

# Buying Social Justice

Development and Use of Social  
Requirements in Public Procurement in  
Scotland

Jo Mitchell, Scottish Government



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# Scotland's Evolving Approach to the Economy



# Relevant Legislation

- Procurement Reform (Scotland) Act 2014 and Public Contracts (Scotland) Regulations 2015
- Equality Act 2010
  - The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012
  - Fairer Scotland Duty, (Equality Act Part 1)
- Climate Change (Scotland) Act 2009 and The Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Order 2015
- Climate Change (Emissions Reduction Targets) (Scotland) Act 2019
- The Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Amendment Order 2020
- **Community Wealth Building Bill**



# Making a Difference across a range of topics -

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## Environmental

Climate Change

Materials

Waste

Hazardous materials

Biodiversity

Heritage

Water

## Socio-economic

Employment, skills and training

Communities

Equality

Fair Work

Fairly and ethically traded

Security and crime

Health and wellbeing

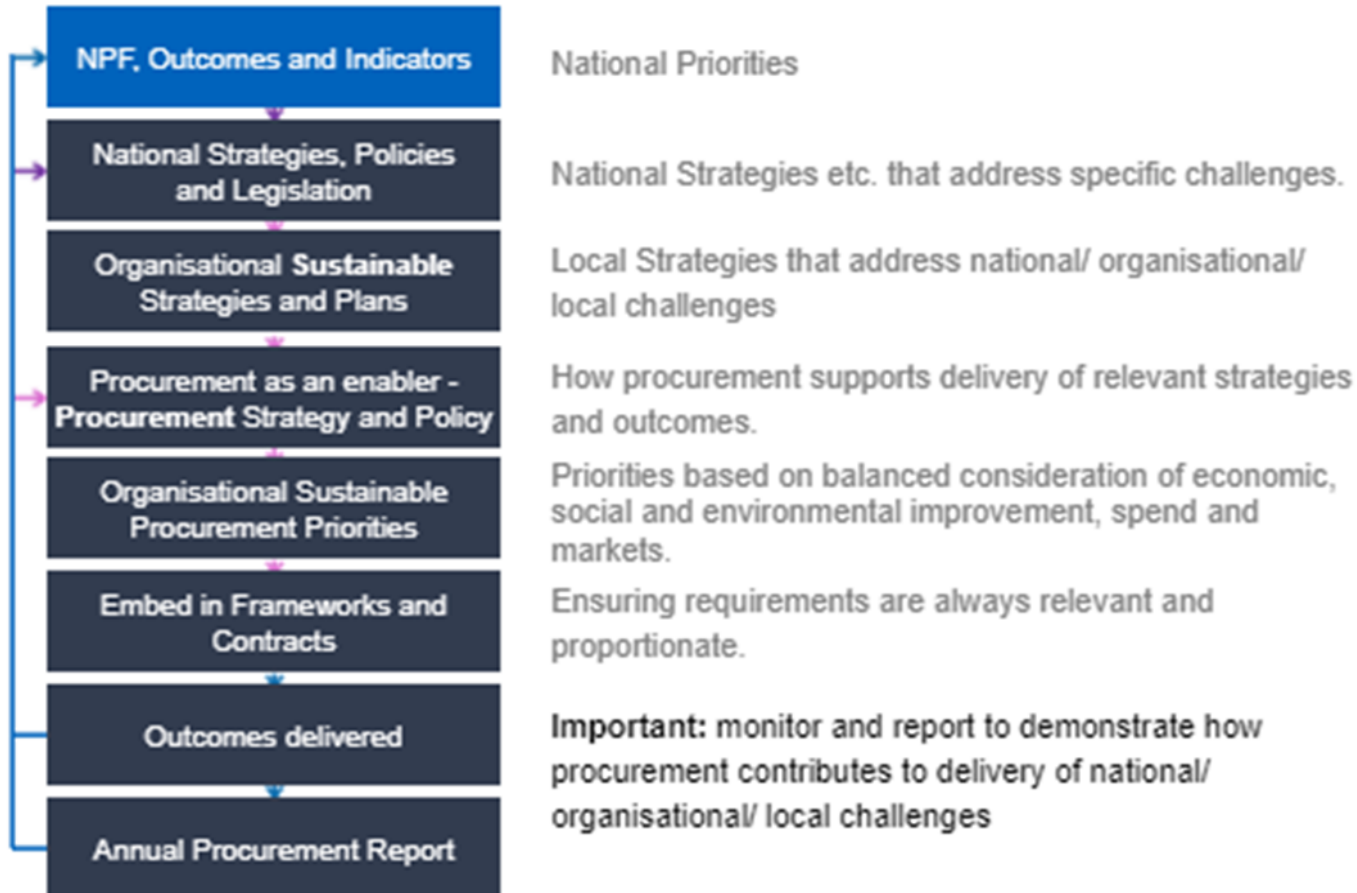
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[Sustainable Procurement \(sustainableprocurementtools.scot\)](https://www.sustainableprocurementtools.scot)



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# Aligning Procurement with Objectives



# Equality

- Equality Act 2010:

## [Public sector equality duty](#)

Applies to all contracts, regardless of value

- **eliminate** unlawful discrimination, harassment and victimisation and other prohibited conduct
- **advance** equality of opportunity between people who share a relevant protected characteristic and those who do not
- **foster** good relations between people who share a protected characteristic

## [Duty to consider award criteria and conditions in relation to public procurement:](#)

whether both award criteria and contract performance conditions should include considerations to enable the better performance of the public sector equality duty

[Procurement guidance for Scottish public authorities | Equality and Human Rights Commission \(equalityhumanrights.com\)](#)

- [Fairer Scotland Duty \(Part 1 of the Equality Act 2010\)](#) to:

- **reduce** inequalities of outcome caused by socio-economic disadvantage



# Fair Work

- Fair Work sits at the heart of Scottish Government's ambition to move toward a wellbeing economy and is central to supporting economic recovery and renewal
- We expect:
  - public bodies to promote fair work in all relevant procurement processes while ensuring the appropriate balance between quality and cost of the contract, including the impact of cost on working conditions
  - suppliers delivering public contracts to adopt and demonstrate appropriate fair work practices, ensuring that these are delivered for all workers engaged on delivering the public contract
- Through Fair Work First criteria on public sector grants and procurement employers are being asked to commit to seven elements.



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# Fair Work First elements

appropriate channels for effective voice, such as trade union recognition

investment in workforce development

no inappropriate use of zero hours contracts

action to tackle the gender pay gap and create a more diverse and inclusive workplace

Fair Pay - payment of the real Living Wage\*

offer flexible and family friendly working practices for all workers

oppose fire and rehire practices

\*From 14 Oct 2021, companies bidding to win Scottish Government contracts must pay at least the real Living Wage where it is a proportionate and relevant requirement.



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# Community benefits in procurement

- Achieve:
  - Employment, skills and training;
  - Sub-contracting opportunities in larger contracts;
  - Other, additional economic, social and environmental benefits
- While community benefits should be used where relevant, there are more specific requirements for procurement  $\geq$  £4 million



# Reserving Contracts for Supported Businesses

- A supported business is an organisation whose main aim is the social and professional integration of disabled or disadvantaged persons, and where at least 30% of the employees are disabled or disadvantaged persons.
- Through a national Framework, arrangements are in place to allow the public sector and charities to buy:
  - furniture and associated products, document management services, personal protective equipment (PPE) and uniforms and signage
- Between April 2020 – March 2021 - 85 public bodies in Scotland reported a combined total spend of £13.3 million with supported businesses



# We have been doing this for a while...



*‘the introduction of a Sustainable Procurement Bill to make clear the legislative framework for procurement decisions [which deliver added social benefits] and support the greater use of social and environmental benefit clauses’.*

**Manifesto Commitment (2011)**

<https://biteable.com/watch/good-for-society-2455627>

[Meet the contributors: Scotland’s journey of achieving sustainable procurement outcomes \(2002-2022\) on Vimeo](#)

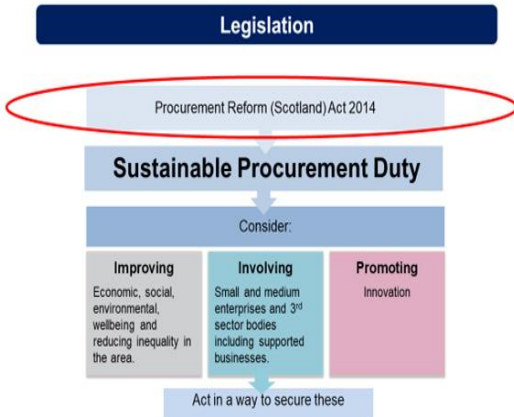


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# What Good Looks Like



- Alignment with National Outcomes
- Collaboration and Networking
- Commitment to continuous improvement
- Provision of support and training enabling consistency
- Future proofing of outcomes – a focus on local needs
- Developing the Supply Chain
- Embedding and integrating sustainable procurement in the contract management process
- Reporting processes and requirements
- Well-resourced, integrated and skilled teams



# Social Impact of Public Procurement



- Success in contributing to Scotland's purpose is measured in terms of outcomes - align to the National Performance Framework and the UN Sustainable Development Goals
- Social impact is not fixed or easily transferable it will be specific to the individual, community, and place – case-by-case basis.
- Engage with communities to make the most difference
- Impact measurements should not create a barrier to businesses



# Recommendations

- Whole organisation approach
- Share best practice - Get the message out
- Ongoing training and support – for public bodies and suppliers
- Continue reviewing other work to stay ahead



# Recent Publications

February 2023 – Review published

(<https://www.gov.scot/isbn/9781805252771>)

April 2023 - Public Procurement Strategy for Scotland

([Objectives - Public procurement strategy: 2023 to 2028 - gov.scot \(www.gov.scot\)](#))



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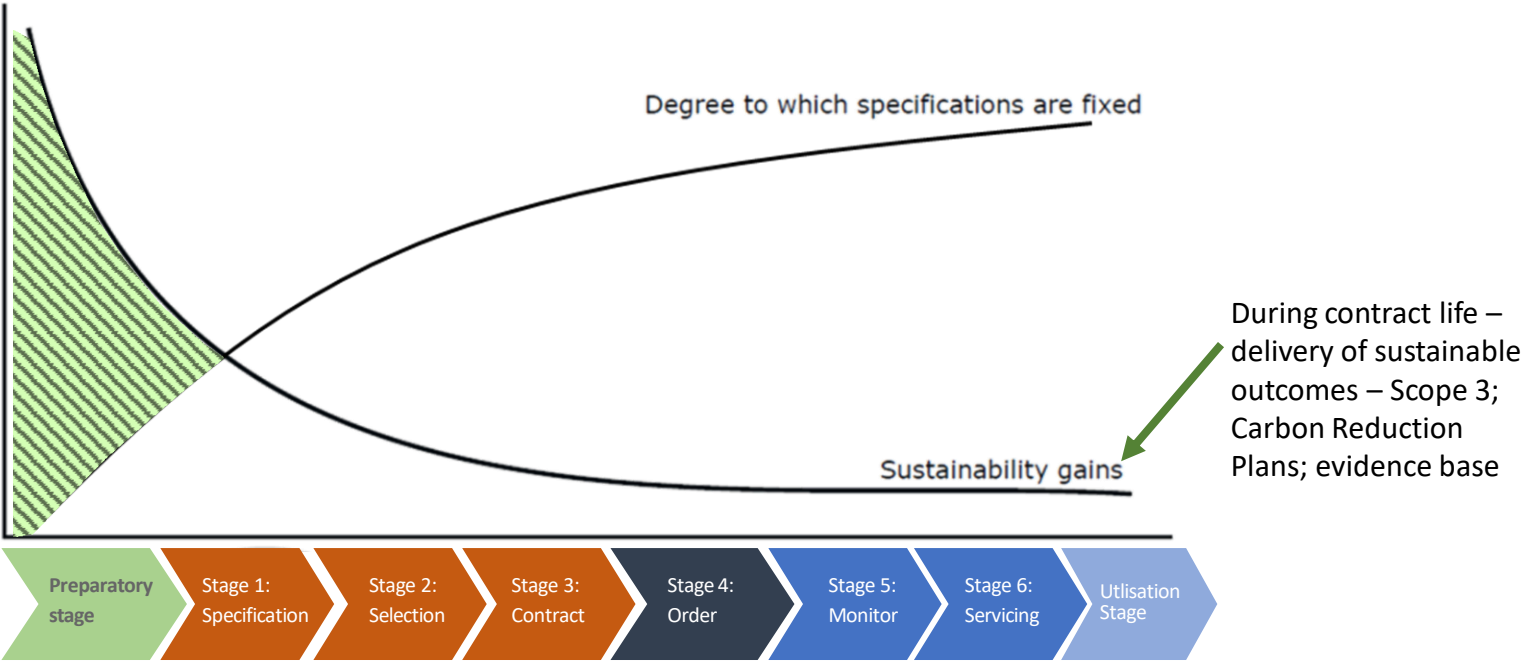
Barbara Morton

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Edinburgh, 22 June 2023

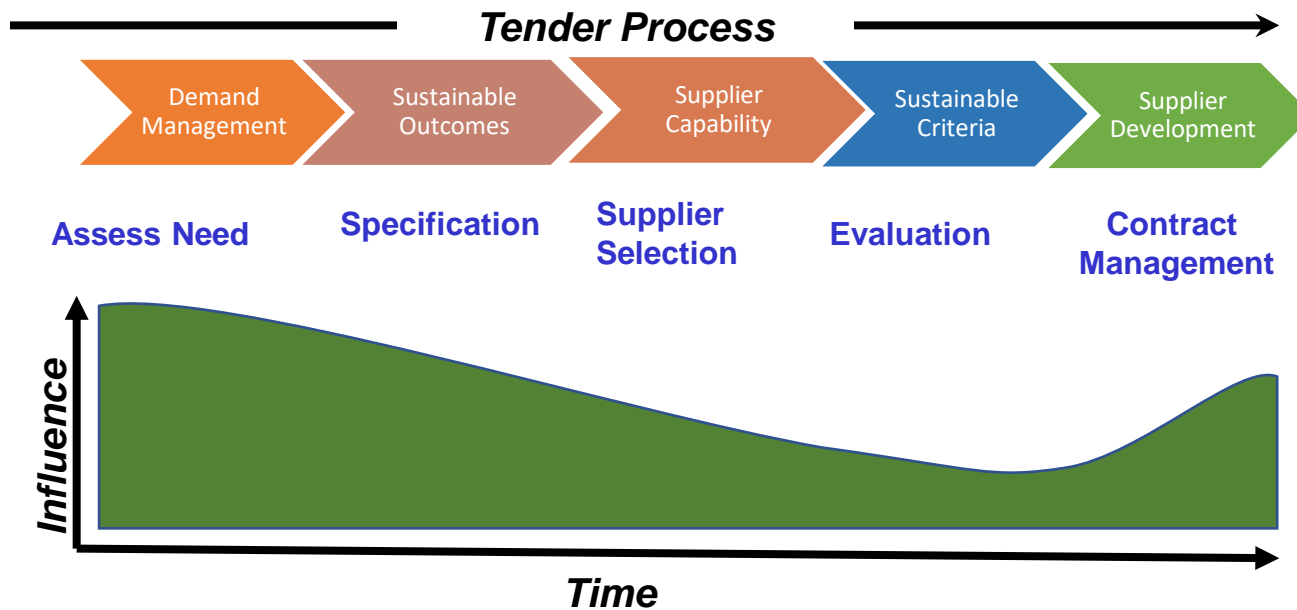


# Pre-procurement planning = biggest impact

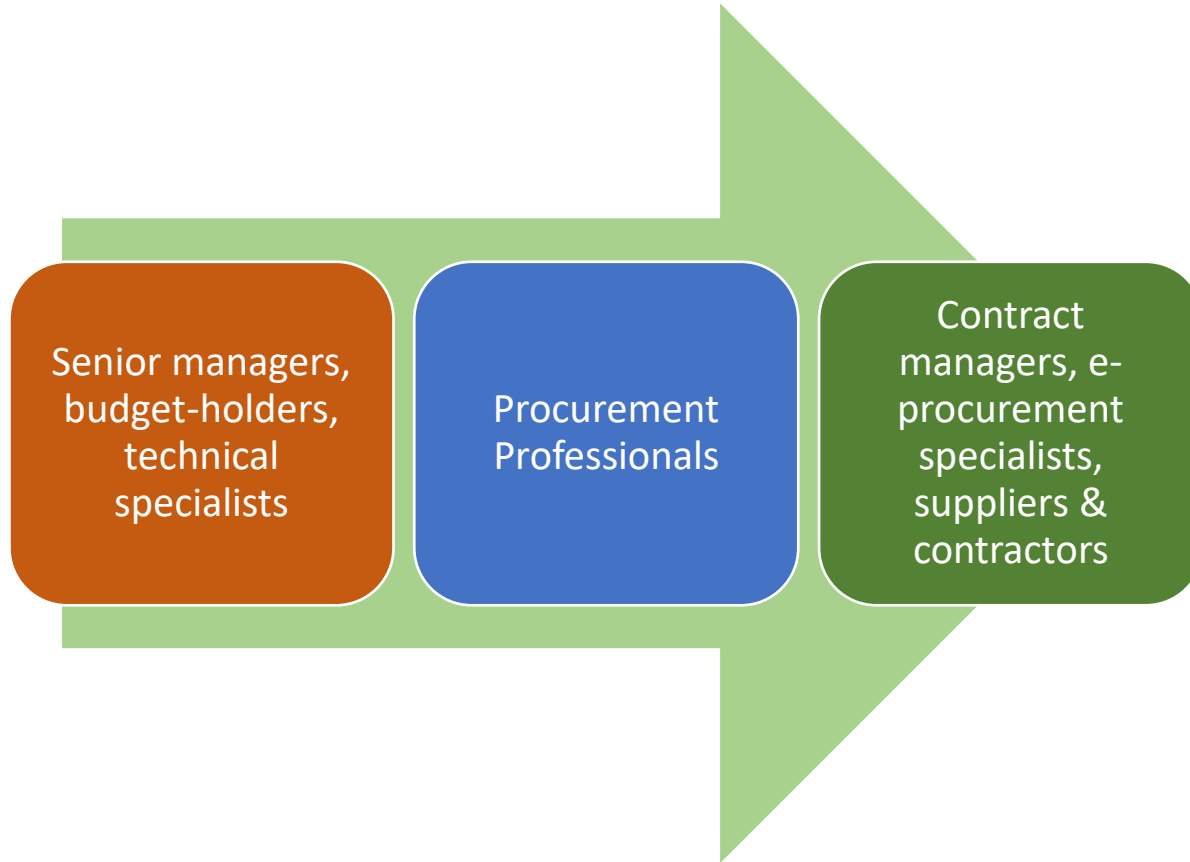


Source: Circular Flanders

# Before – and after - contract is let



# Follow through: Influencing behaviours & capability building



# From Global Goals to Procurement Outcomes





# Thank you

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Edinburgh, 22 June 2023