ecologist should be involved because they are able to assess whether the contractors are serious about the issues and are committed to taking them forward whilst also monitoring the commitments made. The Panel heard an ecologist would only need to play a limited role in the preparation of sustainability statements and only then for larger corporate contracts that would have an impact on the natural environment. This would be, for example, when advising whether an ecological assessment would be required and what type would be needed. It would not need to be a planning ecologist specifically as the Council's biodiversity officer is a qualified ecologist so this element would be covered by their involvement. The Panel was satisfied we have adequate arrangements in place to ensure any conditions we might attach to a contract are actually being met.

2.7.8 The Panel recommend to Cabinet that they:

- Consider how the Council's approach to social value, localism, biodiversity and the natural environment can be further integrated and expanded in line with key principles and the current Council pilot reviewing this matter.
- Investigate how the impact of a contract's carbon footprint can be measured with the view to using this measure as part of the Council procurement practice.
- Increase the use of nature-based solutions in the Council's procurement practice when it is assessed as the most sustainable solution.

2.8 There are benefits in collaborating with partners and others in our procurement activities

2.8.1 The Panel was pleased to see evidence that suggests the Council does indeed work across departments, with its partners and others in the pursuit of benefits from economies of scales, achieving efficiencies in the use of resources whilst in some cases being able to realise savings.

2.8.2 The Panel heard that in 'People' services there is a commissioning work plan that enables them to identify joint procurement activities, which is also a good way to identify and enable transformation opportunities with, for example, other organisations like health and the third sector.

2.8.3 The Panel also found there are regional commissioning and partnership arrangements in place to oversee wider joint activities. For example, a number of work streams are in situ under the West Glamorgan Transforming Complex Care arrangements which address any joint procurement implications.

In terms of the sector as a whole, I would like to comment on the third sector strategy arrangements between the local authority and the sector and the Compact that exists. Over the past 18 months the Compact has become a really strong forum for the third sector to be able to discuss concerns or issues directly with procurement colleagues and that has been a really positive way of building those relationships. I would praise the local authority for this and for, over the last few years, its growing emphasis on co-production around the specifications for services which are going to be sought from the third sector. Council has been really on board in working in a co-productive space to the extent that the law will allow, which is very positive.

Amanda Carr (SCVS) at roundtable meeting with the Panel on 21 Oct 2021

2.8.4 We were pleased to hear the positive comments from Amanda Carr about how the Compact arrangements are becoming a strong forum for the third sector. We would like to see this expanded further and the good practice learnt shared and used elsewhere in the Council where appropriate.

2.8.5 The Panel recognise working with our partners, service users and indeed the wider public to ensure our contracts and commissioning activities are fit for purpose is an important and a developing area. We heard Social Services have so far led in this area, with not purely contractual arrangements with organisations but more of a co-productive approach. The Panel was keen for this to be further developed.

2.8.6 Officers right across the Council are members of a large number of regional and professional networks which benefit the Council by sharing good practice and sharing skills and experience. The procurement category manager is the national procurement representative on the National Commissioning Board, which enables a national viewpoint to be established at a local and regional level.

2.8.7 The Panel recommend that Cabinet

- Maximises opportunities to involve service users and citizens in the procurement process which will lead to more collaborative, co-produced services.

2.9 Effective procurement needs a good framework for monitoring performance and measuring success essential for continuous improvement.

2.9.1 Panel members were also reminded, all procurement activity is carried out against the backdrop of the requirements of the Council's Contract Procedure Rules and Internal Audit monitor the Council's adherence to these and report accordingly.

2.9.2 We heard contracts have individual specifications, which describe their performance requirements, and these are monitored by contract, commissioning leads and/or procurement officers.

2.9.3 Where the procurement method is via a framework, a framework manager is appointed to monitor the ongoing spend against a particular framework. Both the framework and the call-off contract contain legally binding terms and conditions, outlining both the contractor/supplier's and the client's obligations. Failure to adhere to those obligations could lead to damages being imposed against the contractor/supplier for non-performance or breach and ultimately being removed from the framework or termination of employment under the call-off contract.

2.9.4 The Panel also heard close links with the Authority's procurement section maintain consistency of approach and that regular team meetings, feedback and lessons learnt sessions ensure there is consistency of approach and both issues and good practice are shared.

2.9.5 The Panel believe, in order to ensure consistency, quality of service provision and to drive continuous improvement, it is of paramount importance procurement activities are monitored and performance measured against expectation. The Panel was keen to see the information collected is then reviewed and used to continually improve.

RECOMMENDATIONS

The Panel commends Cabinet to consider all issues and ideas raised by this inquiry and, in particular, the recommendations set out below.

The Panel recognises that the Authority

- (a) will need to ensure that any subsequent actions are legal and meet the requirements of any relevant legislation.
- (b) has a responsibility to make the best use of limited resources and that any additional costs will need to be considered carefully as part of the annual budget setting process.

The Panel has kept these principles in mind in the course of its investigations.

The Panel recommends that:

Long term challenges

- 3.1 The Council's approach to social value, localism, biodiversity and the natural environment be further integrated and expanded in line with their key principles and current Council pilot programme reviewing this matter.
- 3.2 Cabinet investigate how the impact of a contract's carbon footprint can be measured with the view to using this measure as part of the Council procurement practice.
- 3.3 Cabinet increase the use of nature-based solutions in the Council's procurement practice, when it is assessed as the most sustainable solution.

Medium term improvements

- 3.4 Cabinet develops a mechanism for measuring the impact of spending on policy commitments in relation to, for example, social benefit, local procurement, natural environment and climate change (including investigating as to whether this analysis should form part of the internal audit and/or performance monitoring process).
- 3.5 The Schools' Guide for Procurement is finalised to assist schools in understanding procurement rules and regulations and the best practice that they should follow when undertaking procurement.
- 3.6 Resources to support procurement activities be reviewed upon enactment of the new UK reform of the UK Public Contract Regulations and the Green Paper to ensure support is fit for purpose in addressing any new or expanded requirements.

- 3.7 Ensure that the Council develops and maintains direct links with local businesses including developing appropriate communication channels to alert them of up-coming procurement opportunities.
- 3.8 Cabinet maximises opportunities to involve service users and citizens in the procurement process which will lead to more collaborative, co-produced services.
- 3.9 Cabinet continues the work to address any areas of non-compliance in Council procurement activity.

Quick wins

- 3.10 The number of 'open days' are expanded to encourage local firms to tender for Council works and ensure that supplier feedback is obtained in order to understand the issues experienced by businesses, particularly SMEs, when bidding for Council contracts. The Panel felt that this could include for example roadshows and contract and/or subject specific events.
- 3.11 Cabinet works with the WLGA to press the Welsh Government to develop ways for the impact of key national commitments to be measured across Wales and the sharing of procurement good practice across Wales.
- 3.12 Cabinet increases the level of training for new starters by making procurement training a mandatory module for those involved in any procurement activity.
- 3.13 A working group is created for education procurement which includes representatives from schools and the Council's procurement team to help improve consistency in adherence to policy, ways of working and identifying gaps and finding common solutions. The group should consider issues such as addressing perception around building services quotes, to ensure schools have a better understanding of 'like for like' quotes.
- 3.14 Cabinet focus on reviewing documentation and contract design to further encourage SMEs locally to tender for Council works.

FURTHER SCRUTINY NEEDED

As well as our recommendations for the Cabinet we have also come across a number of issues that we believe may require further scrutiny. We propose to the Scrutiny Programme Committee, therefore, that it examines:

1. How procurement fits into our scrutiny work programme overall and whether there is scope to discuss this subject and relevant issues on an annual basis, whether via Performance Panel or as otherwise deemed appropriate. This could, for example, enable further exploration of issues in relation to the costing of repair/enhancement works within schools quoted for by the local authority and the importance of the quality/cost ratio (for example 70/30 quality/cost ratio).

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Cllr Louise Gibbard, Cabinet Member for Supporting Communities
Cllr Robert Francis-Davies, Cabinet Member for Investment, Regeneration & Tourism
Cllr Robert Smith, Cabinet Member for Education Improvement, Learning and Skills
Chris Williams, Head of Commercial Services
Adam Hill, Deputy Chief Executive
Brian Roles, Head of Education Planning and Resources
Martin Nicholls, Director of Place
James Beynon, Category Manager / Senior Procurement Officer
Simon Cockings, Chief Auditor
Nigel Williams, Head of Building Services
Dave Howes, Director of Social Services
Jane Whitmore, Strategic Lead Commissioner
Lee Morgan, Category Manager / Senior Procurement Officer
Christopher Francis, Commissioning and Care Services
Christopher Parker, Computer Centre
Amanda Carr, Swansea Council for Voluntary Services
Mark Thomas, Days Fleet
Elgan Richards, Business Wales
Rhys Morgan, LBS Building Merchants

ABOUT THE INQUIRY PANEL

The **Procurement Scrutiny Inquiry Panel** is a team of Councillors who are not members of the Cabinet, appointed by the Council's Scrutiny Programme Committee. Inquiry Panels will examine a strategic issue of concern and make recommendations about how policies and services can be improved.

Members of the Panel

Chris Holley (Convener)

Phil Downing

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Peter Jones

Mandy Evans

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