

Report of the Director of Environment and Neighbourhoods

Report to Scrutiny Board Sustainable Economy and Culture

Date: 20 October 2011

Subject: Delivering community benefits through the Council's procurement and planning functions.

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. The approach taken by the Council to secure employment and skills obligations through the procurement and planning functions of the Council has delivered a number of successes but this approach could be improved and strengthened. This report is aimed at prompting discussion that will inform a potential future approach.
2. The report provides examples of recent activity to secure employment and skills benefits from the Council's procurement and planning activity and identifies how this could be embedded through more effective communication of needs and opportunities within an agreed framework to increase the employment and skills training available to local people.
3. The report outlines some of the barriers to be overcome to maximise these opportunities and identifies the issues that the Scrutiny Board may wish to consider further to enable the Council to take this work forward.

Recommendations

4. Members of the Scrutiny Board are asked to:-
 - note the activity undertaken to date to work with contractors and developers to support local people to improve their skills and secure employment
 - comment on the proposed work to develop a more consistent approach and the key issues to be addressed.

1 Purpose of this report

- 1.1 The Scrutiny Board has established an inquiry into how the Council uses its procurement and planning functions as an enabler of locally driven, sustainable economic growth that benefits both local people and local businesses.
- 1.2 The report provides examples of activity undertaken to secure community benefits such as employment and skills training opportunities and supply chain benefits from the Council's procurement and planning activity.
- 1.3 The report provides summary information on the key mechanisms through which developers and contractors are engaged and identifies how these could be embedded within a more consistent approach to increase the opportunities for local people and local businesses.
- 1.4 The report aims to prompt discussion to support the Board in its inquiry to shape the future approach within the Council.

2 Background information

- 2.1 The recession and a slow recovery, has reduced the number and type of jobs that are available to local people and this has had a disproportionate impact on the most disadvantaged groups. The Council is well placed as both a buyer of goods and services and as the local planning authority to promote the employment and skills agenda. There are a number of examples of good practice where greater access has been secured for local people to jobs and training opportunities and sub-contracting opportunities for local businesses through the Council's procurement and planning functions. A strategic framework which supports a systematic and seamless approach would have the potential to create access to more opportunities that could benefit the city.
- 2.2 The Council's Employment and Skills service has established Employment Leeds, an initiative to improve employer engagement. This brings together services and partner agencies to provide a single point of contact for employers and a more coherent offer to skills training and employment support services. Employment Leeds is well placed to respond to and support developers and end users of developments and businesses contracting with the Council to deliver on the employment and skills obligations.
- 2.3 The Employment Leeds core team is currently supporting the delivering of employment and skills and supply chain obligations on a number of high value contracts and S106 Planning Agreements where these requirements had been introduced by the Procurement and Planning services. Examples are included at Appendix 1 for information.

3 Planning Obligations

- 3.1 New development often creates a need for additional infrastructure or improved community services and facilities, without which there could be a detrimental effect on local amenity and the quality of the environment. Planning Obligations are the mechanism used to secure these measures and are intended to make acceptable development which would otherwise be unacceptable in planning terms. The Board

will be familiar with the use of obligations relating to the provision of green space, improvements to the public realm and affordable housing.

- 3.2 Planning obligations can require specific operations or activities to be carried out in relation to the land and secured pursuant to Section 106 of the 1990 Town and Country Planning Act (as amended) and the Planning & Compulsory Purchase Act 2004 and are often private agreements negotiated, usually in the context of planning applications, between the local planning authority and persons with an interest in the land (Section 106 Agreement).
- 3.3 There are no hard and fast rules about the size and type of development that should attract planning obligations however under the provisions of the Planning & Compulsory Purchase Act 2004, outlined in more detail in Circular 05/2005, Local Planning Authorities can, in determining planning applications, only secure planning obligations where it can be demonstrated that the obligations are:
- Necessary (to make a proposal acceptable in planning terms)
 - Relevant to planning
 - Directly related to the proposed development
 - Fairly and reasonably related in scale and kind to the proposed development
 - Reasonable in all other respects.
- 3.4 S106 obligations on employment, skills training and supply chain opportunities have been applied to a number of applications and work has been undertaken to improve the model agreements to enable their use where it most appropriate to pursue these with developers. Scrutiny Board may wish to explore key criteria which would guide when such S106 obligations or charges on the development are applied. For example these may include:-
- The employment generation potential of the development i.e. the number of jobs created during construction and end use
 - The type of jobs that the end user will generate i.e. specific sectors and skill levels – entry level jobs in construction, retail, hospitality health and social care.
- 3.5 In addition to the above work, the Employment Leeds team aims to work closely with colleagues in the Planning service to promote the support services available to business by providing awareness training for planning officers to enable effective signposting where appropriate to applicants.

4 Procurement

- 4.1 Annually, the council spends in excess of £400 million on buying in goods, works and services. Smaller value contracts are generally managed by the individual directorates and larger value contracts (above the EU thresholds) are generally managed by the Procurement Unit.
- 4.2 Sustainable procurement, that is using the Council's buying power to secure social, economic and environmental objectives in ways that offer real long term benefits, already forms part of Council policy. There are good examples of how employment, skills and supply chain obligations have been included in contracts such as the Leeds Arena development and the PFI Housing programme. However further work is required to place jobs and skills at the core of procurement and contracting

procedures, not just for capital and construction projects, but for other goods and services too.

- 4.3 All public procurement is required to achieve value for money and is subject to the UK regulations implementing the EU Public Procurement Directives, and the overriding principles of the EC Treaty. The EU procurement rules aim to ensure a level playing field for suppliers from the UK and other member states. It is permissible to address requirements for employment and skills in public procurement processes, so long as these requirements are relevant to the contract, proportionate, do not compromise value for money, and do not unfairly discriminate against prospective contractors.
- 4.4 There are opportunities to embed employment, skills and supply chain requirements at a number of stages in the procurement process in a number of ways from the use of specific clauses leading to a contractually agreed set of outputs and outcomes; voluntary agreements with existing contractors to secure commitments over a period of time with support; and promoting good practice through continuing customer – supplier relationships. It should be recognized that such additional outputs or benefits are likely to come at cost to the procurement.
- 4.5 Different approaches may be required on contracts for different types of goods and services, length and lifetime values. Scrutiny Board may wish to explore these issues further taking account of:-
- The legislative framework
 - The maturity and strength of the provider market
 - The technical and professional abilities required to deliver the contract and local skills needs
 - Contracts values – thresholds at which different approaches are applied
 - The inclusion of other social, environmental and economic benefits within the contract
 - The costs and benefits – the ability for contractor to absorb the cost or whether these will be passed onto the Council or where these can be met through other local support initiatives.
- 4.6 In addition to the above work, the Employment Leeds team will work closely with colleagues in the Procurement and Planning services to promote the support services available to business by providing awareness training for officers to enable effective signposting where appropriate.

5 Proposed Approach

- 5.1 Scrutiny Board will wish to consider how it proceeds based on the evidence it considers throughout the inquiry but experience from elsewhere suggests the following framework and specific elements would support an improved approach where employment, skills and supply chain benefits are embedded as a core consideration throughout the discharge of the Council's procurement and planning functions.
- 5.2 Policy Framework and Charter. The production of a policy framework and charter would clearly set out the rationale and economic business case for seeking employment, skills and supply chain benefits to a wider audience. It would demonstrate the Council's commitment to supporting local economic growth by

supporting increased opportunities for local businesses and increased access to local skills and employment opportunities.

- 5.3 Toolkit. The development of a toolkit for commissioning managers within services, the procurement and planning officers would support consistent implementation. This could include model documents, template employment and skills and supply chain clauses, work flow / process maps to support decision making and clarify roles and responsibilities and signposting for advice and support. Documentation could be made available on line to supplement training and awareness sessions.
- 5.4 Guidance and Advice and Examples. Written guidance could be made available to planning applicants and those tendering for Council contracts setting out the Council's aims and objectives and how to comply with the policy and process and examples of good practice. This could also include information on the support available through Employment Leeds which would co-ordinate local supply side (skills and employability support to people) and demand side (aligning activity to meet employers needs) interventions. Contact information could also be supplied on SMEs that have registered an interest in supply chain opportunities.
- 5.5 Monitoring. Systems will need to be put in place to monitor the implementation and impact of the policy framework and toolkit. A monitoring systems would need to ensure that the policy was being applied, where it was successful or otherwise and the benefits that flow from its application through routine reporting. The opportunity to collate feedback from users and periodically review this to ensure that the policy and its application remain fit for purpose would be required. However, further consideration needs to be given to the monitoring and enforcement requirements and any sanctions that might apply at the individual schemes level if this is to be effective.

6 Corporate Considerations

6.1 Consultation and Engagement

- 6.1.1 Consultation and engagement with a wide range of stakeholders would be an integral part of the development work to shape and bring forward detailed proposals for approval to ensure these meet the business needs of the Council and the City. This would include developers and business leaders.

6.2 Equality and Diversity / Cohesion and Integration

- 6.2.1 In August 2011, there are 64,650 benefit claimants of working age in Leeds including 23,980 who are actively seeking work of which 7,194 were aged between 18-24 years. Evidence from the last recession and the current data indicates that increased unemployment has disproportionately impacted on those neighbourhoods with the highest levels of claimants. Targeted support to enable those seeking skills training and paid work will reduce the benefit claim period, help local people develop the skills to secure, stay and progress in work and improve their lives. Employment and skills obligations should include minimum levels to be achieved and be targeted to specific communities and claimant groups as well as cohorts of young people engaged in employability and skills programmes.

6.3 Council Policies and City Priorities

- 6.3.1 The existing activity and the proposed approach will contribute to the achievement of targets in both the Sustainable Economy and Culture Partnership and Children and Young People's City Priority Plans by increasing the skill levels of local people required by businesses in the City and by increasing the number of people in employment, apprenticeships and learning.

6.4 Resources and Value for Money

- 6.4.1 The proposed policy framework and toolkit can be developed and implemented within the Council's existing resources. The impact of introducing employment and skills obligations on contractors and developers will need be considered over the short, medium and long term and in the context of prevailing economic conditions; the strength of targeted sectors within the economy; the strength of the provider market; and the need to balance any gains with the requirement to demonstrate value for money and secure efficiencies through the procurement process.

6.5 Legal Implications, Access to Information and Call In

- 6.5.1 Activity to secure employment and skills obligations must comply with and not contravene the EU and UK legislative framework on procurement and guidance issued by the Secretary of State on the use of Planning Obligations.

6.6 Risk Management

- 6.6.1 A risk management assessment will be undertaken as part of the feasibility work to develop these proposals.

7 Conclusions

- 7.1 There is a strong business case to drive investment in skills training through the Council's relationship with developers, investors and deliverers of Council contracts. There would be clear benefits for individuals, businesses and the local economy, however, this must be achieved with policy and legislative frameworks governing procurement and planning and balanced against the need to obtain value for money and continued investment in Leeds.

8 Recommendations

- 8.1 Members of the Scrutiny Board are asked to:-
- note the activity undertaken to date to work with contractors and developers to support local people to improve their skills and secure employment
 - comment on the proposed work to develop a more consistent approach and the key issues to be addressed

9 Background documents

- 9.1 Promoting Skills through Public Procurement. Office of Government Commerce
<http://www.ogc.gov.uk/documents/PromotingSkillsthroughpublicprocurement.pdf>

- 9.2 Joint statement on access to skills, trade unions and advice in government contracting <http://www.bis.gov.uk/assets/biscore/corporate/docs/c/co-joint-statement.pdf>
- 9.3 Planning Obligations: Practice Guidance. Department for Communities and Local Government
<http://www.communities.gov.uk/publications/planningandbuilding/planningobligationpractice>