**Including Social Value on Construction Contracts**

**£500k – PCR Threshold (Non Scored)**

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# Introduction

This is a practical guide for Public Sector Commissioners working within contracting authorities and Procurement Officers on how to include social value in public tender competitions for Construction Contracts where scoring of social value will not apply.

In July 2021 the Northern Ireland Executive published Procurement Policy Note (PPN) 01/21. This document has been approved by the Executive and has the status of government policy, rather than guidance. PPN 01/21 mandates that from 1 June 2022 tenders must include a minimum of 10% of the total award criteria to social value. This minimum weighting will apply to the thresholds set out in the Public Contracts Regulations.

**Contracts below that threshold should still contain social value targets as contract performance clauses.**

Guidance related to scoring social value and other opportunities Commissioners and Procurement Officers have throughout the various stages of the procurement process to maximise social value is available on SIB’s Social Value website.

**Whilst every effort has been made to ensure that the information contained herein is accurate, this toolkit is not provided as ‘legal advice.’ Users should therefore seek such advice before using this material in any formal contracting process.**

# What is Social Value?

Social value refers to wider financial and non-financial impacts on the wellbeing of individuals, communities and the environment.[[1]](#footnote-1)

Social Value has also been defined as:

*a way of thinking about how scarce resources are allocated and used. It involves looking beyond the price of each individual contract and looking at what the collective benefit to a community is when a public body chooses to award a contract.[[2]](#footnote-2)*

## Benefits of Including Social Value in Procurement

Including social value in contracts can help contracting authorities/departments:

* achieve and report against Programme for Government outcomes;
* achieve and report against their specific strategic objectives. For example, in Department of Justice contracts, the Contractor can be required to deliver work experience placements for people with an offending background;
* lead by example. For example, in Northern Ireland Civil Service (NICS) collaborative contracts, the Contractor can be required to recruit a number of people with a disability;
* reduce the risk of organisational reputational damage. For example, organisations will suﬀer reputational damage and loss of citizen conﬁdence if they are found to be sourcing from suppliers who use exploitative labour;
* contribute to a fairer and more equal society, by creating employability opportunities for those who are disadvantaged;
* contribute to a strong, competitive, regionally balanced economy by opening up opportunities for Social Enterprises and micro business entities; and
* deliver best value for money.

*“Public procurement is an important source of expenditure in Northern Ireland, with central and local government spending upwards of £3 billion annually on supplies, services and construction works. This expenditure offers tremendous potential to contribute to the economic, environmental and social outcomes contained in the Executive’s Programme for Government*.”[[3]](#footnote-3)

Missing the opportunity to use public procurement to deliver social value can result in a cost that will need to be absorbed by another public service.

# Thinking Social: the pre-procurement stage

Taking social value into account early in the commissioning process means it can be designed in such a way as to maximise social value and deliver best value for money. There are opportunities to maximise social value across the procurement timeline, but the greatest opportunity exists early in the process.

Early engagement gives buyers time to consider the social value impacts of what is being procured and to plan how to address the risks or opportunities identified, e.g. the initial consideration of whether the procurement is required or is focused on the right things to what will happen at end of use/life. All of the following elements can contribute to the social value delivered through a contract:

* the design of the procurement, e.g. use of Lots/Dynamic Purchasing Systems/sufficient timeline/clear, concise tender documentation
* the specification, e.g. the ethical and environmental impact of what is being purchased
* the supplier selection, e.g. terms and conditions are proportionate to the contract and do not inadvertently disadvantage a micro/small business enterprise or Social Enterprise
* the evaluation
* the contract management to ensure delivery of social value outcomes.

By taking time to examine the opportunities to maximise social value throughout the procurement process, buyers can ensure that the Public Sector is achieving Best Value for Money across contracts.

## Business case

PPN 01/21 sets out the need to include social value at Business Case stage of the procurement:

*social value outcomes can be included in the procurement process provided that they are considered at business case stage and relate to the subject matter of the contract or the performance of the contract.[[4]](#footnote-4)*

Better Business Cases NI is the primary guidance for NI Departments on the development and review of business cases. The guidance provides a clear framework for appraising, developing and planning projects and programmes using the Five Case Model to deliver best social value for money.

[Supplementary Guidance](https://www.finance-ni.gov.uk/publications/better-business-cases-ni-supplementary-guidance) specifically related to incorporating social value into business cases is available on the Department of Finance’s website. The supplementary guidance sets out the relevance of social value to each section of the Five Case Model, followed by guidance on how to quantify social costs and benefits when appraising options. This should be read in conjunction with other guidance on the [Better Business Cases NI website](https://www.finance-ni.gov.uk/articles/better-business-cases-ni).

## Consult with communities and suppliers

Engaging with stakeholders whilst the procurement documents are being developed will help Commissioners and Procurement Officers to understand which Social Value Theme(s) are most relevant to the contract and the Social Value Indicators which will deliver the greatest impact for those communities affected by the procurement.

### Community engagement

Community engagement can be significant in shaping the social value that is delivered through a project. It is important to engage with the communities where projects are being delivered to ascertain what their needs are and how they can best benefit from the project being delivered in their area. Contracting Authorities can engage with stakeholders in the community when designing the social value requirements of a contract. Similarly, it is important that the successful Contractor also engages with the community who are impacted by the project to ensure that the Contractor is tailoring the social value delivered to the issues that matter most to the community.

This type of engagement ensures that communities where projects are being delivered are part of shaping the social value derived – it is not done ‘to’ them, but with them. It helps to foster a sense of ownership of the project and to communicate the benefits delivered to communities. Early engagement on contracts also allows time for community groups to identify and support people who may wish to avail of the opportunities and to register their organisation on the ‘Find a Broker’ database on the Social Value Unit’s website.

### Pre-market engagement with suppliers

The aim of pre-market engagement is to allow Commissioners to understand the market capacity and capabilities, different types of models available to delivery on their planned outcomes, potential barriers and how the market could enhance and maximise opportunities to add social value to their offers.

Pre-market engagement is a good opportunity to raise social value with potential providers. Giving potential providers the opportunity to provide their opinion on how social value can be maximised may result in the delivery of more innovative social value initiatives that are better aligned to the Commissioner’s desired outcomes. Pre-market briefings are also a good way to communicate the buyers’ commitment to social value.

# The Social Value Points Model

PPN 01/21 provides a framework of themes and indicators which are linked to the Programme for Government outcomes. A common framework enables contractors and suppliers to develop a shared understanding of the social value requirements which will be taken into account. Where social value is to be included as contract conditions the social value initiatives to deliver these same themes and indicators can be used in a proportionate manner. Each initiative has been allocated a number of social value points which the contractor can deliver to meet their target.

The Contracting Authority decides which of the Social Value initiatives are relevant to include in their contract, in light of the subject matter of the contract and the Authority’s strategic priorities.

Contracting Authorities should ensure that sufficient initiatives have been selected to ensure flexibility and that Contractors have options as to how they choose to deliver the Social Value. The Contracting Authority has the ability to tailor the initiatives to meet their Departmental policy aims by identifying priority groups they may wish to incentivise the contractor to work with. (See ‘Tailoring Initiatives to reflect priority groups’ below.)

## How does the Social Value Points Model work?

The Social Value Model requires that the contractor deliver a minimum of 100 social value points per £1m of contract value (and pro-rata).

The contractor will have flexibility to choose which initiatives they deliver against, giving them the benefit of aligning the requirements of the Contracting Authority with their own business models or solutions and with feedback gathered through community engagement.

The Contracting Authority will set out an indicative minimum number of points that the contractor is required to deliver based on the estimated contract value at the time of procurement. The Contracting Authority may set minimum mandatory targets for specific social value initiatives within the Social Value Points Matrix, which the Contractor must deliver as part of the overall social value requirements on the Contract. For example, there may be a minimum number of social value points that must be delivered through the Paid Employment Initiatives.

## Tailoring Initiatives to reflect Priority Groups

Some initiatives within the Social Value Model can be tailored to target disadvantaged groups which the Contracting Authority is particularly invested in. For example, the Department of Justice has a strategic responsibility for justice and, as a result, may want to target employment, skills and training opportunities to people with a conviction or at risk of criminality.

The Social Value Points Model gives Contracting Authorities the ability to incentivise Contractors to deliver social value outcomes to the Authority’s priority groups by increasing the social value points awarded for delivering initiatives to those groups.

When the Contracting Authority would like to include priority groups in the Social Value requirements of a contract, they should include the ‘Contracting Authority’s Priority Groups list in section 4 of the Model text for inclusion in the Specification and/or Invitation to Tender.

When the contract is awarded, the Social Value monitoring system will monitor the social value outcomes delivered. The monitoring reports generated by the system will allow the Contracting Authority to understand who the beneficiaries of each social value outcome has been, including a breakdown to include priority groups. In this way, the Social Value monitoring system reports can be used to achieve and report delivery against Contracting Authority strategic priorities and Programme for Government responsibilities

# Buying Social

When including social value as contract conditions the Contracting Authority should indicate their intention to do so by including reference to social value at the following procurement stages:

* Pre-market engagement (see Thinking Social section above)
* Business Case (see Thinking Social section above)
* Call for Competition
* Contract documentation

### Call for Competition

It is important to notify bidders that a contract includes social value. For example, this could be done in the ‘description of the procurement’ section of etendersNI or esourcingN. Where social value requirements are to be included, the following text may be used in the call for competition:

*Under this procurement the Contractor will be required to support the Client's social value objectives. Accordingly, contract performance conditions and/or award criteria may relate, in particular, to social value.*

### Contract Documentation

The social value requirements are included as a separate section within the contract documents. The following should be included within the Social Value section:

* The policy basis for the social value theme
* Measurable social value indicators
* Monitoring arrangements
* Contract management
* Data Protection requirements (if appropriate)

Model wording for inclusion in the contract documentation is available to download at <https://buysocialni.org/procurement/procurement-resources/>

**Can the Social Value Points Model apply to frameworks?**

The Social Value points approach can be applied to frameworks as the targets are linked to contract value.  Where the value of contract(s) awarded to a supplier is not known the target for social value can be expressed as 100 points per £1m of contract value and pro-rata. The Social Value monitoring system can be set up to allow the supplier to update the invoiced amount which will re-calculate their points target.

# Monitoring social value

Where Social Value requirements are included in the contract they must be enforced. To facilitate this, the Contractor must supply the client with progress reports as set out in the contract conditions.

There is a robust Social Value monitoring system in place so that, at intervals as stated in each contract, the Contractor is to provide a report on their Social Value requirements, e.g. details of the number of weeks work experience opportunities delivered or the number of hours of health and wellbeing initiatives delivered as a result of the contract.

The Social Value monitoring system is a web-based system that works in the following way:

* Once a contract with Social Value Points has been awarded, **the Contracting Authority must inform the Social Value Unit at SIB.** You will also need to inform the Unit if the contract is delayed and when the contract has completed. You can contact the Social Value Unit at info@buysocialni.org;
* The Unit will set up the contract in the Social Value Monitoring Portal, prepopulating the Social Value Points targets included on the contract, and issue the Contractor with login details and guidance on how to add information relating to the delivery of their targets;
* The Contractor will receive a reminder to update the report; however, Contractors can log in to the monitoring portal at any time;
* Contractors record their progress to date against each indicator. (There is also a notes section which Contractors should be encouraged to use to record any efforts that they have made to fulfil their targets); and,
* A report will be sent from the system at regular intervals to both the Contractor and Client Project Managers. This report should be regularly reviewed during progress meetings to determine if the Contractor is on track to deliver their targets.

**Data Protection**

Where employment opportunities are delivered under a social value initiative, Data Protection Legislation, including GDPR should be complied with and a dta protection consent form should be signed by all beneficiaries. The Contractor, at contract award, shall enter into a Data Processing Agreement with the Strategic Investment Board.

# Contract Management

Social Value is part of the contract and should be adequately managed to ensure that it is delivered in line with contract commitments and that value for money, which is a main driver behind the inclusion of Social Value, is achieved.

PPN 01/21 states that:

**Buy Social ‘Find a Broker’**

The ‘Find a Broker’ section on the Social Value Unit website lists organisations that can help Contractors meet their Social Value requirements. These organisations tend to be Voluntary, Community or Social Enterprise organisations, and employability providers.

The brokers can be searched by sector, geographical area, job role and employee characteristics to help Contractors find a suitable organisation to help them meet their particular Social Value requirements.

There is a downloadable guide to the ‘Find a Broker’ section of the website available at: [https://buysocialni.org/Contractors/Contractor-resources/](https://buysocialni.org/contractors/contractor-resources/)

*“Good contract management ensures that all parties fully meet the requirements specified in the terms and conditions of the contract, including in relation to social value. The Project Manager/contract manager must ensure that the Contractor’s performance is carefully monitored. Poor performance, by the Contractor on the delivery of requirements relating to social value, must be addressed in accordance with the recommendations on poor contractor performance set out in Procurement Guidance Note PGN 01/12: Contract Management Principles and Procedures.*

*It is essential to continually monitor the delivery of social value included in public contracts. This will ensure contractual requirements are delivered, and allow for full assessment of the impact and benefit.”*

The reputation of a Department and Contractor can be damaged by a poorly managed contract that does not deliver the expected outcomes.

The Social Value requirements which have been included in the Invitation to Tender and supporting contract papers should be reviewed by the Contractor and Contract Manager at the Contract Initiation Meeting.

**TIP:** Including Social Value as a standard agenda item at Contract Review meetings ensures that Social Value remains a priority for both the Contracting Authority and Contractor throughout the lifetime of the contract.

It is the responsibility of the Client Project Manager to regularly monitor and review the contract including:

* Assessing reports on how the Social Value obligations are being delivered, and;
* Addressing any under-achievement.

## Key Performance Indicators

TIP:If the KPIs put as much emphasis on the Social Value requirements as on other performance measurements you are more likely to achieve the outcomes you specified.

Social Value can be included in KPIs which should be clearly drafted, achievable and reflect the importance of the Social Value to the project as a whole. You will need to conduct frequent reviews to ensure data is being collated and reported.

## Managing Poor Performance

Continued poor performance cannot be ignored and Departments should work with the Contractor in order to ensure they meet contract requirements. Annex D of PGN 01/12 contains a Protocol for Managing Supplier Poor Performance. It sets out the steps that Contract Managers should take in monitoring a Contractor’s performance.

**Summary on Contract Management**

• Contracts with Social Value Points must be notified to the Social Value Unit at info@buysocialni.org

• The Social Value Unit will set up the contract in the Social Value Monitoring Portal which will be used to generate the progress reports

• Progress reports will be sent out monthly and should be reviewed regularly at progress meetings

• It is the Contract Project Manager’s responsibility to ensure the Contractor’s performance is monitored and poor performance is addressed

• Under-performance must be addressed - the protocol for doing so can be found at [Annex D of PGN 01/12: Contract Management Principles and Procedures](https://www.finance-ni.gov.uk/publications/procurement-guidance-note-0112-contract-management-principles-and-procedures).

1. PPN 01/21, p.4 [↑](#footnote-ref-1)
2. <https://www.cips.org/knowledge/procurement-topics-and-skills/sustainability/social-value/> [↑](#footnote-ref-2)
3. PPN 01/21 – p.4 [↑](#footnote-ref-3)
4. PPN 01/21, p.4. [↑](#footnote-ref-4)