

PROCURING FOR BROADER SOCIAL AND ECONOMIC VALUE



Highlights from the Major Projects Association event held on 1st April 2021

Project priorities are increasingly focused on outcomes that are not solely about the final price. Delivery of social and wider economic benefit are the big wins for major infrastructure investment, and procurement policies are increasingly factoring those objectives into the buying process. This seminar looked at current best practice and the lessons that can be applied to future programmes and projects.

'What do we mean by procurement? Is it not now the acquisition of benefits and far, far more than just tendering?'

Martin Rowark, Partner, Gardiner & Theobald LLP

LAYING FOUNDATIONS

It is clear that Government is determined to shift the horizon from lowest cost to greatest social value. Evidence comes in several forms:

- **The Construction Playbook**, which sets out the ambition of 'maximising the benefits of public procurement by encouraging employment opportunities, developing skills and improving environmental sustainability.'
- In January 2021 the Procurement Policy Note (PPN) on **Taking Account of Social Value in the Award of Central Government Contracts** launched for Central Government a mandatory 'new model to deliver social value through government's commercial activities' whilst maintaining an overarching objective of 'best commercial outcome'. This requires a minimum weighting of 10% of the total procurement score to be applied for social value.
- The PPN lists some examples of social value outcomes that projects and programmes should look to achieve, including helping local communities recover from the impact of Covid-19, tackling economic inequality and fighting climate change.
- In March consultation closed on the Green Paper **Transforming public procurement**, which considers the opportunities for procurement post Brexit and separately, reforms on subsidy and state aid.

Freshfields Bruckhaus Deringer Partner Jane Jenkins reminded delegates that Britain is currently bound by EU procurement law pending reform. She pointed out that the **WTO GPA** guarantees equal national treatment and non-discrimination, although there is room for manoeuvre to permit social policy preferences.

The **UK EU TCA** permits social considerations to be taken into account but the EU Commission has warned of rebalancing measures in the event of significant divergences in approach between the UK and EU going forwards.

'It is legitimate to take social value factors into account provided they are related to the subject matter of the contract.'

Jane Jenkins, Partner, Freshfields Bruckhaus Deringer LLP

SOCIAL VALUE IN ACTION

Nevertheless, within the confines of current legislation and regulation, the major projects industries are running with the social value ball as fast as possible. Speakers from the health, local government and transport sectors reported on schemes that had social value and economic benefit outcomes at their heart.

The £20bn **Health Infrastructure Plan** for the construction of 48 new hospitals by 2030 is expected to be an exemplar of Government's social value aspirations as well as modern methods of construction. Its prime role is to transform the delivery of social infrastructure across the NHS to provide 'world-leading' experiences for patients and staff. Notably, the hospital buildings are not the sole focus of the project but are tools to drive transformational change in healthcare.

Emma-Jane Houghton, Commercial Director for the New Hospital Programme at Cabinet Office, reported that the programme's roll-out is at an interesting stage. Work is underway mobilising market appetite for the upcoming workload, and at the same time engaging the industry from the start in the long-term strategic goals for health, employment and net zero carbon.

'We are committed to supply market involvement from the outset, to ensure we gain market input to how we address our challenges such as effective contracting and fair risk allocation.'

Emma-Jane Houghton, Commercial Director – New Hospital Programme, Cabinet Office

Market engagement is critical for attaining broader social goals. **HS2** Supply Chain Manager, Robin Lapish, explained that when the project started back in 2013, HS2 had to galvanise the market. No one had written HS2 into their business plan; it was competing as an unknown, and had to build confidence and appetite in the market in order to secure capacity.

Consistent vision and regular communication with the supply chain, particularly on future visibility of work, has meant the project has exceeded its benchmark on the percentage of SMEs employed. The total stands at 71% at the moment, well above the 60% target the project had set itself.

'We don't want to place the procurement burden on SMEs – the bigger players often have the tender writing capacity; we don't want SMEs to miss out because they may be less able to demonstrate social value.'

Robin Lapish, Supply Chain Manager, HS2

HS2 is clear that the ultimate benefits of the project on, for instance, local employment, carbon reduction or driving modal shift, will always take priority. The in-house benefits team checks whether any savings identified will have a knock-on negative benefit on outcomes; if that is the case, they do not happen.

IS THE SCORECARD THE TRUMP CARD?

For Senior Regeneration Officer at Portsmouth City Council, Megan Carter, the requirement to create a project scorecard has helped the team delivering the UK's largest car-free neighbourhood, **Lennox Point**, to establish its successful outcomes, KPIs and a clear message to the market as to what is expected.

Apart from engendering an outcome-based approach, a scorecard helps suppliers understand a client's ambitions and creates a shared focus to unlock innovation. On Lennox Point it also helped the client clarify its own objectives and admit what it could and could not do itself, becoming much more 'informed' in the process. Carter reported how it was a challenging, emotional process but that every decision now taken uses the scorecard, which forms the basis of how they measure social value, even beyond construction.

Critical success factors on the scorecard, relevant to everyone involved, include being a good neighbour, legacy, employment and skills, supporting the circular economy and delivering environmental net gain. For a local authority the legacy is very important, so benefits realisation is critical. Carter explained that for Lennox Point the scorecard is not about buzz words, it has to have depth and accountability so they can measure themselves and their suppliers.

'The issues we are trying to solve include mental health, loneliness and how people move. This is a chance to think differently, and we are aware future generations will hold us to account.'

Megan Carter, Senior Regeneration Manager, Portsmouth City Council

WE'RE GOOD AT THIS

There is international recognition that the UK is incredibly advanced in techniques for the initiation of major projects and programmes, **Crossrail International** CEO, Paul Dyson, told delegates.

'As a client, decide all your social value objectives early and bake them into your delivery strategy as a guide for you and your supply chain.'

Paul Dyson, CEO, Crossrail International

He pointed out there is realisation that, to acquire the maximum level of benefits, Government and delivery agencies need to consider working at a portfolio level to ensure effective legislation, regulation and good practice are in place to set the framework for successful programme and project delivery. Procurement is a key component of ensuring that programmes and projects achieve their maximum impact, especially in respect of social benefits. This acquisition of benefits is not a transactional process and needs to reflect a project's complex life cycle from client configuration through to realising benefits.

Government in the UK has taken significant steps to lay the foundations that facilitate the delivery of those benefits.

POINTS FOR FURTHER DISCUSSION

- How do we develop a balanced scorecard to achieve social value outcomes?
- How much change will Government's 'Transforming Public Procurement' strategy bring about?
- What can be learned from previous schemes about creating market demand for your project programme?
- How do SMEs become able to drive social and economic value?

With thanks to **Gardiner & Theobald LLP** who acted as Technical Advisors for this event.

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Chair: Martin Rowark, Partner, Gardiner & Theobald LLP

Contributors:

Megan Carter, Senior Regeneration Manager, Portsmouth City Council
Paul Dyson, CEO, Crossrail International
Emma-Jane Houghton, Commercial Director, New Hospital Programme, Cabinet Office

Jane Jenkins, Partner, Freshfields Bruckhaus Deringer LLP
Robin Lapish, Supply Chain Manager, HS2

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Wood

For further information contact the Major Projects Association at: mpa@majorprojects.org 01865 818030 www.majorprojects.org