



# Community Benefits in Procurement: Policy & Guidance

## Contents

1. Purpose .....	1
2. Background .....	1
3. Community Benefits Strategy .....	2
4. Community Benefits Policy .....	3
5. Scope.....	4
6. Responsibility and Delivery of Community Benefits .....	4
7. Support Systems .....	6
8. Contact.....	6
Endnotes.....	7

## 1. Purpose

This policy commits the University of Edinburgh to work to embed and implement Community Benefit requirements into its procurement activity in ways that promote inclusive and sustainable growth and support the University Strategic Plan and Vision to make a significant, sustainable and socially responsible contribution to the world.

## 2. Background

The [EU](#) and the [Scottish government](#) have highlighted the role of public procurement activity to deliver additional social, economic and environmental value to society, and recent legal changes have introduced obligations and opportunities for public bodies in Scotland to leverage their procurement to this end. In particular, Community Benefit (CB) requirements provide the potential for adaptable and wide-ranging means for public bodies to add value through procurement.

### What are Community Benefits requirements?

In short, CB requirements are special contract performance conditions<sup>i</sup> included in addition to the main purpose of a public contract relating to economic, innovation-related, environmental, social or employment-related considerations that benefit the public authority's area.

CBs in procurement are defined and mandated for Scottish public bodies (including HE institutions) by the [Procurement Reform \(Scotland\) Act 2014](#).<sup>ii</sup>

#### 24. Community Benefits Requirements

*For the purposes of this Act, a community benefit requirement is a contractual requirement imposed by a contracting authority*

*(a) relating to -*

*(i) training and recruitment, or*

*(ii) the availability of sub-contracting opportunities, or*

*(b) which is otherwise intended to improve the economic, social or environmental wellbeing of the authority's area in a way additional to the main purpose of the contract in which the requirement is included.*

Under the Reform Act and accompanying [statutory guidance](#), consideration of CB requirements is mandatory<sup>iii</sup> for all projects £4million and above, and encouraged for all regulated procurements below this level. The statutory guidance lays out the following the guidelines for CBs:

- *there is a presumption that where there is an opportunity to deliver community benefits, appropriate requirements will be included in public contracts and framework agreements;*
- *contract or framework suitability and capacity needs to be addressed on a case-by-case basis – value, duration, local factors and the nature of the supply base will all have an impact;*
- *requirements should be robust, relevant and proportionate so that they can be judged on objective and measurable outcomes;*
- *discrimination should be avoided in the wording of requirements; and*
- *monitoring of contract deliverables and outcomes is essential to ensure contract compliance.*

While in the past CBs were often limited to construction works projects and focussed on skills and employment issues, they are potentially applicable to any regulated procurement and can relate to almost any topic. While CB requirements will not be appropriate in every procurement, at £4million and above, the available justifications for not including CBs are limited and do not include the urgency of the procurement.<sup>iv</sup>

Public bodies must have regard for the Scottish Government [statutory guidance](#) on CBs in Procurement. Additional information is also available on the [Scottish government website](#).

### 3. Community Benefits Strategy

The University has committed in its Procurement Strategy to leverage the University's procurement where appropriate to add value to our communities by identifying and achieving robust, relevant and proportionate CBs:

From the University's Procurement Strategy—

*“For every procurement over £4million, the delegated authority of the University will consider how the acquisition can improve the economic, social or environmental wellbeing of our area through inclusion of community benefit clauses, to assist with our strategic objective of Community Engagement.”*

From the Procurement Category Strategies—

*“Contributing locally [by] applying community benefits to major contracts, engagement in local collaborations in the city and with Scottish peer groups, including shared services and collaborative framework agreements”*

The University of Edinburgh had an estimated £310million of influenceable non-pay procurement spend for the financial year 2016/2017, and thus has considerable purchasing power and scope to work with our suppliers through our diverse procurement activity to provide benefits for the University’s students, staff and wider communities.

The University’s vision is to make a significant, sustainable and socially responsible contribution to the world. The University of Edinburgh’s strategic plan ([Delivering Impact for Society, 2016](#)) includes ‘contributing locally’ to the Edinburgh region as one of its four development themes (defined as ‘key areas for change’).<sup>v</sup>

CBs in procurement are being explored as a means to support the University’s vision and mission, the strategic plan themes, as well as the work streams of University’s different strategies, in particular the [Community Engagement Strategy](#), [Widening Participation](#), [Youth and Student Employment Strategy](#), [Zero by 2040 Climate Strategy](#), [Global Engagement Plan](#), and [Equality and Diversity Strategy](#).

#### 4. Community Benefits Policy

Robust, relevant and proportionate community benefits will be incorporated in all procurements £4million and above, and will be considered in regulated procurements below £4million at contract strategy stage (i.e., at £50,000 and above). If included, community benefits will be subject to a community benefits plan that will capture responsibilities for delivery and review at each procurement stage, to ensure that benefits are realised and recorded over the life of the contract. University community benefits will align with the Scottish Government’s [statutory guidance on community benefits](#) and support the [vision and mission](#) of the University of Edinburgh. The Procurement Office, project sponsors, and, where appropriate, the suppliers, should work together to identify and implement benefits that:

- Deliver social, economic and/or environmental benefits to students, staff and/or community members of the University’s area
- Are non-discriminatory to suppliers, included in the procurement documentation and linked to the subject matter of the contract<sup>vi</sup>
- Support the University’s [strategic plan](#) and [social responsibility and sustainability policies](#) and, where relevant, are informed by and supportive of University, College and/or department strategies, initiatives and related work streams, in particular the [Community Engagement Strategy](#), [Widening Participation](#), [Youth and Student Employment Strategy](#), [Research Strategy](#), [Zero by 2040 Climate Strategy](#), [Global Engagement Plan](#), [Equality and Diversity Strategy](#) and [Learning and Teaching Strategy](#)
- Where appropriate, incorporate or support innovation or related University research activity and the participation of University staff and students

## 5. Scope

For the purpose of the Procurement Reform (Scotland) Act community benefit requirement, the University's "area" will generally refer to the University's surrounding local communities of Edinburgh City, the Lothians, Fife and the Scottish Borders. However, given the global reach of the University, where appropriate to the context or subject matter of the procurement or relevant activity, the University's "area" will pertain to the whole of Scotland or beyond.

In line with the statutory guidance, stakeholder groups will reflect the University's wider organisational priorities. Community benefits will include opportunities to benefit, advance or encourage the participation of:

- local communities and other national or global communities affected by the University's activity, including disadvantaged<sup>vii</sup> groups or areas or to promote equality of opportunity between persons who share a relevant protected characteristics and those who do not, in line with equalities duties
- priority groups specifically within the scope of the University's functions and purposes, e.g., its prospective applicants, undergraduate or post-graduate students, staff, alumni and subsidiary companies
- small and medium enterprises, third sector bodies, social enterprises and supported businesses<sup>viii</sup>

## 6. Responsibility and Delivery of Community Benefits

The Procurement Office and project sponsors will discuss CBs in the planning/strategy stage of regulated procurements to decide whether they are appropriate and what form they might take. The Procurement Office should refer to the Community Benefits Procedures document and included adaptable templates. Each procurement including CBs should develop a **CB Plan** (see Procedures document) that, as a minimum, contains:

- Reason for inclusion and potential alignment with key University strategies
- Summary of planned benefits, or, if unknown, plan to determine appropriate benefits throughout the procurement process via referral to sustainable procurement guidance, Pre-market engagement, "for info only" selection or award questions to suppliers, consultation with partners within the University or post-tender negotiation
- Outline of actions and review points for each stage with nominated responsibilities for each, in particular for ensuring that supplier commitments are taken up, achieved and recorded upon contract award

Specific CBs, if known, can be identified and included in the project documentation as part of a CB plan. If proportionate or relevant actions for suppliers are not yet known, a menu of benefit areas can be included in procurement documentation to request responses from suppliers (a more specific menu of possible CB will be developed and maintained to align with one or more of these themes):

- *Community Engagement and/or Widening Participation: Opportunities to support the University's [Community Engagement Strategy](#) or [Widening Participation Programme](#), for instance through youth engagement, community consultation, creation or improvement of public spaces, or support for the University's community engagement and WP work streams;*
- *Fair employment and skills: Opportunities for apprenticeships, work placements, and/or work experience, including for community members as well University students and graduates or to otherwise*

support the University's [Youth and Student Employment Strategy](#); Opportunities to upskill the workforce of the local community and/or University staff;

- *Research and Innovation: Support for the [Research Strategy](#), including Promotion and/or support of related innovation and/or research, including exploration of opportunities to support innovation through collaboration with the University and/or any relevant subsidiaries, for instance with [Edinburgh Innovations Ltd.](#)*
- *Climate Change and Environment: Opportunities to minimise negative environmental impacts and support the University's [Zero by 2040 Climate Strategy](#);*
- *SMEs and Third Sector: Opportunities for SMEs, social enterprises or the third sector including for [supported businesses](#) or other means to support the social and professional integration of disabled or disadvantaged persons, or work with the University's [Enterprise Development Team](#);*
- *Equality and Diversity: Opportunities to support the University's [Equalities and Diversities strategy](#), for instance to promote a positive culture and equal opportunity for all, especially regarding the protected characteristics under the UK Equalities Act 2010 of age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity;*
- *Global Engagement: Opportunities to support communities, students or projects internationally in support of [Edinburgh Global and Global Engagement Plan](#);*
- *Learning and Teaching: Support for the [Learning and Teaching Strategy](#), including opportunities for experiential learning on campus, in the community and in businesses and other organisations, nationally and internationally;*
- *Mutually agreed donations or joint fundraising efforts for projects or initiatives to support communities*

The Procurement Office and project sponsors can utilise the Sustainability Test Tool (or equivalent Estates process) or consult with partners within the University, for instance the Social Responsibility and Sustainability Department, to identify appropriate CBs. Pre-market engagement, as well as “for information only” selection and/or award stage questions can also help identify supplier experience in providing social, economic or environment benefit or identify areas of mutual interest between the University and the suppliers.

The summary of planned CBs in the plan should be added to the strategy report page of the Sustainability Test Tool (available for procurement managers in the University's Sustainable Procurement Wiki) and pasted into the Strategy Template. During the course of the procurement, one of the following approaches to CB should be selected and noted in the CB plan:

**Evaluated** – May be preferred method. Evaluated CB are included in the ITT and scored as an award stage question. While evaluated CBs could include minimum requirements, a menu of possible benefits can be included and the University can evaluate the suppliers' different proposals. To protect SMEs and equal treatment of suppliers, where CBs are evaluated part of a tender quality component, CBs should be scored on the basis of the quality of responses (e.g., in terms of alignment with University priorities, achievability and/or procedures in place to follow through on commitments), rather than only the magnitude of benefit offered. Some post award clarification or negotiation with suppliers will still be required.

**Voluntary** – Included as a “for info only” question in the ITT and/or negotiated post award with supplier. These CBs cannot be scored, but allow the most flexibility and scope to provide multiple CBs. However, CB information voluntarily submitted as a response in the ITT (or if CBs are mutually agreed and submitted after contract award, pursuant to a legally compliant

contract variation process) may be enforceable as part of a contract at the University's discretion. Voluntary CBs may be helpful in cases where:

- a) CB have not been considered at an earlier stage or included in procurement documents,
- b) CB may need to be subject to negotiation with the supplier in order to identify appropriate measures or to align them with University work streams, for instance widening participation
- c) CB are complex or involve coordination between several parties.

In all cases, CB requirements should not discriminate against bidders, in particular those from outside the Edinburgh region. Both evaluated and voluntary CB questions can be linked to mandatory and/or suggested voluntary requirements through CB "menus", or can be left more open. In either case, approach can, where appropriate be adapted through end user and preliminary market consultation.

In a **competitive procedure with negotiation**, a **competitive dialogue**, or an **innovation partnership**, negotiation of community benefits should be planned and have time allocated during the negotiation stage of the procedure.

Post-contract award meetings and negotiation with suppliers will be important in most cases to agree on achievable benefits and to ensure alignment with University priorities, as well as to coordinate implementation and monitoring and reporting measures, which should reflect a consistent reporting method that aligns with the University's Strategic Plan.

## 7. Support Systems

Where possible, CB should reflect the work streams of the University's major strategies, for instance the Zero by 2040 Climate Strategy and in particular, the Community Engagement Strategy and the Widening Participation programme. Where appropriate, CB should be coordinated with internal delivery partners, for instance:

[Social Responsibility and Sustainability Department](#)

[Community Engagement team](#)

[Edinburgh Innovations](#) including the [Enterprise Development Team](#)

[Research Support Office](#)

[Widening participation team](#)

Where relevant, CB can also be designed and delivered in partnership with external third sector bodies, for instance [Skills Development Scotland](#), [CITB](#), [Zero Waste Scotland](#), and others.

## 8. Contact

Please contact procurement policy officer [Peter Hayakawa](#) 51 4380 for any questions or comments. Please contact us if this policy is required in an alternative format.

## Endnotes

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<sup>i</sup> CBs are a form of Contract Performance Condition, a sustainability measure allowed for in the EU procurement regulations, which do not necessarily have to be linked the public authority's local area. See [Public Contracts Scotland Regulations 2015, 70. Conditions for performance of contracts:](#)

*70.—(1) A contracting authority may lay down special conditions relating to the performance of a contract, provided that they are—*

*(a) linked to the subject-matter of the contract within the meaning of regulation 67(6) (contract award criteria); and*

*(b) indicated in the call for competition or in the procurement documents.*

*(2) Such conditions may include economic, innovation-related, environmental, social or employment-related considerations.*

<sup>ii</sup> The [Reform Act](#) also contains the Sustainable Procurement Duty:

*9. Sustainable Procurement Duty*

*(1) For the purposes of this Act, the sustainable procurement duty is a duty of a contracting authority. Before carrying out a regulated procurement, to consider how in conducting the procurement it can*

*(a) 1 - improve the economic, social and environmental wellbeing of the authorities areas,*

*2 - Facilitate the involvement of small and medium enterprises, third sector bodies and supported businesses in the process and*

*3 - Promote innovation*

*(b) in carrying out the procurement, to act with a view to securing such improvements identified as a result of paragraph (a)(i).*

*(2) The contracting authority must consider under subsection (1) only matters that are relevant to what is proposed to be procured and, in doing so, consider the extent to which it is proportionate in all the circumstances to take those matters into account.*

*(3) In this section, references to the wellbeing of the authority's area include, in particular, reducing inequality in the area.*

<sup>iii</sup> From Procurement Reform (Scotland) Act:

*25. Community benefit requirements in major contracts*

*(1) This section applies where a contracting authority proposes to carry out a regulated procurement in relation to which the estimated value of the contract is equal to or greater than £4,000,000.*

*(2) The contracting authority must, before carrying out the procurement, consider whether to impose community benefit requirements as part of the procurement.*

*(3) The contracting authority must, in the contract notice relating to the procurement, include—*

*(a) a summary of the community benefit requirements it intends to include in the contract, or*

*(b) where it does not intend to include any such requirements, a statement of its reasons for not including any requirements.*

*(4) Where community benefit requirements are included in a contract, the contracting authority must include in the award notice a statement of the benefits it considers will be derived from those requirements.*

*(5) The Scottish Ministers may by order modify subsection (1) so as to substitute for the figure specified there for the time being such other figure as they consider appropriate.*

<sup>iv</sup> From Statutory Guidance, Section 4.6.3:

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*Where CBs have not been included in requirements valued at or above £4 million, the contracting authority must provide a reason for this in the contract notice. Reasons should reflect that, having considered the scope to include CBs, they are not considered to be appropriate, relevant and/or proportionate to the procurement with a brief explanation.*

***Urgency is unlikely to be a suitable reason for not including CB requirements.***

*Circumstances where an authority is not required to apply a community benefit include:*

- *where the requirement is excluded from the provisions of the Act; and*
- *where the length or nature of the contract means that it is not a suitable choice for community benefits, for example, supply contracts of very short duration and where there is little scope to achieve social, environmental or economic outcomes for the relevant area.*
- *In some instances social, economic and environmental considerations will be so integral to the requirement that it may be difficult to separate them out.*

<sup>v</sup> Core aims under this particular theme are:

- to build and strengthen relationships and information exchange between the University, the City and its communities;
- to put the University's research and teaching at the service of local communities;
- to open up access to University buildings and facilities to the City and its residents, and
- to communicate what the University does and how it works with the City to enable its residents to interact with the University in an informed way.

The strategic plan also identifies 'building partnerships with industry' as a theme. The University's goal is to build and expand on such relationships with industry across all areas of our activity, including as a commercial partner. This theme has three pillars of activity that will frame our industry engagement:

- Talent, skills and employability
- Research and development
- Innovation and entrepreneurship

<sup>vi</sup> "Link to the subject matter of the contract" has a broad definition in procurement regulations, however a key point is that contract performance requirements, award criteria and technical specifications must occur in the context of contract delivery, and not a mandated change to suppliers' general corporate policies:

Context of "link to subject matter"—

[EU Procurement Directives 2014, Recital 104 – Contract Performance Conditions](#)

*(104) Contract performance conditions are for laying down specific requirements relating to the performance of the contract. Unlike contract award criteria which are the basis for a comparative assessment of the quality of tenders, contract performance conditions constitute fixed objective requirements that have no impact on the assessment of tenders. Contract*

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*performance conditions should be compatible with this Directive provided that they are not directly or indirectly discriminatory and are linked to the subject-matter of the contract, which comprises all factors involved in the specific process of production, provision or commercialisation. This includes conditions concerning the process of performance of the contract, but excludes requirements referring to a general corporate policy.*

*The contract performance conditions should be indicated in the contract notice, the prior information notice used as a means of calling for competition or the procurement documents.*

Definition of link to subject matter—

[Public Contracts \(Scotland\) Regulations, 67\(6\) Contract Award Criteria](#)

*(6) Award criteria must be considered to be linked to the subject-matter of the contract where they relate to the works, supplies or services to be provided under that contract in any respect and at any stage of their life cycle, including factors involved in—*

*(a) the specific process of production, provision or trading of those works, supplies or services;  
or*

*(b) a specific process for another stage of their life cycle,*

*even where such factors do not form part of their material substance.*

<sup>vii</sup> While there is no official definition of disadvantaged, disadvantaged groups are those that “experience a higher risk of poverty, social exclusion, discrimination and violence than the general population,” [according to the European Institute of Gender Equality](#).

<sup>viii</sup> Supported businesses are those with the primary aim of social and professional integration of disabled or disadvantaged persons, where at least 30 per cent of the employees of those businesses are disabled or disadvantaged. For more information, see the [Scottish Government website](#).