

# **WEST DUNBARTONSHIRE COUNCIL**

## **Report by the Interim Executive Director of Social Work and Health**

**Education and Lifelong Learning Committee: 11 March 2010**

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**Subject: Scottish Government Consultation on Social Care Procurement Guidance**

### **1. Purpose**

- 1.1** This report advises members of the publication of the Scottish Government's draft guidance on Social Care Procurement in Scotland and our departmental response to it.

### **2. Background**

- 2.1** All local authorities in Scotland engage in social care procurement, this involves a range of activities including market analysis, options appraisal, tendering and contracting for care services for some of the most vulnerable people in our communities. There are issues of policy, procedure and practice in relation to these activities and there has been a growing consensus that national guidance should be produced to outline the legislative and policy context; detail the principles that must govern all social care procurement activity; and suggest useful ways to structure and conduct that procurement activity.
- 2.2** This guidance has been issued in draft form and is now open to consultation. It has been produced by the Scottish Government's Procurement Directorate and the Joint Improvement Team following a programme of work to prepare the guidance and produce good practice materials. This work has been agreed by a national reference group which had representation from a wide group of stakeholders including the Association of Directors of Social Work (ADSW), service provider organisations, regulators, service user group and carers representatives, Scotland Excel and several Scottish Government Agencies or Departments.
- 2.3** The consultation is open until 5<sup>th</sup> April 2010 and this report highlights what our response will comment upon.

### **3. Main Issues**

- 3.1** The guidance includes detailed chapters on guiding principles, policy context, legislative context and local policy, strategy and approach. This section of the guidance is comprehensive and technical but makes a good case as to why the procurement of social care services, whilst guided by the same procurement principles, regulations and directives, should be the subject of a distinct set of standing orders and financial regulations which set limits, responsibility and authority for decision making and defines the role of the Chief Social Work Officer in relation to procurement. In this section the guidance could perhaps be more specific about an authority's duty of care and how in some circumstances there may be cases where individual needs take precedence over procurement best practice.

- 3.2** In the section on local policy, strategy and approach, having earlier defined procurement as “the process by which a local authority purchases goods and services identified in its commissioning strategy” the guidance states that commissioning strategies should “establish both a long term (10 – 15 year) vision and detailed plans for service requirements during that period”. The guidance is slightly unclear at this point, and confuses the case of whether it proposes a single strategy or indeed commissioning strategies for each care group. It goes on to propose the latter, but the guidance will need to make clearer the relationship between the two.
- 3.3** In West Dunbartonshire Council we have a Local Procurement Policy approved by the Corporate and Efficient Governance Committee in November 2009 which highlighted the need for the Council to support Small and Medium Enterprises (SMEs) and Social Economy Enterprises in their activity around procurement in the public sector. This is equally true in social care and indeed the Guidance whilst mentioning these types of organisation could be clearer about the important role these types of organisations can and will play now and into the future.
- 3.4** The guidance further proposes that “all local authorities should have dedicated policies and procedures for social care services which recognise the complex and diverse needs of people who use social care services and their carers”. It goes on to provide a framework and set of principles for establishing this policy and procedures. This proposal to have a separate and distinct process which recognises that whilst procurement of social care must be done in a way that complies with existing competition and accountability rules it has sufficient distinguishing features to make it worthy of its own local approach.
- 3.5** The Social Work and Health Department already has a guide to purchasing and contracting but this will need to be updated in the light of this guidance. In updating these in line with the proposal in the draft guidance it will be necessary to work with colleagues in Corporate Services to ensure that such an updating is consistent with existing policies, procedures and guidance.
- 3.6** The Social Work and Health Department is also producing commissioning strategies for each care group, which will be followed by an overarching Departmental Commissioning Strategy. The link between commissioning and procurement is highlighted in the guidance and the production of these commissioning strategies would be complemented by the production of a matching procurement policy.
- 3.7** The guidance goes on to lay out the detailed processes involved in social care procurement including contracting, specifications and tendering, all of which are already carried out in the Social Work and Health Department but this guidance provides useful best practice procedures which could be adopted into a local procurement policy.

#### **4. Personnel Issues**

- 4.1** There are no personnel issues associated with this report.

## **5. Financial Implications**

**5.1** There are no financial implications associated with this report.

## **6. Risk Analysis**

**6.1** As local authorities work within their available resources to fund social care services and that this funding is carried out within a procurement framework, whilst managing the needs and expectations of service users and other stakeholders, it is vital that this procurement framework is “fit for purpose”. Unless West Dunbartonshire Council reviews its existing framework, utilising this guidance, there is a risk that our current arrangement will not fully meet our obligations and our stakeholders’ demands. This Social Care Procurement Guidance provides a cogent and coherent rationale and set of procedures to achieve this.

## **7. Equalities Impact**

**7.1** No significant issues were identified in a screening for potential equality impact of these measures.

## **8. Conclusions and Recommendations**

**8.1** This Social Care Procurement Guide provides a comprehensive, cogent and coherent rationale and set of procedures for local authorities to look again at their own local arrangements for these activities. The Guidance should however reflect that within the procurement of social care there may be cases where, through reasons of public protection or personal wellbeing, individual need will take precedence over procurement best practice.

**8.2** Members are asked to approve that our consultation response should reflect this view and along with some of the detailed views in this report we should express our gratitude for the work that has been undertaken to produce this Guidance.

**8.3** Members are asked to instruct the Interim Director of Social Work and Health to consult with Legal and Administrative and Corporate Procurement colleagues on this guidance and its implications for future procurement policy and procedures, particularly with regard to social care, and to report back to this committee with conclusions and recommendations at the earliest opportunity.

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**Appendix:** None

**Background papers:**

Link to consultation paper on Scottish Government website:  
[http://www.scotland.gov.uk/Publications/2010/01/13125045/socar\\_econsult](http://www.scotland.gov.uk/Publications/2010/01/13125045/socar_econsult)

**Wards Affected:**

All