



Belfast City Council

Report to:	Development Committee
Subject:	Social Clauses – Implementation and Management
Date:	10 August 2011
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1	Relevant Background Information
1.1	As the economic downturn continues, there is increasing pressure to give consideration to integrating social clauses in all public contracts in order to extract the maximum value for investment and to address the current challenges in the labour market. However it is clear that there is significant ambiguity and lack of awareness about what can be done, how they can be implemented and managed and what the legal issues surrounding social clauses are likely to be.
1.2	It is clear from existing contracts which contain social clauses that there are lessons to be learned in order to ensure that the clauses are adhered to and the social benefits are fully realised.
1.3	<p>Taking account of these challenges, there has been a significant programme of work between DEL (Department for Employment and Learning) and the Central Procurement Directorate (CPD) to agree terminology to tighten up future social clauses. As a result of these discussions, and taking account of the political pressures to implement social clauses in public contracts, it has been agreed that the following clauses will be implemented for all new central government contracts emerging in the next six months, on a pilot basis:-</p> <ul style="list-style-type: none">- For every £0.5m of contract value, the employer will recruit 1 x 26 week Steps to Work Placement or 2 x 13 week Steps to Work Placements.- At least 5% of the contractors workforce must be apprentices.- Work Placements – 1 x 40 week student placement for projects with a labour value of £2m-£5m and 2 placements for projects with a labour value of £5m or greater- For lower value contracts, there are opportunities to involve Programme

	<p>Led Apprentices (PLAs). These are apprentices that have lost their opportunities during the downturn and are therefore unable to complete their qualification.</p> <p>There are also essential skills requirements built in around these clauses.</p>
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2	Key Issues
2.1	Local authorities' remit in introducing social clauses is framed within the Local Government (Miscellaneous Provision) (Northern Ireland) Order 1992. Section 19 of the Order stipulates that councils cannot take account of non-commercial matters in their public supply or works contracts. This includes "terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces". This effectively means that at this point in time councils cannot include social clauses within contracts.
2.2	It is understood that NILGA has been engaged in some work to address the legal framework. However this may take some time before a change can be implemented. While the current provisions may make it difficult to include social clauses in council-led schemes, it is likely that the council will engage in a number of partnership projects in coming years, particularly through the City Investment Fund. For this reason, it is important to engage in further work to explore and address the current implementation and management challenges.
2.3	<p>DEL – in conjunction with CPD – is considering establishing a Social Clause Delivery Forum. This is similar to a model established in Derry by Ilex. The aims of the forum would be to:</p> <ul style="list-style-type: none"> - Raise awareness and understanding of the use of Social Clauses in public sector contracts - Develop closer links between public, private and voluntary sectors in developing and implementing social clauses - Develop a range of measures and procedures to assist public sector bodies to use social clauses to target social need - Share best practice approaches across the public sector to create local skills and training opportunities, create employment opportunities for disadvantaged groups, support employment opportunities for all and help small and medium social enterprises access business opportunities.
2.4	Membership of the forum is likely to involve (among others) DEL, NIHE, Construction Industry Forum (CIFNI), CPD, Strategic Investment Board (SIB), business representative organisations, community organisations, and training organisations/representatives. Given the growing importance of social clauses, it is recommended that Belfast City Council is represented on this forum.
2.5	In the longer-term, it will be important to investigate the merits of amending the current legislative framework for public works and supply contracts issued by council, to allow social clauses to be included and considered as part of the contract assessment process. In this regard, the Committee might wish to consider writing to the Minister for the Environment to seek a review of the current legislation.

3	Resource Implications
3.1	<u>Financial</u> No additional financial commitment required. Effective management and implementation of social clauses should maximise the impact of council expenditure in local areas.
3.2	<u>Human Resources</u> Officer engagement in Social Clause Delivery Forum. Also potentially ongoing advice required from Legal Services as this issue progresses.

4	Equality and Good Relations Considerations
4.1	There are no Equality and Good Relations considerations attached to this report

5	Recommendations
5.1	Members are asked to: <ul style="list-style-type: none"> - Note the current legal framework around public supply and works contracts for councils, which may impact on the introduction of social clauses - Note the proposal to establish a Social Clause Delivery Forum and agree to officer representation on and engagement with this forum - Agree that a letter be sent to the DoE Minister on the issue of the legislation for local government public works and supply contracts and to propose a review of this legislation.

6	Decision Tracking
If recommendation is accepted, updates on progress will be brought back to the Committee on a regular basis.	

7	Key to Abbreviations
<p>CIF – Construction Industry Forum CPD – Central Procurement Directorate DEL – Department for Employment and Learning DoE – Department of Environment PLA – Programmed-led Apprentice SIB – Strategic Investment Board.</p>	