

Brighton & Hove City Council

Policy & Resources Committee

Agenda Item 61

Subject: Environmentally Sustainable Procurement Policy and Tender Evaluation Weightings

Date of meeting: 6 October 2022

Report of: Executive Director of Governance, People & Resources

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Ward(s) affected: All

For general release

1 Purpose of the report and policy context

- 1.1 The first part of the report sets out the proposed policy to improve environmental considerations in the Council's procurement activities to help meet the Council's Carbon Neutral 2030 program objectives.
- 1.2 Environmental considerations covered by the policy include, but are not limited to, the reduction of greenhouse gas emissions, minimising waste, protecting biodiversity and tackling the impacts of climate change. The aim is for this policy to be adopted by the three Orbis Procurement Partners (Brighton and Hove City Council, East Sussex City Council and Surrey County council) which could significantly increase its environmental impact including the effectiveness of environmental measures, simplified processes for prospective suppliers, and improved consistency across the region.
- 1.3 The report presents an options appraisal for applying 10% of the quality criteria in relevant tenders to Environmental Sustainability.

2 Recommendations

- 2.1 That the Policy & Resources Committee approves the Environmentally Sustainable Procurement Policy set out at Annex 1 on behalf of BHCC.
- 2.2 That Policy & Resources Committee delegates authority for approving any future changes to the policy to comply with legislative changes, or to ensure alignment with other approved changes to procurement policies and practice to the Chief Finance Officer in consultation with the Procurement Advisory Board.
- 2.3 That Policy & Resources Committee approves setting a default minimum sub criterion weighting of 10% of the quality criteria for environmental sustainability and approves the recommendations at 3.14 and 3.15 below.

3 Context and background information

Environmentally Sustainable Procurement Policy

- 3.1 Climate change is the single most substantial challenge our generation faces. In 2018, Brighton and Hove City Council was one of the first councils to declare a climate and biodiversity emergency. The following year, the Government announced that the UK would be net zero carbon by 2050. In 2021 the committee approved the Carbon Neutral 2030 programme in which one of the actions for procurement was to review and refresh policies as part of the city's move towards a circular economy.
- 3.2 In 2012 the committee approved the sustainable procurement policy statement, which was developed to set out how the Council would embed social, economic and environmental considerations into its procurement activities. The statement is currently split into 2 sections, one regarding environmental aspects and the other regarding Social Value. The Environmentally Sustainable Procurement policy will aim to replace the current environmental section and a stand-alone Social Value policy is currently being developed so that, together, the two new policies will replace the current sustainable procurement policy statement.
- 3.3 Orbis Procurement is a public sector shared procurement service between Surrey County Council, East Sussex County Council (ESCC) and Brighton & Hove City Council (BHCC). Orbis Procurement aims to drive efficiencies, pool resources, expertise and knowledge, create greater operational resilience and deliver greater value for money through increased standardisation and removal of duplication.
- 3.4 Contracts which are over certain financial thresholds must be procured in accordance with the Public Contracts Regulations 2015 or the Concession Contracts 2016. These regulations permit environmental criteria to be applied in a regulated procurement provided that at the award stage of a contract, they are linked to the subject matter of the contract. Award criteria are likely to be sufficiently relevant to the subject-matter of the contract if they relate to the works, goods or services to be provided under the contract. This could include how the works, goods or services are produced or provided, or how they are maintained or disposed of. For example, it would be possible to require a supplier of building materials to supply sustainably produced bricks but not to prohibit their international offices from using air conditioning. The criteria must also be proportionate.
- 3.5 The Procurement Bill which is currently at the committee stage proposes retaining the requirement that award criteria relates to the subject matter of the contract. This drafting will need to be closely monitored as the Bill progressed through the parliamentary processes and the proposed delegation to the Chief Finance Officer will enable officers to ensure that the policy is compliant with the law when it changes next year.
- 3.6 To increase the effectiveness and consistency of the policy in tackling environmental issues, as well as to widen and increase its impact and to simplify processes for the Council's prospective suppliers, the combined Orbis Procurement authorities have co-developed the policy.

- 3.7 Environmental considerations to be made to procurement activity are outlined in the policy and include, but are not limited to, greenhouse gas emissions, biodiversity net gain, natural capital recovery, circular economy, climate change adaptation, energy efficiency, pollution prevention and waste reduction.
- 3.8 Relevance and appropriateness to apply certain environmental considerations will depend on aspects such as what is being procured, value, longevity of the contract, and market readiness.
- 3.9 The policy is supplier-facing and, as a result, prepares prospective suppliers by setting out the Council's expectations regarding environmental considerations in the delivery of their goods, works and services.
- 3.10 As the Council's supply chain matures and becomes more able to meet environmental performance goals, increasingly ambitious and challenging targets can be set for suppliers, especially regarding carbon emissions, to enable the Council to reach net zero emissions targets.
- 3.11 The policy will be a live document that will be monitored and reviewed as and when required, but as a minimum annually.
- 3.12 An implementation plan to launch the policy includes presentation of the policy at Directorate Management Teams (DMTs), liaising with the Economic Development and Communications teams to list resources for Micro, Small and Medium Enterprises to access external support to adapt their business to climate change, and a planned event with the Chamber of Commerce.
- 3.13 To aid effective implementation and embedding of the policy, substantial guidance materials will be provided to officers. This material will give detailed directions about where, when and to what extent environmental measures should be applied and will develop over time as category specific interventions are tested with Directorates and other mechanisms are piloted.

Options appraisal for allocating a minimum percentage of the quality criteria to Environmental Sustainability (ES) in relevant tenders

- 3.14 To aid effective implementation and embedding of the policy, a proposed minimum 10% of the quality criteria to be allocated to Environmental Sustainability (ES) is recommended. Please see below options appraisal for various scenarios. Brighton and Hove are spearheading this approach on behalf of Orbis Procurement. This approach is not currently being adopted by the other Orbis authorities.

Option	Advantages	Disadvantages	Recommendation
Don't include ES criterion (0%)	<ul style="list-style-type: none"> • The full 100% remains available for other quality criteria • Suppliers do not need to demonstrate transition to Net zero to be considered. 	<ul style="list-style-type: none"> • Impedes our ability to implement or achieve ES policy objectives. • Unable to evaluate our suppliers' ability to meet ES requirements • Unlikely to include suppliers' ES commitments in contracts • Unable to monitor our suppliers' commitment to reducing their carbon footprint 	Not recommended

Option	Advantages	Disadvantages	Recommendation
		<ul style="list-style-type: none"> No opportunity for environmentally sustainable suppliers to capitalise on their competitive advantage 	
Include at Less than 10%	<ul style="list-style-type: none"> 91 to 99% of quality score remains available for other quality sub criteria A lower % could still be allocated to avoid including no criteria at all and enable suppliers to demonstrate their ES credentials 	<ul style="list-style-type: none"> Less impactful than allocating 10% or more Weakens the message that ES is a priority for the Council May not offer opportunity for sustainable suppliers to capitalise on their competitive advantage 	That PAB approval is required if officers are proposing a weighting of less than 10% for contracts over £1m.
Include 10% by default	<ul style="list-style-type: none"> Shows suppliers that ES is a clear council priority Sufficient for the evaluation criteria to be meaningful Will increase suppliers' awareness of the importance for the service they deliver to be environmentally sustainable Ability to include suppliers' ES commitment in contracts Opportunity to monitor Suppliers' ES credentials 	<ul style="list-style-type: none"> Only 90% of the quality criteria remains for other criteria Suppliers who do not demonstrate transition to Net Zero will be at a disadvantage 	Recommended as the default for all contracts bar the exceptions outlined at paragraph 3.15 below.
Include at greater than 10%	<ul style="list-style-type: none"> Shows suppliers that ES is a clear council priority Opportunity for sustainable suppliers to capitalise on their ES investments and use their competitive advantage in this respect Ability in include suppliers ES commitment in contracts Opportunity to monitor Suppliers' ES credentials Opportunity to drive ES innovation 	<ul style="list-style-type: none"> Will reduce availability of % for other criteria which may be more relevant for the contract Suppliers who do not demonstrate transition to Net Zero will be at a disadvantage Likely financial implication for the council but not when whole life costs, including environmental impact, are taken into account fully 	A weighting of more than 10% should be used in appropriate circumstances where ES opportunity is high, following consideration of financial and legal implications.

3.15 There will be situations where a 10% weighting is not appropriate: it is not possible to provide an exhaustive list but this might be because it is not proportionate (and therefore lawful), because it is not permitted under the Framework Agreement/ Dynamic Purchasing System being used or because it is not possible to link criteria to the subject matter of the contract. In these situations, officers will not impose the default 10% weighting and where the contract value is over £1m, officers will provide an explanation to PAB.

3.16 It should be noted the recommended minimum of 10%, is, as stated, the minimum default weighting for relevant tenders. Where proportionate, relevant, affordable and within legal parameters, officers will aspire to

increase this percentage. Due regard must be given to other elements of the qualitative weighting to ensure the best possible service is procured.

4 Analysis and consideration of alternative options

- 4.1 The alternative option to retain the current Sustainable Procurement Policy would be a missed opportunity to send a clear message to the council's supplier base that Environmental Sustainability is a priority for the Council. It would also be a missed opportunity to work collaboratively with partner authorities who share our carbon neutral objectives and to therefore have greater impact regionally. This co-produced policy is a great example of where the Orbis partner authorities have pooled resources and research to achieve a better outcome for the region. Climate change is a global issue and working in isolation would limit both our efficiency and effectiveness in tackling environmental issues impacting Brighton and Hove and the wider region.

5 Community engagement and consultation

- 5.1 The Environmentally Sustainable Procurement Policy has been created and consulted with input from service leads and officers from relevant teams across the partnership including service leads and officers from relevant teams within BHCC, ESCC and SCC
- 5.2 The policy was presented at the BHCC Procurement Advisory Board (PAB) in June 2022 where it was cleared to proceed for approval at Policy & Resources Committee.
- 5.3 Comments and feedback received during the consultation phases with senior officers and Members have been addressed and taken into account in the planned implementation to ensure the successful launch of the policy.

6 Conclusion

- 6.1 The Environmentally Sustainable Procurement Policy and its associated outcomes is a vital step to ensure our suppliers understand the Council's expectations and are enabled to support the Council's Carbon Neutral journey and ambitions, and will ensure that environmental considerations are embedded throughout the work of the council.
- 6.2 Together with allocating 10% of the quality criteria to Environmental Sustainability, it is an important tool to encourage suppliers and contractors to align themselves with the Council's commitments and reduce their negative impacts on the environment. This approach will drive the right behaviours and reward suppliers who are actively working towards becoming Carbon Neutral.

7 Financial implications

- 7.1 The financial implications of the proposed policy changes are difficult to determine with accuracy. In many cases, there will be minimal impact as many suppliers are using innovation and investment to offer increasingly sustainable products and services at similar cost. In other cases, for example, where markets are less developed or competitive, a higher environmentally sustainable requirement will normally result in increased costs of goods or services.
- 7.2 However, environmental impacts clearly have a wider cost than just the direct contract price and therefore while contracts offering a high degree of

sustainability may have a higher direct cost, when looking at 'Environmental Full Cost Accounting', which takes into account the long term effects on health and well-being and supply chains (including food), the cost may well be lower. This is currently an area of academic research which is attempting to provide standardized costing approaches but there is no recognized standard to date.

Finance officer consulted: Nigel Manvell Date consulted: 23/08/22

8 Legal implications

- 8.1 The legal implications are set out in the body of the report.

Name of lawyer consulted: Alice Rowland. Date consulted: 07/09/22

9 Equalities implications

- 9.1 An Equalities Impact Assessment was considered for the policy due to its potential to influence procurement activities, however, it was determined that there were no clear implications or impacts of this policy upon any specific groups of residents, communities or staff. Individual projects to which this policy applies may require EIAs to be undertaken early in their development to ensure that any impacts associated with its application are understood and to ensure that the Council can meet its equality duty.

10 Sustainability implications

- 10.1 It is the purpose of the policy to have a positive impact on all sustainability themes in the Sustainability implications checklist (Annex 3) and to support the wider goals of the city's Carbon Neutral 2030 commitment. The policy will provide an opportunity to drive suppliers toward the provision of more sustainable goods and services and encourage them to invest in innovation and change to improve future products for the benefit of the environment. The policy enables monitoring of progress and can be periodically reviewed as advances are made and potentially more ambitious targets can be considered in future.

11 Social Value and procurement implications

- 11.1 Although most additions of environmental considerations to procurement activities will be done through core requirements, it is anticipated that the policy will also help the inclusion of Environmental Social Value outcomes, for example by seeking biodiversity improvements and climate adaptation solutions from suppliers where relevant and appropriate.

12 Crime & disorder implications:

- 12.1 None identified

13 Public health implications:

- 13.1 The design and implementation of the policy and weighting allocation is aimed at helping the council to deliver its carbon Neutral 2030 programme. In doing so it should reduce air pollution in the region, reduce the use of environmental damaging and unsustainable materials and increase biodiversity, thereby bringing about public health co-benefits such as reduced premature mortality and prevalence of chronic diseases.

Supporting Documentation

Appendices

1. [Environmentally Sustainable Procurement Policy](#)



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2. [Example tender criteria](#)



Example Tender
Quality Criteria.docx

3. [Sustainability checklist for report writers](#)



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