

SETTING THE SCENE (Pauline Graham, CEO, Social Firms Scotland)

SFS has been at the forefront of trying to influence procurement policy and practice and represent the interests of the social enterprise community for the best part of 12 years - So what's changed in that time? The public procurement market in Scotland is now worth more than £11 Billion annually - so it's an important existing and potential market for social enterprises as well as SMEs.

A key catalyst in transforming public procurement came in 2006 with the McClelland Review of Public Procurement in Scotland which pointed to a fragmented landscape. The 10 year Procurement Reform programme that followed (under the leadership of John Swinney), has enabled significant improvements in policy terms which in turn has led to improved process and practice – but have behaviours really changed and have suppliers noticed a difference? Well today we have an opportunity to debate these issues.

A top priority of the reform agenda is to use public spending as a driver of economic growth while continuing to deliver value for the taxpayer and better outcomes for those in receipt of public services. We now have a single portal for all public contracts, Centres of Expertise in the local government, central government, health and education sectors - an approach that provides a more stable governance structure and allows for greater collaboration – and a commitment to make sustainable procurement business as usual.

Some would argue - and they do - that transformation of Public Procurement has put Scotland very much at the forefront of international best practice. And with the introduction of recent legislation through the Procurement Reform Scotland Act and new EU Directives, we should begin to see further improvements. Contracting authorities now have a duty to publish annual procurement strategies and performance reports to demonstrate how they are meeting the duties in the Act.

New legislation over the past few years is opening up opportunities to make a greater impact on sustainability imperatives – and greater access for social enterprises. And whilst social value is a concept that pre-dates the Procurement Reform Scotland Act 2014, the sustainable procurement duty in particular does provide a useful statutory understanding of what the phrase actually means:

That is- that contracting authorities must consider how they can support *improved economic, social and environmental wellbeing, reduce inequality, promote innovation, increase access to opportunities for Scottish based enterprises, and create jobs for our young people and those with barriers to work*. There also exists scope to *reserve certain contracts* – for Scotland’s Supported Businesses –supporting more individuals who have barriers to work to enter sustainable employment. This represents the realm of the possible...

Whilst the principles of transparency and equal treatment will always be adhered to, embedding sustainability at the centre of procurement is now an explicit focus. And that’s important because the economic climate over the past decade or so has shifted from one of growth and optimism to austerity and budget cuts – and I think this brings into sharper focus a clear case for sustainable procurement – and our sector has significant contribution to make.

Social enterprises and supported businesses can help public bodies deliver on a range of sustainability outcomes. However the role of social enterprises should **not** be seen as an opportunity to achieve cost savings by driving down quality. Instead, the flexibility of the social enterprise model should be harnessed to **improve** quality, help public bodies deliver on their policy objectives and contribute to service innovation.

But this is not merely an economic argument - demand pressures on public services are increasing - due to demographic and public health challenges of huge proportion so in one sense we can’t afford not to invest time and effort in doing things differently.

Embedding social value in procurement can help to tackle:

- the impact of spending cuts by encouraging new service delivery models
- support more local job creation through community benefits
- widen the market and increase choice
- support Fair work practices – and although laudable, we need to learn lessons from implementation of fair work in a social care context, where the funding to resource the living wage for example is not sufficient and therefore the risk lies with the providers
- allow service users to have a voice in the services they need and want
- and increase innovative approaches from commissioning through to delivery

Flexibilities now exist to do things differently - we need to start to see a fundamental shift in perceptions and behaviours from what 'procurement rules say isn't permitted - to the art of the possible. We have new tools in the box - In the light touch regime – for example, there exists an ability to direct award certain health & social care contracts, commissioners have a blank procedural canvas permitting more flexibilities and innovation.

But it's early days - The impact and benefits of the new legislation have yet to be realised but while the mood music is encouraging, I'm still sounding like a broken record feeding in concerns from our members and SEs who report all too familiar and entrenched challenges about procurement practice – requests for information disproportionate to the value of the contract, limited market engagement, short deadlines, limited CB requirements and insufficient weighting, lack of supply chain opportunities and a propensity to structure and award contracts on the basis of lowest cost.

If we consider for a moment the commissioner's role in this and that the long-term direction of public service reform is set – it implies increasingly localised, preventative and personalised public services. I appreciate that supplier capabilities, particularly the smaller social organisations need to transition accordingly if the sector is to take on a greater role, and we hope that P4P programme will be helpful here. But public sector commissioning and procurement approaches also need to be bolder, more risk pragmatic than risk averse - and create the conditions for a more mixed economy of provision to deliver greater social impact.

Our experience of delivering SG's developing markets for TS providers programme over 6 years gave us an insight into commissioning and procurement developments across local authorities, NHS and Health & social care integration and it's a complex environment. An appetite to engage the TS and SE is evident and we identified a lot of good practice, however, the pace and depth of change needs to accelerate.....and quite frankly all the guidance in the world won't make that happen.

Key to this is improved relationships between the role of the commissioner and procurement. Bringing innovation to the commissioning process at the front end should in turn mean innovation follows through to delivery and that is both the challenge and the opportunity for those who have responsibility for commissioning services.

But it's my experience that innovation gets a bit lost – if we are to see a difference in behaviours this will require greater degrees of clarity, confidence, capacity and best practice examples to ensure that what might appear risky in the public procurement arena doesn't mean reverting to the tried and tested way of doing things.

A few final thoughts on an ideal world:

- In the context of sustainability outcomes – commissioners need to think less about **process** – and more about **purpose!**
- seek ways to maximise wider economic and social impact, by embedding community benefit clauses in contracts and measure their impact (we won't know if we are achieving social impact unless we measure it)
- don't revert to frameworks without a rationale for doing so - and unbundle contracts where possible to allow smaller providers to participate
- engage with the TS market to stimulate innovative approaches to service delivery;
- involve service users in informing service specifications where practicable
- consider how sustainability outcomes and innovation can be met by considering a range of options already at play in Scotland – the light touch regime in social services; public social partnerships to redesign services – consider alliance contracting and innovation partnerships amongst others..

So if we accept that the commissioning landscape has more flexibilities - then Procurement, within the scope of the law, should no longer be perceived as the barrier or blocker to innovation and reform – but viewed an enabler of it.

Policy imperatives at a point in time still tend to drive budgets. And so decisions about how to spend it tend to be constricted by budget cycles and financial years rather than giving commissioners and decision makers sufficient time to analyse, plan, do and review. Even in a grant fund context, swift announcements and short deadlines drive bidding wars rather than the funds being underpinned by a clear strategy around what services are actually needed, where gaps exist or where service improvements and efficiencies are required.

I think considerable progress had already been made across the public sector in terms of their commitment to sustainable procurement– but much more can be done if we are to be regarded as a country that is truly progressive.