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<b>Report To:</b>	<b>Policy and Resources Committee</b>	<b>Date:</b>	<b>27 March 2018</b>
<b>Report By:</b>	<b>Corporate Director Environment, Regeneration and Resources</b>	<b>Report No:</b>	<b>PR/12/18/BH</b>
<b>Contact Officer:</b>	<b>Brendan Hurrell</b>	<b>Contact No:</b>	<b>01475 712654</b>
<b>Subject:</b>	<b>Community Benefits Weightings</b>		

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## 1.0 PURPOSE

- 1.1 The purpose of the report is to benchmark the Council's community benefits weighting with other Councils and determine if this evidence would demonstrate an opportunity to increase the weighting.

## 2.0 SUMMARY

- 2.1 A report was submitted to the Policy and Resources Committee in January that requested approval to increase the percentage weighting used to assess Community Benefits from 5% to 10% for all construction contracts over £1m.
- 2.2 The Committee approved this request but asked for more information on the weighting used by other Local Authorities as there was a view that the weighting could be increased to 15%.
- 2.3 The Procurement Manager has conducted research on policy and practice in place at other Councils and noted that no other Local Authority has a policy in place that mandates use of a minimum 15% weighting attributed to Community Benefits. Only 1 Local Authority of the 32 has a policy that states that a minimum 10% weighting should be used. All other Local Authorities either do not have a public policy or a written statement that mandates a percentage that should be attributed to community benefits. The Procurement Officers at Councils with no mandated percentage have the delegated authority to decide on the appropriate community benefit percentage. This is evident in the various percentages contained within other Councils' contract notices. None of these notices contained a weighting above 10%.
- 2.4 The Procurement Regulations, associated guidance and case law are clear that community benefits can be assessed as part of the award criteria provided that the weightings enable an evaluation of the most economically advantageous tender.
- 2.5 Section 5 details that there is no evidence at this time that increasing the community benefits percentage to 15% would improve the community benefit outcomes and achieve the most economically advantageous tender. There is also a risk that increasing the percentage weighting would increase the risk that community benefits would be disproportionate to their actual value.

## 3.0 RECOMMENDATIONS

- 3.1 That the Committee note the detail within this report and approve the continued use of a 10% community benefits weighting. The Procurement Manager will provide updates within future Procurement reports detailing any changes that would require a review of the agreed percentage.

## **4.0 BACKGROUND**

- 4.1 The Procurement Reform (Scotland) Act 2014 gives the expectation that community benefit clauses will be used wherever there is an appropriate legal basis. Where a procuring organisation is to let a contract valued at £4 million or above, it must, in terms of the procurement regulations, consider during the design of the tender whether to impose community benefit requirements. The impetus behind the use of community benefit clauses has mainly come from public sector organisations, but increasingly many contractors are also keen to commit to CB clauses as they align with and demonstrate contractors' wider commitment to society and enable them to deliver on their Corporate Social Responsibility (CSR) agenda.
- 4.2 Community benefits requirements have been included in several Inverclyde Council construction projects, including the schools programme and leisure sites. A 5% weighting had been incorporated within these contracts with a great degree of success. Given the positive outcome of the use of these clauses and the national shift towards an increased percentage weight, a pilot tender has been conducted using a 10% weighting. This was used on the tender for works to convert former offices to create Glenbrae Children's Centre. The tender results showed that increase in weighting for this question did not impact on the Council achieving best value and there were no other concerns raised on the application of the weighting.
- 4.3 The Committee approved the request to increase the percentage weighting used to assess Community Benefits from 5% to 10% for all construction contracts over £1m.

## **5.0 BENCHMARKING AND PROCUREMENT GUIDANCE**

- 5.1 The Procurement Manager has conducted research on policy and practice in place at other Councils and noted that no other Local Authority has a policy in place that mandates use of a minimum 15% weighting attributed to community benefits. Only 1 Local Authority of the 32 has a policy that states that a minimum 10% weighting should be used in all procurements. All other Local Authorities either do not have a public policy or a written statement that mandates a percentage that should be attributed to community benefits. The Procurement Officers at Councils with no mandated percentage have the delegated authority to decide on the appropriate community benefit percentage. This is evident in the various percentages contained within other Councils contract notices. None of these notices contained a weighting above 10%.
- 5.2 The Procurement Regulations, associated guidance and case law are clear that community benefits can be assessed as part of tender award criteria provided that the weightings enable an evaluation of the most economically advantageous tender. The Procurement Regulations also mean that the respective criterion must be appropriate for attaining the objective pursued and do not go beyond what is necessary to achieve the objective. Therefore if too great an emphasis is placed on community benefits this may be disproportionate and may not achieve best value.
- 5.3 Other Councils and public purchasing authorities are using a community benefits weighting generally in the region of 10% and there are no legal issues that have been raised with regard to the ongoing use of this percentage. However, there is no demonstration of a wider use of a higher percentage on a regular basis. An increased percentage may incentivise contractors to offer more in terms of community benefits however there would be a logical ceiling point in each contract where there would be a maximum number of jobs and training places that could be created. The more weight applied to the importance of community benefits the more weight is taken away from the delivery of the contract on offer. For example, if a £1m contract was on offer with a maximum total value of targeted recruitment and training places of £100,000, it would then be a risk, on the basis of proportionality, to include a 15% community benefit weighting.
- 5.4 Given limited use of a community benefit weighting above 10%, there is no evidence at this time that increasing the Community Benefits percentage to 15% would improve the community benefit outcomes and still achieve the most economically advantageous tender. There is also the possibility that increasing the percentage weighting would increase the risk that Community Benefits would be disproportionate to their actual value and this could invite a legal challenge from bidders. The Procurement Manager will provide updates within future Procurement reports

detailing any changes within public sector procurement that would require a review of the agreed percentage.

## 6.0 IMPLICATIONS

### Finance

6.1 There are no financial implication associated with this report.

#### Financial Implications:

##### One off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report £000	Virement From	Other Comments
N/A					

##### Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact £000	Virement From (If Applicable)	Other Comments
N/A					

### Legal

6.2 There are no matters of a legal nature arising from this report.

### Human Resources

6.3 There are no matters of a HR nature arising from this report.

### Equalities

6.4 Has an Equality Impact Assessment been carried out?

Yes See attached appendix

No This report does not introduce a new policy, function or strategy or recommend a change to an existing policy, function or strategy. Therefore, no Equality Impact Assessment is required.

### Repopulation

6.5 A Procurement Strategy which supports local opportunities will have a positive impact on the Council's repopulation agenda.

## 7.0 CONSULTATIONS

7.1 None.

## 8.0 LIST OF BACKGROUND PAPERS

8.1 None.