

Social Value - Whitepaper

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How do you include and measure social value in tenders and contracts and ensure that bidder responses become a qualitative commitment?

Overview

- The legal position
- Guidance
- Current practical examples

When do I start thinking about social value?

Pre-procurement considerations

- Requirement to make all procurement documents available from the time the advert is published (Regulation 53 of the PCR 2015)
- Ability to engage with the market to consult on social value – what can the market offer and what is realistic? See Regulations 40 and 41 of the PCR 2015

Public Services (Social Value) Act 2012

- Applicable to procurements of services (or mixed services and goods/works)
- Pre-procurement must consider (where relevant and proportionate), and also must consider whether to consult on:
 - How what is proposed to be procured might improve the economic, social and environmental wellbeing of the area
 - How, in conducting the process of procurement, it might act with a view to securing that improvement

Public Contracts Regulations 2015

- **Compliance:** Does the tenderer comply with environmental, social and labour law requirements? If not, it could be excluded under the discretionary grounds for exclusion found in Regulation 57(8)(a) and Regulation 56(2)
- **Evaluation:** The decision to award (which must be to the most economically advantageous tender) can expressly **include** environmental and/or social aspects if linked to the subject matter of the contract under Regulation 67(2)
- **General principles:** Regulation 18: equal treatment, non-discrimination, transparency, proportionality and avoiding artificial narrowing of competition

Structuring the social value requirements

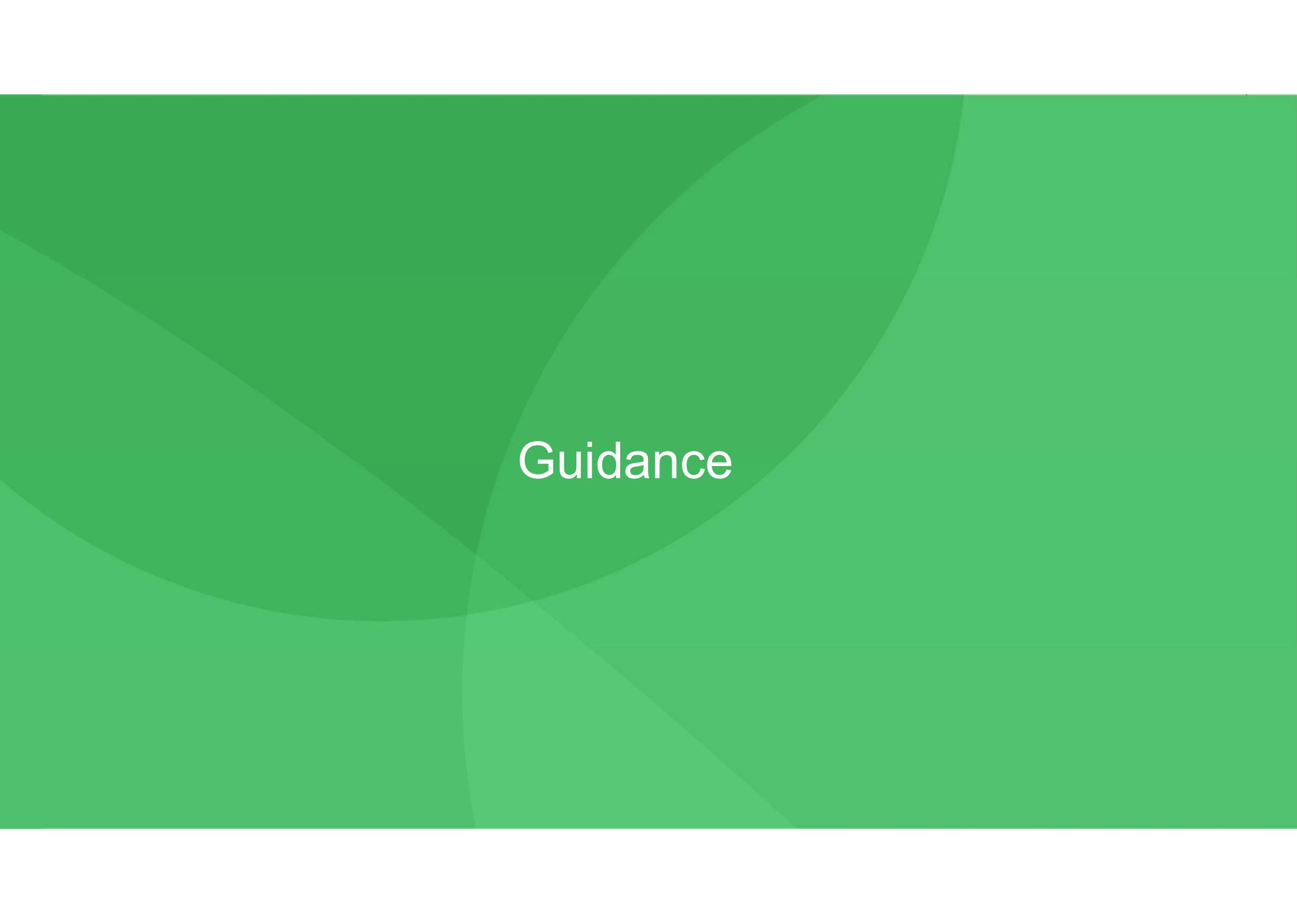
Mandatory requirements and quality questions

Must Haves

- Technical specification
- Mandatory “pass/fail” requirements
- Legal requirements (e.g. labour laws)
- Environmental standards

Evaluated

- Quality Questions

The background is a solid green color with several overlapping, semi-transparent leaf-like shapes in a slightly darker shade of green. The word "Guidance" is centered in the middle of the image in a white, sans-serif font.

Guidance

PPN 06/20

- [Procurement Policy Note 06/20 – taking account of social value in the award of central government contracts - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/policies/taking-account-of-social-value-in-the-award-of-central-government-contracts)
- Minimum 10% of marks for social value.
- [B1030-applying-net-zero-and-social-value-in-the-procurement-of-NHS-goods-and-services-march-2022.pdf \(england.nhs.uk\)](https://www.england.nhs.uk/publications/b1030-applying-net-zero-and-social-value-in-the-procurement-of-nhs-goods-and-services-march-2022.pdf)
- LGA 1988 specifically amended to permit social value considerations under Section 11

National Procurement Policy Statement

- [PPN 05 21-
National Procurement Policy Statement.pdf
\(publishing.service.gov.uk\)](#)
- Applicable to all contracting authorities
- Requirement to consider national priority outcomes alongside any additional local priorities:
 - Creating new businesses, new jobs and new skills
 - Tackling climate change and reducing waste, and
 - Improving supplier diversity, innovation and resilience.

The Social Value Model – PPN 06/20

- 5 Themes
- Model Award Criteria (“MAC”)
- MAC sub-criteria
- Example questions
- Examples of how metrics might translate into the contract

- [Social-Value-Model-Quick-Reference-Table-Edn-1.1-3-Dec-20.pdf \(publishing.service.gov.uk\)](#)
- There is then flexibility to choose between the 5 themes of
 - Covid 19 recovery
 - Tackling economic inequality
 - Fighting climate change
 - Equal opportunity
 - Wellbeing

Examples

Examples

- **Theme 1:** Covid 19 recovery:
- Ask suppliers to write a method statement describing how and when they will achieve goals of creating return to work opportunities, flexible working and remote working patterns.
- Measured against creating employment opportunities, particularly in industries with known skills shortages, and/or against support to the workforce including career advice, and/or mentoring

Examples

- **Theme 2:** Tackling economic inequality:
- Ask suppliers to describe how they will engage new and diverse suppliers in the supply chain.
- Assess how supply chain opportunities are promoted and advertised, the extent to which meet the buyer events are hosted by prime contractors, structuring the supply chain process in a way which supports new and diverse suppliers, and prompt payment.

Examples

- **Theme 3:** Fighting climate change:
- Ask suppliers about activities which demonstrate and describe the tenderer's additional environmental benefits in the performance of the contract, and/or how they are working to net zero.
- Measured against demonstrable reduced emissions, use of low/zero carbon vehicles, biodiversity initiatives in the local area.

Examples

- **Theme 4:** Equal opportunity:
- Increased representation of disabled and disadvantaged people in the contract workforce and/or supporting development of new skills and/or gaining of qualifications relevant to the contract.
- Measured against how the supplier's own workforce promotes an inclusive working environment, retention and career progression of disabled and disadvantaged people.

Examples

- **Theme 5:** Well-being
- Ask suppliers about programmes to support the physical and/or mental wellbeing of staff, and/or the enhancement of working conditions and environment, including for wider community benefits such as access to greenspace.
- Measured against staff take up of initiatives, programmes delivered, projects completed and/or staff satisfaction surveys undertaken.

Contract Management

Practical Guidance

- [The National TOMs - Social Value Portal](#)
- [B1030-applying-net-zero-and-social-value-in-the-procurement-of-NHS-goods-and-services-march-2022.pdf \(england.nhs.uk\)](#)
- [Social-Value-Model-Quick-Reference-Table-Edn-1.1-3-Dec-20.pdf \(publishing.service.gov.uk\)](#)

Example

Quarter	Year	Ratings based on the total percentage of full-time equivalent (FTE) disabled people employed under the contract, as a proportion of the total FTE contract workforce			
		Good	Approaching target	Requires improvement	Inadequate
Apr-May-Jun	2021	1.5%	1.0%	0.5%	below 0.5%
Jul-Aug-Sep	2021	2.0%	1.5%	1.0%	below 1.0%
Oct-Nov-Dec	2021	2.5%	2%	1.5%	below 1.5%
Jan-Feb-Mar	2022	3.0%	2.5%	2%	below 2%
Apr-May-Jun	2021	3.5%	3.0%	2.5%	below 2.5%
etc ...					

Case law

- Gebroeders Beentjes v Netherlands (1990)
- Concordia Bus Finland (2003)
- EVN (2004)
- Dutch Coffee Case (2013)
- C-552/13 Grupo Hospitilario

Thank you

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The information in this presentation is general in nature and is not intended to apply to specific circumstances.
It should not therefore be regarded as constituting legal advice.