

# London Borough of Enfield

## Cabinet

16 February 2022

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**Subject:** Sustainable and Ethical Procurement Policy 2022-26  
**Cabinet Member:** Cllr Mary Maguire, Finance & Procurement  
**Executive Director:** Fay Hammond, Executive Director, Resources  
**Project Sponsor:** Matt Bowmer, Director of Finance  
**Key Decision:** 5291

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### Purpose of Report

1. This report presents the new Sustainable and Ethical Procurement Policy 2022-26 for approval by Cabinet.

### Proposal(s)

2. It is proposed that the new Sustainable and Ethical Procurement Policy is agreed and adopted by Cabinet.
3. To delegate to the Executive Director of Resources, in consultation with the portfolio holder for Finance & Procurement, authority to manage and update the policy as part of the annual review.

### Reason for Proposal(s)

4. The new Sustainable and Ethical Procurement Policy 2022-2026 replaces our previous Sustainable Procurement Policy 2015-19. The new policy reflects refreshed organisational priorities as set out in our Council Plan 2020-22, Fairer Enfield Policy, Climate Action Plan and Modern Slavery Strategy.
5. The Council spends approximately £400m per year procuring goods, works and services. It is important that the Council leverages its purchasing power to secure and deliver wider benefits for the borough and its residents and ensure that the Council works with partners who uphold its values and standards.
6. The COVID-19 crisis has had a huge impact on Enfield's communities and placed significant pressure on Enfield's local economy and on the Council's budget, further highlighting the need to make the best use of resources to deliver wider benefits for the borough.

### Relevance to the Council Plan

7. The Sustainable and Ethical Procurement Policy is a key driver of the Council Plan; the policy has been developed with the central aim to support the Council to achieve its objectives through procurement and social value.

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8. The policy includes a Social Value Framework, aligned to Council Plan priorities, for suppliers when developing social value proposals. Achieving additional value through procurement improves outcomes for residents while generating long-term savings in line with the Council's vision for **Early Help**.
9. The policy has a strong focus on how the Council can use its procurement activities to support local businesses and create high-quality employment and training opportunities in line with the Council Plan priority to create an **Economy that Works for Everyone**.
10. The policy also sets out expectations of suppliers in line with our **Fairer Enfield** Policy and **Climate Action** Plan.
11. Sustainable and ethical procurement will also assist the Council in its objective to be a **Modern Council** which targets resources smartly to deliver excellent value for money, working with the private sector for the benefit of all residents.

## **Background**

12. The new Sustainable and Ethical Procurement Policy 2022-2026 replaces the previous Sustainable Procurement Policy which has expired. Since the last policy was adopted, the Council has made progress in this area. The Council has continued its commitment to source food responsibly and has adopted both the Co-operative Modern Slavery Charter and Unite Construction Charter and is committed to working towards the UNISON ethical care charter.
13. There has been progress in using procurement to support MSMEs and local businesses, including breaking down larger contracts into smaller 'lots' to open up opportunities to smaller businesses, and introducing shorter payment terms for MSMEs and local businesses.
14. The new policy builds on this progress but goes much further by setting out clear standards for suppliers in key areas and clear expectations for officers carrying out procurements. In addition, the new policy makes a commitment to ethical procurement to ensure human rights are upheld in our supply chain and encourage suppliers to promote equality and diversity in their employment practices and provision of services.
  - **Public Services (Social Value) Act 2012**
15. The Public Services (Social Value) Act 2012 came into force on 31 January 2013. The Act requires public commissioners to consider, at the pre-procurement stage, how the procurement of services over the public procurement threshold could improve the social, economic and environmental wellbeing of local areas.

- **Public Procurement Post-Brexit**

16. The Transition Period officially ended on 31 December 2020. The UK Government published a Green Paper on public procurement regulations after Brexit in December 2020. The policy will be reviewed once the new regulations are published and any necessary amendments will be made.
17. In June 2021, Government published a Policy Procurement Notice 05/21: National Procurement Policy Statement stating that all contracting authorities should consider national priority outcomes alongside additional local priorities in their procurement activities. This includes creating new businesses, new jobs and skills, tackling climate change, and improving supplier diversity, innovation and resilience. This policy will support the delivery of Government objectives.

### **Main Considerations for the Council**

18. The policy outlines the Council's commitment to procure value for money goods, works and services in a way that not only benefits the Council but also society, the local economy and the environment.
19. It sets out our commitments as a commissioner and our expectations of suppliers. The policy includes a framework for minimum, enhanced and preferred standards. This sets out what an organisation needs to do to meet minimum standards; enhanced standards, which go beyond the minimum requirements; and preferred standards, which are considered best practice.
20. The policy focuses on four priority areas:

**Social Value:** Social Value is achieving additional economic, social and environmental benefits over and above the direct purchasing of goods, works and services. In line with the Council's Contract Procedure Rules, officers must consider the inclusion of a 10% evaluation weighting for social value in all procurements over the public procurement threshold and are strongly encouraged to include this in procurement under this threshold. The policy includes a Social Value Framework, aligned to Council Plan priorities, for suppliers developing social value proposals.

**Ethical Procurement:** The policy supports the Council's Fairer Enfield policy and sets out how suppliers can support the Council in delivering Equality and Diversity. The Council will ensure that products and services are ethically sourced, that human rights are upheld in supply chains and that equality and diversity are promoted in employment and service provision. The policy includes a commitment to increasing the number of contracts where the London/Real Living Wage is paid, with an ambition to only work with organisations who pay the London/Real Living Wage as soon as possible.

**Supporting the Local Economy and Local Employment:** Through its procurement activities, the Council will create high quality employment and training opportunities for residents and support local businesses, in line with the Council Plan priority to create an economy that works for everyone. The policy sets out how the Council will support more Micro Small and Medium Enterprises (MSMEs) and Voluntary, Community and Social Enterprises (VCSEs) to participate in its supply chain. It outlines how suppliers can support the local economy and create employment and training opportunities, including through the new Enfield Skills Academy. The Contract Procedure Rules mandate the need to obtain local quotes wherever possible.

The Council will prioritise and give greater weighting within its Social Value evaluation criteria to proposals that promote local skills and employment and contribute to the local economy. Guidance for staff will be developed on how to give a higher weighting, and where appropriate and proportional, up to 50% of the weighting, to local economy, employment and skills.

**Climate Action:** In line with Enfield's Climate Action Plan, this policy sets out how the Council will minimise carbon emissions and negative environmental impacts. As this is a new and emerging area for many organisations, this section focuses on suppliers setting strong foundations and committing to working towards more sustainable practices as a minimum. More rigorous requirements are detailed for larger organisations and contracts, and more advanced organisations can add value through enhanced and preferred standards. This section includes clear 'assessment requirements' for suppliers.

- **Implementation**

21. There will be an initial 12-month pilot where the policy is mandated for all procurements over the public procurement threshold. Procurement activity over the public procurement threshold is carried out by Procurement Services and this pilot will enable procurement officers to become experts in this area to support the wider organisation. Furthermore, prioritising the largest contracts will have the biggest impact, particularly for areas such as climate action.
22. During this pilot, training and guidance will be developed and refined for both officers and suppliers. There will then be a 12-month review with a view to mandating the policy for contracts over £100k or where the contract has a particular impact or risk in relation to sustainable and ethical practices. This could include a supply chain with a high risk of modern slavery, or where goods have a clear environmental impact. Below threshold procurements are carried out by individual services and by this time officers throughout the organisation will have had the opportunity to undertake training in this area and guidance will be available to ensure officers can easily follow and implement the policy. The policy will then be reviewed annually to consider proportionate implementation for contracts below £100k.

23. Where suppliers do not yet meet minimum standards, the Council will support suppliers by signposting organisations to relevant information and guidance. The phased implementation of the policy ensures that this guidance will be fully developed and tested, particularly to benefit smaller and local organisations. Depending on the size and type of the contract or supplier, organisations could be asked to work towards the minimum standards over the lifetime of the contract. This is to recognise that different market sectors are more advanced than others and not to disadvantage MSMEs or VCSEs.
24. The policy will not be imposed retrospectively on existing contracts, but the Council will work with current suppliers to seek agreement to implement some or all aspects of the policy. Implementation will be focused on the re-letting of existing contracts and new contracts.
25. An action plan has been developed to ensure the policy is implemented successfully. This includes the development of practical documentation and training to support officers and suppliers to adhere to the policy, such as the Supplier Guide to Equalities and Diversity, which provides more detail on how to use the policy and how to implement it within procurement activity.
26. The policy details measures of success that will help the Council to monitor the success of the policy including spend with Enfield based organisations and MSME businesses, and increasing opportunities for these organisations to bid for contracts. The Council is investing in systems to help monitor targets with regards to spend with ethnic minority led businesses, social value and climate action. Targets will be developed as part of the action plan.

- **Engagement**

27. The policy has benefited from extensive engagement with a wide range of stakeholders throughout its development.
28. After preliminary research on the national and legal context and benchmarking of other local authorities, we engaged with a range of internal services to support policy development. There was broad support for the policy but experience and maturity with regards to sustainable and ethical procurement varied across services. Services noted that capacity and maturity levels to deliver social value and implement sustainable and ethical practices also differed within organisations. This highlighted the need for the policy to be proportionate and flexible enough to suit a wide range of contracts and organisations. Effective monitoring of the policy and contract management was a recurrent theme. Buying local was also considered important, with a clear need to balance strengthening the local economy with ensuring we are procuring the best products for Enfield.
29. We also engaged with current suppliers to understand maturity levels and attitudes towards this area, and how this might vary between organisations. This comprised of a questionnaire that was completed by 42 suppliers across a mix of sizes and sectors and interviews with a small selection of suppliers.

30. Key findings:

- Suppliers are enthusiastic about delivering social value and believe it is important for the Council to have clear social value objectives.
- Almost all respondents had an Equality and Diversity policy (40 out of 42) and most had a whistleblowing policy (34 out of 42) which are minimum requirements.
- Most respondents stated that they paid the London Living Wage (32 out of 42) and reported that this resulted in increased motivation and retention rates and improved reputation of the organisation.
- Many suppliers are still at the early stages of their climate action journey and the policy approach supports this.
- Suppliers highlighted key challenges in implementing sustainable and ethical practices: costs, time and resources, and the pace at which sustainability targets are evolving.

31. The policy was drafted and refined to reflect feedback received by internal and external stakeholders. A second phase of engagement was undertaken, sharing the draft policy publicly, with a specific interest in hearing from current suppliers, local businesses and VCSEs.

32. The majority of respondents were from the private sector with some responses from the Voluntary and Community Sector. Most respondents were current suppliers of the Council. There was a positive response to the Council developing this policy, with some respondents also expressing their enthusiasm to work with the Council in this area. There were no major issues raised with regards to the minimum standards and any issues raised have been addressed in the policy. Several respondents mentioned how they were already meeting some of the minimum, preferred and enhanced standards.

33. Another key theme included opening up opportunities for small and local businesses to compete for council contracts. The policy contains a number of commitments from the Council to open up opportunities to small and local businesses. In addition, the action plan includes an action to devise a 'keeping it local' plan that will further develop the commitments detailed in the policy, to ensure that council services are joined-up and are maximising opportunities with suppliers to support local and small businesses.

34. The policy was also shared with the Council's Equalities Board, Climate Change Taskforce and Trade Union representatives. The policy received positive feedback, with particular interest in the Council's commitment to London Living Wage and how staff will be supported to implement the policy.

- **Social Value Portal**

35. Alongside the development of this policy, the Social Value Portal (SVP) is being launched across the Council. The SVP is a digital solution that allows organisations to measure and manage the social value contribution secured as part of their contract. This will help the Council to monitor and maximise the delivery of social value and ensure that social value offers support council objectives. The SVP is aligned to the Sustainable and Ethical Procurement policy and will support the organisation to monitor standards set in the policy.

## **Safeguarding Implications**

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36. The policy includes a section on Modern Slavery. The Council expects suppliers to take all possible steps to ensure that human trafficking and modern slavery are not taking place in any of their supply chains or operations.
37. The Council has committed to the Co-operative Party's Charter Against Modern Slavery. The policy states that the Council will only work with suppliers who ensure it can meet the commitments of this charter.
38. The policy states that the Council expects all suppliers to comply with the Modern Slavery Act 2015, wherever it applies. Suppliers are also expected to have a whistleblowing policy which enables staff to raise suspicions of unlawful and unethical practices, including modern slavery.

### **Public Health Implications**

39. Climate change has been described as the greatest threat to public health in the 21st century. All efforts to reduce and/or mitigate this threat are therefore welcomed.
40. The need to consider and increase social value will contribute towards increasing the health of the public through building social cohesion. This will be further supported by the inclusion of supporting the local economy wherever possible.
41. Ethical procurement further supports basic human rights and mitigates the potential for environmental destruction / the reduction of biodiversity.
42. The policy encourages the Council's suppliers to create high quality and well-paid employment opportunities for residents, helping to tackle low pay and poverty in the borough which is one of the social determinants of health.
43. The Social Value Framework outline areas where suppliers can assist the Council to deliver its Health and Wellbeing Strategy and Health in Every Policy.

### **Equalities Impact of the Proposal**

44. This policy is closely aligned to and supports the Fairer Enfield Policy, setting out clear standards for suppliers to ensure that Enfield Council only works with suppliers who will support its values and equalities objectives.
45. The policy sets out expectations of suppliers with regards to equality and diversity such as having an Equality and Diversity policy; providing equality and diversity training for all employees; and collecting and analysing workforce monitoring data. Setting clear expectations will ensure that suppliers are working to improve equality and diversity within their own organisation.
46. The delivery of social value, in line with the policy, will help to address some of the inequalities within the borough and create a fairer Enfield. Examples of

relevant social value outcomes include obtaining employer accreditations, providing employment and training opportunities for residents affected by special educational needs and disability (SEND), adopting flexible working, increasing supplier diversity and paying the London Living Wage.

47. An Equality Impact Assessment (EqIA) has been developed alongside the policy to assess its potential impact on each protected characteristic. The EqIA concludes that the policy is not expected to have any adverse impacts on any of the protected characteristics and is expected to help us advance equality of opportunity between people who share a protected characteristic and those who do not. Where the EQIA has identified potential groups that might face barriers in bidding for Council contracts, we have reflected on how these might be addressed in the policy and action plan.

### **Environmental and Climate Change Considerations**

48. It is expected that the implementation of the Sustainable and Ethical Procurement Policy will have a positive environmental impact. One of the policy's four priority areas is climate action. This section outlines how suppliers can help us to deliver our Climate Action Plan. Procurement is a major contributor to the Council's scope 3 emissions, and it is therefore necessary for the Council to support its suppliers to track and reduce their carbon emissions.
49. The policy follows the Council's Contract Procedure Rules, which states that officers must consider the inclusion of a minimum 10% evaluation weighting for social value in all procurements over the EU threshold. Within this 10% social value weighting, environmental sustainability is considered alongside social and economic considerations.

### **Risks that may arise if the proposed decision and related work is not taken**

50. The existing Sustainable Procurement Policy has expired and does not reflect our refreshed Council Plan priorities and the progress that that organisation has made in areas such as climate action, equality and diversity and modern slavery. Having a Sustainable and Ethical Procurement Policy remains best practice amongst local authorities and supports our Council Plan priorities.
51. Sustainable and ethical procurement has the potential to bring numerous benefits to the Council, including:
- Greater value for money as additional social, economic and environmental benefits are achieved over and above the provision of core contract requirements. This will assist the Council in delivering its strategic priorities.
  - Improved outcomes for residents while generating significant long-term savings in line with the Council's vision for early help.
  - Meeting our Climate Action Plan targets and becoming a carbon neutral organisation.
52. If this work was not taken forward, the Council would miss opportunities to leverage its purchasing power to deliver strategic priorities and savings targets. The Council also risks being out of step with government

requirements to leverage social value and climate action change through procurement.

**Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks**

53. The policy may not be adhered to by Council officers engaged in commissioning and procurement. To minimise this risk:
- We have engaged with services across the Council who are engaged in commissioning and procurement and incorporated their feedback.
  - The policy sets out clear roles and responsibilities for officers involved in procurement and commissioning.
  - Monitoring of implementation will be carried out by the Departmental Procurement Boards with additional scrutiny provided by the Corporate Procurement Board.
  - Training and toolkits will be provided to commissioners and those carrying out procurement within services.
54. Since the Transition Period has ended, and the UK is no longer a member of the European Union, the UK government has announced their plans to reform Public Procurement Regulations. A Green Paper on public procurement regulations has been published and any changes to the regulations may impact on the provisions of this policy. To minimise this risk:
- The Policy has already considered the Governments Policy Procurement Notice 05/21 and procurement Green Paper to ensure that it is in line with Government wishes for Contracting Authorities around social value and climate action.
  - The policy will be reviewed once the new regulations are published and any necessary amendments will be made.
  - Procurement Services will provide any necessary training on the new regulations to Council officers engaged in procurement and commissioning.
55. Suppliers may be unable to meet new standards, and this could negatively impact the Council's procurement activities. To minimise this risk:
- There has been extensive engagement with suppliers in the development of this policy and the minimum standards have been developed to reflect this engagement.
  - Engagement with commissioned VCS organisations, current suppliers and commissioning officers confirms that the policy is proportionate and that the minimum standards are set at the right level.

- The policy will be implemented gradually, initially targeting the largest contracts, over the public procurement threshold, which are carried out by the central Procurement Service.
- Pre-market engagement is encouraged prior to carrying out procurement activities and this would raise any potential issues with suppliers being unable to meet minimum standards. The Procurement Service has discretion to waive minimum requirements where the market is unable to meet them.
- Where suppliers do not currently meet minimum requirements, they could be asked, as part of the contract, to work towards the minimum standards over the lifetime of the contract.

## **Financial Implications**

56. The policy includes a commitment to increasing the number of contracts where the London/Real Living Wage is paid, with an ambition to only work with organisations who pay the London/Real Living Wage as soon as possible. There is an estimated potential cost in the region of £11m were the Council to pay third party contracts and consideration will be given to how this is managed through the Council's 2022/23 to 2026/27 Medium Term Financial Plan (MTFP).

57. A further implication from the policy is the implementation of the Social Value Portal. The implementation of the Social value portal and the associated training package are estimated to cost £50k. The cost of which will be funded by the flexible use of capital receipts as originally stated in the 2020/21 Quarter 3 Revenue monitoring report. The actual costs will not be incurred now until 2021/22 and will continue to be funded via capital receipts.

58. The introduction of this policy contributes to the Council's overall financial strategy of setting and managing a resilient and robust budget as well as the objectives of the Council plan.

59. If any additional resources are required in the future resulting from this policy, then these would need to be brought forward for a future decision.

## **Legal Implications**

60. The Council has a general duty under section 149(1) of the Equality Act 2010 (the Equality Act) to have due regard, in the exercise of its functions, to the need to:

- (i) Eliminate unlawful discrimination, harassment, victimisation and any conduct prohibited by the Equality Act;
- (ii) Advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- (iii) Foster good relations between people who share a protected characteristic and people who do not share it.

61. The Council is required as a best value authority under section 3 of the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
62. The Council also has a general power of competence under section 1(1) of the Localism Act 2011 to do anything that individuals may do, provided it is not prohibited by legislation. A local authority may exercise the general power of competence for its own purpose, for a commercial purpose and/or for the benefit of others.
63. Public law principles will apply to the decisions made by the Council, including the Council's duty to take account of its fiduciary duty and to act prudently with public monies entrusted to it. The Council is also under a general duty to act reasonably and show that its decisions are made after having given due and proper consideration to all relevant factors.
64. Pursuant to Public Services (Social Value) Act 2013 the Council is required to consider how the services it commissions and procures might improve the economic, social and environmental well-being of the area.

### **Workforce Implications**

65. For the policy to be successful, staff who are responsible for procurement must be able to fully understand what is in the policy and how to adhere to it. In order to do this, toolkits and guidance documents will be developed to support officers to confidently implement the policy. In addition, training will be made available to staff as part of the Contract Management Module rollout and i-Learn. Managers will need to make their staff available to attend training. The policy should also be widely communicated throughout the organisation to ensure that staff are aware of any changes they will need to consider when carrying out procurement.
66. The successful implementation of this policy is also dependent on the restructuring of the Procurement Service. The need for key roles to support the implementation and delivery of this policy has been recognised. The Procurement Service will drive this policy and is crucial in supporting the wider organisation to adhere to sustainable and ethical procurement practices.

### **Other Implications**

#### **Procurement Implications**

67. The Public Services (Social Value) Act came into force on 31 January 2013. It requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits. Before they start the procurement process, commissioners should think about whether the services they are going to buy, or the way they are going to buy them, could secure these benefits for their area or stakeholders.

68. Rule 20 of the Council's Contract Procedure Rules reminds officers of their duty under the Social Value Act 2012 and recommends the inclusion of a minimum 10% weighting for social value in all opportunities over the EU threshold. It also reminds officers to ensure that all elements of sustainable and ethical procurement are addressed within the contract and selection criteria. This ensures that suppliers doing business with the Council uphold the same values and work towards the delivery of the Council Plan.
69. The Sustainable and Ethical Procurement Policy will ensure that there is clarity around the aims and objectives of the Council with regards to what is expected when procurement is carried out.
70. This policy and the Council's Contract Procure Rules will be reviewed and updated in line with any new government procurement legislation.

### **Options Considered**

71. The alternative option considered was to refresh the existing Sustainable Procurement Policy. However, with a new Council Plan, Fairer Enfield Policy, Modern Slavery Strategy and Climate Action Plan, it was considered timely and important for the Council to also make a commitment to ethical procurement and develop a new policy to reflect this.

### **Conclusions**

72. The new Sustainable and Ethical Procurement Policy will support the council to achieve its objectives by leveraging its power as a major purchaser of goods, services and works to deliver a lifetime of opportunities for everyone in the borough.

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### **Appendices**

1. Draft Sustainable and Ethical Procurement Policy 2022-26
2. Sustainable and Ethical Procurement Policy EQIA