

APPENDIX 1a : Social Clauses : April SP&R Report on Social Clauses



Belfast
City Council

STRATEGIC POLICY AND RESOURCES
COMMITTEE

Subject:	Social Clauses - Update and policy adoption
Date:	24 April 2015
Reporting Officer:	Gerry Millar, Director of Property and Projects, ext 6217 John McGrillen, Director of Development, ext 3470
Contact Officer:	Lisa Toland, Head of Economic Initiatives and International Development, ext 3427 Donal Rogan, Head of Contracts, ext 2460

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

1.0	Purpose of Report
1.1	To update members on the outcomes of the consultation on the draft Belfast City Council Social Clause Policy and to adopt the policy and associated guidelines.
2.0	Recommendations
2.1	<p>Members are asked to:</p> <ul style="list-style-type: none"> – Adopt the revised draft policy document subject to a further equality screening process – Approve the internal staff guidance note for application of the policy – Note the feedback responses to the consultation (summary in appendix and full document available in Members' library) – Agree with the proposals to review the policy within 18 months, in line with the new council powers specifically in the area of economic development, community planning, planning gain and regeneration – Approve the inclusion of social clauses in council contracts with third party organisations – Note and agree the potential to vary the 12 month definition of long-term unemployed to 6 months, in the case of youth unemployed, or where there are specialist skill sets required – on a case-by-case basis.

APPENDIX 1a : Social Clauses : April SP&R Report on Social Clauses

3.0	Main report																																			
3.1	<p><u>Key Issues</u></p> <p>Members may recall that the council made a commitment through its 2012-15 Investment Programme to incorporate social clauses, where possible, in capital and revenue contracts. Approval was given to develop a social clause policy for the council in order to provide direction on how and when social clauses should be integrated into council contracts and managed post-contractor appointment.</p>																																			
3.2	<p>Members previously agreed that all contracts should be screened for the potential inclusion of social clauses and that these should be incorporated as follows:</p> <ul style="list-style-type: none"> - Capital and revenue contracts with a minimum labour value of £250,000 and a duration of at least six months - Construction Industry Federation (CIFNI) clauses to be used in the first instance. 																																			
3.3	<p>In keeping with good practice, it was agreed that social clauses needed to be germane to the project: sometimes conditions would dictate that it was more appropriate to focus on long-term unemployed opportunities than those for apprentices or FE students – and vice versa.</p>																																			
3.4	<p>The outcomes of each of each of the clauses are monitored through the council's contract management regime and the position as at the end of March 2015 is summarised in the table below. A more detailed breakdown is available to members on request.</p>																																			
<table border="1"> <thead> <tr> <th data-bbox="295 1308 603 1406">Project</th> <th data-bbox="608 1308 852 1406">Opportunities for Unemployed</th> <th data-bbox="857 1308 1043 1406">Apprentices employed</th> <th data-bbox="1048 1308 1235 1406">Students employed</th> <th data-bbox="1240 1308 1449 1406">Training for Success</th> </tr> </thead> <tbody> <tr> <td data-bbox="295 1413 603 1512">Connswater (ARUP)</td> <td data-bbox="608 1413 852 1512">1 person (permanent post)</td> <td data-bbox="857 1413 1043 1512">10 people</td> <td data-bbox="1048 1413 1235 1512">3 people (80 weeks)</td> <td data-bbox="1240 1413 1449 1512">-</td> </tr> <tr> <td data-bbox="295 1518 603 1617">Connswater (Farrans)</td> <td data-bbox="608 1518 852 1617">TBC</td> <td data-bbox="857 1518 1043 1617">TBC</td> <td data-bbox="1048 1518 1235 1617">1 person (30 weeks)</td> <td data-bbox="1240 1518 1449 1617">1 person (30 weeks)</td> </tr> <tr> <td data-bbox="295 1624 603 1722">Waterfront (WH Stephens)</td> <td data-bbox="608 1624 852 1722">1 person (permanent post)</td> <td data-bbox="857 1624 1043 1722">1 person</td> <td data-bbox="1048 1624 1235 1722">4 people</td> <td data-bbox="1240 1624 1449 1722">-</td> </tr> <tr> <td data-bbox="295 1729 603 1827">Waterfront (McL&H)</td> <td data-bbox="608 1729 852 1827">5 people (65 weeks)</td> <td data-bbox="857 1729 1043 1827">3 people</td> <td data-bbox="1048 1729 1235 1827">1 person (17 weeks)</td> <td data-bbox="1240 1729 1449 1827">2 people (5 weeks)</td> </tr> <tr> <td data-bbox="295 1834 603 1933">Waterfront (Harvey Group)</td> <td data-bbox="608 1834 852 1933">-</td> <td data-bbox="857 1834 1043 1933">5 people</td> <td data-bbox="1048 1834 1235 1933">-</td> <td data-bbox="1240 1834 1449 1933">-</td> </tr> <tr> <td data-bbox="295 1939 603 2033">Girdwood (OHMG)</td> <td data-bbox="608 1939 852 2033">4 people (57 weeks)</td> <td data-bbox="857 1939 1043 2033">4 people</td> <td data-bbox="1048 1939 1235 2033">3 people (74 weeks)</td> <td data-bbox="1240 1939 1449 2033">4 people (46 weeks)</td> </tr> </tbody> </table>		Project	Opportunities for Unemployed	Apprentices employed	Students employed	Training for Success	Connswater (ARUP)	1 person (permanent post)	10 people	3 people (80 weeks)	-	Connswater (Farrans)	TBC	TBC	1 person (30 weeks)	1 person (30 weeks)	Waterfront (WH Stephens)	1 person (permanent post)	1 person	4 people	-	Waterfront (McL&H)	5 people (65 weeks)	3 people	1 person (17 weeks)	2 people (5 weeks)	Waterfront (Harvey Group)	-	5 people	-	-	Girdwood (OHMG)	4 people (57 weeks)	4 people	3 people (74 weeks)	4 people (46 weeks)
Project	Opportunities for Unemployed	Apprentices employed	Students employed	Training for Success																																
Connswater (ARUP)	1 person (permanent post)	10 people	3 people (80 weeks)	-																																
Connswater (Farrans)	TBC	TBC	1 person (30 weeks)	1 person (30 weeks)																																
Waterfront (WH Stephens)	1 person (permanent post)	1 person	4 people	-																																
Waterfront (McL&H)	5 people (65 weeks)	3 people	1 person (17 weeks)	2 people (5 weeks)																																
Waterfront (Harvey Group)	-	5 people	-	-																																
Girdwood (OHMG)	4 people (57 weeks)	4 people	3 people (74 weeks)	4 people (46 weeks)																																

APPENDIX 1a : Social Clauses : April SP&R Report on Social Clauses

	Girdwood (Harvey Group)	-	4 people	-	-
	Girdwood (Contract Services)	-	10 people	-	-
	Girdwood (Brickwork)	-	3 people	-	-
	Kerbside collection	3 people (29 weeks)	-	1 person (25 weeks)	-
	Cliftonville School and Pitch	1 person	2 people	-	-
		15 people	42 people	13 people	7 people
3.5	<p>Pinsent Masons were appointed to develop a social clause policy and guidance document for the council. At the September 2014 meeting of SP&R Committee, a draft social clause policy was presented to members and approval was provided to issue the draft policy for public consultation. The policy was subsequently issued for public consultation in December 2014 with a deadline for responses of 24 February 2015. 11 responses were received.</p>				
3.6	<p>A review of consultation responses has revealed a range of recommendations for consideration, some of which can add value to the policy, others of which may be impractical to adopt. Some of the key responses included:</p> <ul style="list-style-type: none"> - The need for monitoring, post-implementation review and assessment of impact of Council's social clause policy at appropriate intervals - A desire to move social clauses beyond the current focus on jobs - A need for appropriate guidance and raising awareness of social clauses among suppliers - Encouragement for the council to contribute to the planned review of CIFNI clauses and work undertaken by Strategic Investment Board (SIB) - Encouragement for the council to look at how it deals with non-compliance with social clauses in terms of a breach of contract - Need for the policy to focus on commissioning for 'outcomes' as well as promoting co-production and commissioning models. 				
3.7	<p>Consideration has been given to all comments – many of which are about application of the policy and are supported with the addition of the staff guidance (attached as Appendix 2). A full compendium of the responses and officer comments to each of the comments are</p>				

APPENDIX 1a : Social Clauses : April SP&R Report on Social Clauses

	<p>available in the members' library for information. The revised Draft Social Clause Policy in Appendix 1 highlights the suggested changes to the policy in <i>bold italic text</i> and, in cases where text has been removed, using <i>strikethrough text</i>.</p>
3.8	<p>In addition to the public consultation, briefings have taken place across party groups and chief officers have met and corresponded with a number of organisations to promote the draft policy approach and seek support for a wider integrated brokerage arrangement. These organisations include SIB, DCAL, DEL, Belfast Harbour Commission, ARC 21 and University of Ulster. Whilst all support the concept, discussions are still at an early stage.</p>
3.9	<p>While the policy sets out the broad approach that the council plans to take, experience to date has shown that there are challenges at all stages of the process, particularly in terms of contractor compliance, data collection and overall monitoring and management. This challenge needs to be set in the context of the current political expectation around what social clauses can deliver and the level of resources that need to be allocated to their development and management. While the impact of social clauses and the added value that they bring should not be underestimated, it is considered that they should be looked at as one of a range of mechanisms that the council can access to support economic regeneration through its spend. To put this in context, the council's HR department has supported the creation of 402 permanent job opportunities and 337 temporary job opportunities since the commencement of the Investment Programme. Equally, they have facilitated 690 work placements and 39 "job assist" interventions with LEMIS providers and have provided 95 places on pre-employment and training programmes for the long-term unemployed, resulting in 12 people gaining both permanent and temporary employment.</p>
3.10	<p>The development of the Belfast Agenda and an outcomes-based accountability approach will provide a framework in which this policy can evolve further. This will mean that the council can take account of the wider implications of its interventions and look at how its remit for economic and social regeneration can be delivered. In this context, it is proposed that the policy should remain open to review, with a full review to take place within 18 months – in line with the new powers and areas of responsibility being devolved to the council.</p>
3.11	<p>Social clauses are now being implemented in most government contracts. The broad criteria for determining whether or not social clauses should be included are reflected within the policy. However, at this point, clauses are developed on a project-by-project basis and there is no oversight or joint planning across projects in order to create a pipeline of capital</p>

APPENDIX 1a : Social Clauses : April SP&R Report on Social Clauses

	<p>investment to sustain opportunities for shared apprenticeships. Given the scale of the council's capital programme and its overall budget, it is difficult to create economies of scale. It is considered that there would be an opportunity to make a much more significant impact if greater alignment could be secured between the work of the council and that of the government departments and other statutory partners.</p>
3.12	<p>At present, DEL takes the lead in working with government departments to help contractors fulfil their employment-related social clauses. This is done by putting them in contact with their Jobs and Benefits Offices or relevant DEL-funded training providers. However, recent changes to DEL mainstream programmes mean that there is no longer a requirement for participants to undertake work placements. This means that contractors are reporting some difficulty in being able to get access to relevant individuals for work placement-based social clauses. However issues of non-compliance are not necessarily picked up as the project monitoring activity currently only takes place at the end of the project.</p>
3.13	<p>Belfast City Council has taken a slightly different approach. Although contractors are still working with DEL and their training providers, we have been monitoring compliance much more rigorously and as the project progresses. This means that we are able to pick up instances of non-compliance at a much earlier stage and address these in time. Despite this, contractors still suggest that they are having difficulty in accessing candidates and they have expressed a need to have a single point of contact with responsibility for the work placements/apprentices so that any performance issues can be addressed more easily and replacement candidates sourced as soon as possible if one person leaves. The Equality Screening also suggested it would be useful for the council to develop a list of suitable agencies that could be contacted by contractors to highlight upcoming employment opportunities. This would help us to target those experiencing long term unemployment and help support key target groups e.g. those with a disability.</p>
3.14	<p>For contractors, employability-related social clauses are the most challenging to deliver. Whilst it is the ambition of council that these clauses benefit Belfast residents, there continues to be a number of practical challenges. The complexity of employability and skills provision across the city and mismatch in demand and supply creates a challenging environment for contractors to navigate and increases the risk of non-compliance.</p>
3.15	<p>One possible solution is to consider integrating contract conditions to any future match funding requests for ESF or other employability-related projects that the council might support. Through this approach, we could make it a condition of the financial assistance</p>

APPENDIX 1a : Social Clauses : April SP&R Report on Social Clauses

	<p>that training organisations would work with contractors to promote the opportunities in the target areas and ensure that job seekers are equipped with the appropriate skills to meet contractor requirements. We would be able to monitor progress through the regular monitoring reports from the training organisation, and could cross-reference this with the reports from the contractor. In addition this model may prove a useful mechanism for the anchor institutions across the city to buy in to in order to meet their social clause requirements. DCAL has already taken a step towards this by appointing a “brokerage” to help contractors fulfil their social clauses. There is ongoing engagement between the council, DEL, DCAL and the other departments to understand the pros and cons of the various approaches and to work out the most appropriate mechanism for the council to ensure that its employment-related social clause obligations can be met.</p>
3.16	<p>One specific issue that has been identified in recent months is the definition of long-term unemployed for the purposes of the social clauses. At present, this is defined as a person who is at least 12 months unemployed. Whilst this definition supports the delivery of the ‘Real Jobs Now’ motion approved by the council, practical experience of social clauses highlights the need for flexibility for the following reasons:</p> <ul style="list-style-type: none">– Some contracts procured by council are specialist in nature requiring specialist skill sets which may not be available in the available pool of LTU– Central Procurement Directorate (CPD) is currently reviewing advice from the Department for Employment and Learning (DEL) to reduce the definition of LTU from 12 to 6 months for the 18-24 age category. The rationale for this advice is to tackle the high level of unemployment experienced amongst 18-24 year olds and to prevent this age group progressing into ‘true’ LTU definition of 12 months or more.
3.17	<p>Whilst it is the intention of council that employability social clauses will be targeted towards the long term unemployed (i.e. 12 months+), it is proposed that consideration be give to varying this – on a case-by-case basis – in order to support access to opportunities for young people or to support contractors in accessing specialist skills sets.</p>
3.18	<p>The Strategic Investment Board (SIB) has recently produced a toolkit for social clauses and supporting a wider “buying social” agenda. This provides useful case studies and sets out protocols for introduction and management of social clauses. The toolkit is advisory only and it does not set any specific requirements on government bodies or other agencies to introduce social clauses. SIB is also undertaking a wider review of approaches to social clause management across the government departments, with a view to identifying challenges and proposing potential solutions to improve performance.</p>

APPENDIX 1a : Social Clauses : April SP&R Report on Social Clauses

<p>3.19</p>	<p><u>Financial and Resource Implications</u></p> <p>There is no evidence to suggest that the inclusion of social clauses increases the cost charged to the council. The monitoring and management of the policy to date has been absorbed within the existing resources across departments. However this will be kept under review in line with competing priorities and challenges that this work creates.</p>
<p>3.20</p>	<p><u>Equality or Good Relations Implications</u></p> <p>This policy has been screened out during the equality screening process. Two respondents to the consultation asked that a full equality impact assessment (EQIA) of the policy be performed. Further advice has been sought and this suggests that an EQIA would not provide further clarity. However, because of this request, the council will re-screen the policy due to obligations set out under Section 75 of the Northern Ireland Act 1998. This re-screening does not necessarily prevent adoption of the policy: any changes required can be incorporated into the policy document.</p>
<p>4.0</p>	<p>Appendices</p>
	<p>Appendix 1 – Social Clauses update and policy adoption - Revised Draft Social Clause Policy</p> <p>Appendix 2 – Social Clauses update and policy adoption - Draft guidance for implementation of social clause policy</p> <p>Appendix 3 – Social Clauses update and policy adoption - Brief analysis of responses to draft council social clause policy</p>