

Welsh Procurement Initiative Sustainable Public Sector Procurement Guidance

'Buy Now Don't Pay Later'

December 2004

'Starting to Live Differently'



WELSH LOCAL GOVERNMENT
PROCUREMENT SUPPORT UNIT
UNED CYMORTH CAFFAEL
LLYWODRAETH LEOL CYMRU



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

Sustainable Public Sector Procurement Guidance

‘Buy Now Don’t Pay Later’

“Sustainable development is not an option that will go away - it is the only way forward. Sustainable development is often seen as an environmental issue but it is just as much about wealth creation and tackling poverty and injustice. For me sustainable development means rethinking our economy towards sustainable production and consumption and relieving poverty and injustice for people now. It also means ensuring that we don't unjustly condemn our descendants or people elsewhere in the world to a lower quality of life by short-sighted decisions we make today – decisions that despoil the natural world on which we depend or that weaken the community life that supports us as individuals. Put this way, sustainable development is a necessity.”

“.....commitment must lead to action. We have to face the fact that the way Wales operates at the moment is unsustainable. What's more, in many practical areas we still lag behind the best. For all our commitment, we are still starting from a low base. We need a step change.”

Rt Hon Rhodri Morgan AM
First Minister for Wales

“What we need to do is harness development and change to help people to find ways of meeting their needs more efficiently and sustaining their identity, whilst seeking to put right the environmental problems we have already created..... The implications of not addressing these issues would be that we would fail to contribute as we should to solving world-wide problems; we would miss out on the economic opportunities that will be created by nations and regions that do address them successfully; and we would fail to build the sort of Wales we want and that the people of Wales deserve.”

Carwyn Jones AM
Minister for Environment, Planning and Countryside

“Public procurement must ensure that money is spent wisely to achieve true value for money – improving our efficiency and our service delivery now, while at the same time protecting our future generations. Value for money therefore does not mean the lowest cost but the optimum combination of whole-life cost and quality to meet the user's requirement. When we decide what to buy we need to think about the broader issues; protecting scarce resources, consuming less, recycling more and choosing options that meet all our wider objectives. When we decide who to buy from we need to be encouraging our suppliers to share our values for people and the environment. Our decision-making needs to take a longer-term view.”

Mrs Sue Essex, AM
Minister for Finance, Local Government and Public Services

This guidance is produced through the Welsh Procurement Initiative (WPI). It is aimed at procurement professionals, key budget holders or client officers involved in procurement. It summarises why procurement is so important to sustainability and how organisations can change.

It forms part of the WPI Sustainable Procurement Programme of training and development. Public Sector organisations seeking to develop sustainable procurement are encouraged to join this Programme to receive structured training on specific elements and access to the support available to help suppliers to become more sustainable.

The Sustainable Procurement Programme is supported by the following team of experts and procurement practitioners from across Wales.

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Introduction

Procurement is becoming widely recognised as an important element of policy delivery across the public sector. In fact without including external goods and services in its sustainable development policy, an organisation would struggle to make a substantial contribution. Consultations across the public sector in Wales have highlighted requests for guidance and leadership on sustainable procurement issues. While the detail is aimed at budget holders and procurement professionals, senior decision-makers need to support the overall message to enable effective implementation.

A pertinent question is why Sustainable Development is not already central to public procurement. Given that the public sector's purpose is to serve the general public, it would be reasonable to expect sustainability to be naturally core to the way decisions are made, and particularly to the way goods and services are purchased. Oddly those elements of the private sector which focus on corporate social responsibility are often ahead of the public sector in this respect.

The reasons for this lie historically in:

- lack of overall corporate leadership on sustainability – resulting in lack of incentive and lack of knowledge,
- budget pressures,
- short term planning horizons and decision making,
- interpretations of the EU Directives on Procurement which focus on lowest price tendering,
- lack of investment in procurement professionals, and a lack of an internal co-ordinated,
- little senior management focus on external goods and services,
- lack of engagement with the supply base, and
- lack of focus on collecting and using management information.

This means that effective implementation of Sustainable Procurement will probably require a degree of culture change in most organisations, and will only succeed with senior management support.

Change management requires resources. The size of the issue relative to the procurement resources available can limit effective action. The suggested 12-month action plan contained in this guidance concentrates on helping organisations to start to change. The focus is on using risk management to select priorities, and breaking the task down into realistic actions, which when achieved will provide results which themselves can be used to generate further incremental change.

This guidance therefore:

- states clearly what Sustainable Procurement is,
- tells you why Sustainable Procurement is so important,
- takes International, European, UK, and Welsh Assembly Government objectives for Sustainable Development and translates them into procurement activities,
- summarises what the public sector needs to do,
- provides a legal context,
- suggests a recommended first 12 months Action Plan, and
- forms the basis of the associated training and development programme.

Further documents in the series include:

- 'Buying into Sustainable Development' guidance for senior managers
- Summary Sheet and web-link to existing sources of sustainable procurement guidance
- Forum for the Future 'Sustainable Procurement Self Assessment Tool'

Joining the Welsh Procurement Initiative's Sustainable Procurement Programme will help your procurement activities to have a positive impact on the environment, economy and communities of Wales.

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Section One: What is Sustainable Procurement?

Sustainable procurement means giving due consideration to the impact of the procurement on the environment, on the community and on the social conditions of those delivering or receiving the product or service. It's about looking at what your products are made of, where they come from and who has made them. It's even about looking at whether you need to make the purchase at all. If you consider all these factors you can make better choices and achieve the best overall value for money on a whole-life and long-term basis.

Procurement is the purchase of goods and the commissioning of services and works. Sustainable Procurement is all about taking social, environmental and economic factors into consideration alongside financial factors in making these decisions. It involves looking beyond the traditional economic parameters and making decisions based on the whole life cost, the associated risks, measures of success and implications for society the economy and the environment. Making decisions in this way requires setting procurement into the broader strategic context including Best Value, performance management, corporate and community priorities.

Forum for the Future 2003

Sustainable procurement is the process in which organisations buy supplies or services by taking into account:

- the best value for money considerations such as, price, quality, availability, functionality, etc.,
- environmental aspects ("green procurement": the effects on the environment that the product and/or service has over its whole lifecycle, from cradle to the grave),
- the entire Life Cycle of products,
- social aspects: effects on issues such as poverty eradication, international equity in the distribution of resources, labour conditions, human rights.

United Nations Environment Programme: Sustainable Consumption 1998

By challenging needs and changing specifications or processes, and by working with suppliers and understanding supply chains, procurement professionals can act to ensure that the wider picture is taken into account, and the right decisions made to gain true value for money.

The need to procure supplies in a sustainable manner does not override the requirement to ensure that the procurement exercise is carried out lawfully and in accordance with EU and UK legislation (such as the Treaty of Rome, the new Procurement Directive and the Public Procurement Regulations). There is no reason why this duty to comply with the legislation should be viewed as an obstacle to sustainable procurement; with careful thought and planning, compliance with both objectives can be achieved. The greatest scope for addressing sustainable parameters is at the specification stage although sustainability may also be addressed in the contract conditions where appropriate. Sustainable issues may also be considered at the supplier appraisal and tender evaluation stage where relevant and lawful to do so (if in doubt, seek legal advice). Contract management processes which include supplier development are also an effective way of generating change.

Through the Sustainable Development Action Plan, the Assembly is pushing for a number of key changes in how we buy. Some suggested priorities include:

- energy – reduction in consumption and investment in energy efficiency,
- electricity - greater use of renewable sources,
- construction – 'Very good / excellent' BREEAM standards on new buildings,
- vehicles – low emissions and clean fuels,
- food – improved nutrition and use of fresh and seasonal produce,
- resource efficiency – reduced waste (for example of water or paper) and increased specification of recycled content for goods, works and services, and
- people – encouragement of training in contract delivery.

Section Two: Why is Sustainable Procurement so important?

Procurement is becoming widely recognised as an important element of policy delivery across the public sector. We cannot become more efficient and support sustainability without being able to manage our external resources properly. Political pressures to adopt truly sustainable approaches will continue to grow. However there is also a strong business case for sustainable development and in particular for sustainable procurement. This has been made over the last 10 to 20 years by many different organisations in both the public and private sector. The main arguments include:

- securing supply of goods and services in a changing environment,
- minimising business risk,
- cost savings,
- adding value,
- enhancing organisational image,
- creating markets, and
- avoiding the long-term consequences of poor decisions.

In simple terms the reasons for implementing sustainable procurement are:

In Wales £4 billion of tax payers money is spent on goods and services each year

On average one third of each organisation's budget is spent on external goods and services. This investment accounts for approximately 11% of Wales' GDP. What we buy, how we consume it and who we buy it from impacts us all. Collectively we have a lot of influence and can shape markets.

It costs more to buy in an unsustainable way

We create our own future problems. On a global scale, without change, the world will probably be unable to sustain its current level of resource consumption. Usually the public sector has to deal with the consequences. Governments are increasingly starting to intervene to ensure that the right decisions are made now. Examples include:

- legislation on pollution and waste management (e.g Environmental Protection Act),
- increased taxes on waste, energy and natural resources (e.g landfill tax),
- producer responsibility for end-of-life products (e.g WEEE Directives, computers, vehicles),
- phasing out of environmentally damaging substances (e.g CFCs) ,
- tax incentives for energy efficient equipment, and
- EU Buildings Directive requiring public display of energy use for all buildings with public access – includes a requirement to improve.

Example: WEEE and RoHS Directives

The main requirements of the Waste Electrical and Electronic Equipment (WEEE) Regulations will come into effect in the UK from 13th August 2005. The aims of the Directive are to prevent WEEE arising, to encourage reuse, recycling and recovery of WEEE and to improve the performance of all operators involved in the lifecycle of electrical and electronic equipment. The Directive sets requirements relating to criteria for the collection, treatment recycling and recovery of WEEE. It will apply to all electrical and electronic equipment placed on the market in the UK and sets targets of between 50% and 80% for recovery and recycling dependant upon which of the ten categories of equipment the appliance falls into. Producers will have responsibility for financing most of Directives requirements. Retailers and distributors also have responsibilities under this Directive and will be required to provide free take-back of WEEE for domestic consumers when they make a like for like purchase of new equipment.

The Restriction of the use of Hazardous Substances (RoHS) Regulations ban the placing on the EU market of new electrical and electronic equipment containing more than the set levels of lead, cadmium, mercury, hexavalent chromium, polybrominated biphenyl (PBB) and polybrominated diphenyl ether (PBDE). From 1st July 2006 producers will be required to ensure that their products do not contain more than the permitted levels of these substances and be able to demonstrate compliance by submitting technical data to the enforcement authority upon request.

The Landfill taxes have been introduced on sliding scale from 1st October 1996. Currently at £15 per tonne, UK government has indicated plans to increase this to £18 by 2005/6, and onwards up to £35 in the medium to longer term. Without changes, which reduce overall waste and increase recycling, the Landfill Tax in 2005/6 for municipal waste will cost Welsh taxpayers £27M, rising to £52M over time. This is money that could be spent on improved public services if the right actions on waste are taken now.

However recycling is only effective if the market exists for the recycled products. Specifying recycled materials in goods, works and services helps join the circle to create markets, and provides new market opportunities for developing businesses.

Example: Landfill Tax

In 2003/4 47 Million tonnes of commercial and municipal waste was sent to landfill in the UK. Although the UK figures show a reduction of 7% since 1996, waste volumes need to fall; where waste is necessary recycling needs to increase; and where recycling is not possible more needs to be incinerated.

A recent survey on municipal waste in Wales showed that while more is being recycled overall waste is still rising. In 2003/4 total municipal waste was 1.82 million tonnes, up 2% from the previous year, which itself was up 4.7%. 319,000 tonnes (or 17.6% of the total) were recycled or composted. This had improved 41% from the previous year.

Non-household municipal waste was 16% of the total. 68,000 tonnes of this was recycled or composted which was 2.6 times better than the previous year, but still left 249,000 tonnes potentially going to landfill at a cost now of £3.4M, and a cost in time of up to £7.9M.

Inefficiency costs money and damages the environment

Procurement has a role to deliver value for money to the organisation across both the short and long-term. Short-term decision making can cause long-term inefficiency. Strategic procurement includes improving processes to make sure money and resources are not wasted. Taking this approach the pursuit of sustainable procurement is entirely in line with the focus on efficiency laid out in the public services Review 'Making the Connections – Delivering Better Services for Wales' published in October 2004. Process improvements, in particular improved use of e-business also have potential to benefit the environment and save money. There is evidence to suggest that over time internal and external efficiencies will reduce operating costs and will also benefit the overall quality of provision of public services.

Example: Energy Reduction

The public sector in Wales could save £10M per year through energy reduction. Welsh Health Estates and the Carbon Trust Wales have recently completed a pilot project based on the Gwent Healthcare Trust. Initial findings suggest that a 20% reduction in energy use together with a saving of 5,900 tonnes of carbon dioxide is possible with appropriate strategic changes and investment. A £2.2M saving per year could be available if this is rolled out across all NHS Trusts in Wales. Welsh local authorities spend in excess of £34M per year on energy and a similar saving of 20% would save £8M per year.

Example: Invoice Process Improvement

The WPI Welsh Purchasing Card has been introduced in 21 public sector organisations, and has saved £0.5M, through reducing administration costs while at the same time improving cash-flow to suppliers. It is estimated that if this is introduced across Wales for all applicable contracts a potential saving of £15M is available. The benefit to the environment is obvious.

Procurement can help the local community

A successful competitive local supply chain is likely to be well motivated to provide a high service quality. SMEs represent 99% of Welsh business, provide 60% of employment and 40% of Wales' GDP. Making our contracts more accessible and allowing our local businesses to compete effectively on a value for money basis creates more choice and flexibility in the supply base and strengthens the economy. Sustainable procurement requires greater communication with the supply base, wherever it is located and this often serves to increase choice and supply options.

Skills scarcity in key industry sectors will create upwards pressure on wages and therefore service costs. This can be mitigated if contracts are let in a way that will encourage industry itself to address training and development, and doing so is a long-term investment.

Example: Construction Training for Unemployed People

During 2004, the WPI Community Benefits Pathfinder was piloted through RCT and Ynys Mon Local Authorities. They found that using social clauses in contracts to require contractors to provide training and employment to economically inactive people, provided wider benefit to the community at no significantly greater cost, and was welcomed by the suppliers involved.

Example: Contract Accessibility

The WPI National Procurement website "xchange.wales.co.uk" was launched in November 2003. To date listed suppliers have received automatic notice of £1.4 billion of public sector contract opportunities that they may not otherwise have seen. Removing barriers widens choice.

How we buy tells people what we really think

The way in which the goods are specified and purchased provides strong messages on how the public sector views sustainable development. Suppliers targeting the public sector will develop to meet what they perceive the needs to be. With an expenditure of over £4 billion per year in Wales, the public sector has a degree of influence on supplier development which exceeds the value of any individual tender. Working more closely with suppliers to explain and agree areas for continuous improvement will serve to deliver better quality products and services from better performing more efficient suppliers.

We have a legal duty to promote sustainable development – this includes how we buy

Sustainable development should lie at the heart of everything that the public sector does: it is the key to good corporate management and to improving the well-being of our communities now and in the future. International commitments have been made on key areas. Section Four explains how these commitments flow down through European and UK policy into the Welsh Assembly Government activity. Many partner agencies across Wales are involved in delivering these commitments through their strategies, and this delivery will impact how procurement is carried out.

Scarce resources are at risk

The consequence of exploiting scarce resources may be that they cease to exist. Market forces alone will not solve the sort of supply problems that are created by irredeemable loss. The procurement process needs to consider impacts beyond the provision of the commodity or service itself.

Inaction carries its own risks

Not following a sustainable approach to procurement implies having to work around market changes rather than using influence to manage the market. If suppliers fail to comply with new legislation it places organisations' operations at risk.

None of the sustainability issues will go away. Not understanding how and where public money is spent puts the public sector's reputation at risk. The public expects us to make wise informed decisions. If we do not take control of the issue we are at the mercy of the market. We may find we are inadvertently supporting unethical practices, and we would deserve any public criticism we received.

Example: Managing global supply chains

The Environment Agency (EA) is currently buying a large quantity of tropical hardwood from South America for a Flood Defence Scheme. It is currently not possible to get FSC certified (or equivalent) hardwood in the volume required. To ensure the timber is properly sourced the EA is doing a full supply chain audit including an assessment in Guyana.

A team of four will include the EA sustainable procurement advisor and science planning and co-ordination manager, and the contractor and timber supplier. The team will inspect a saw mill to determine how the trees are marked, and check the "chain of custody" documentation and forestry management plans. This will be followed up with a meeting with the Guyana Forestry Commission to verify the legality.

Further meetings are then scheduled with the Guyana Environmental Protection Agency and the Guyana National Initiative Forestry Certification (GNIFC) working group, who are working towards FSC certification. The last meeting will be with the WWF in Guyana who are working with the GNIFC."

Section 3: Implementing Sustainable Procurement - What does the Public Sector in Wales need to do?

Commit to Sustainable Development

Senior management commitment to sustainable development itself is a pre-requisite to developing sustainable procurement. This commitment would typically involve having a Board Member champion an organisational policy owned and supported by senior management with an effective review and control process.

Recognise the need for change management

Introducing sustainable procurement requires a whole organisation approach. It needs to be part of the organisation's corporate policy. It probably requires a change in culture and for individuals to start thinking differently. As much of the change will be at the specification stage, buy-in will be required from budget holders. Implementing sustainable procurement is therefore a change management process best developed through a cross-functional team supported from above. Time and resource should be given to internal communication and training at all levels, and to external communication with suppliers.

Integrate Sustainable Development into decision making processes

Sustainable development needs to be part of how an organisation does business and therefore integrated into all decision making rather than being a 'bolt on'. To achieve this the procurement function needs to be closely linked with each client area or budget holder. This will mean earlier procurement involvement in decision making.

Change processes and procedures

Moving to true sustainable procurement will mean changing policy and procedural documents to reflect sustainable development policy. This would include the procurement strategy, policy and the standing orders or procedures, and any standard supplier communications, website entries or templates used. Process improvements and better use of e-Business are likely to support elements of sustainability. Evaluation processes may be affected although changes will be tender specific. Business case templates or internal audit procedures may need revision to reflect whole life costing, and procurement goals should also be reviewed. Not doing this may create conflicts between policy and practice, and allow barriers to implementing sustainable development policy to remain.

Apply Sustainable Development into each stage of the Procurement Cycle

There is considerable scope to act during the assessment of business need and while packaging and specifying goods, works or services. Organisations achieve value for money by taking into account their own duties to the general public, economy and environment and by assessing the longer term impact of their decisions at this stage. In specific circumstances, and where relevant to the subject matter of the contract, sustainable issues may also be considered at the supplier appraisal and tender evaluation stage, however legal advice should be sought. Contract conditions for how the product is to be supplied or how the service is to be carried out can also be used where appropriate to ensure a more sustainable delivery. Supplier development and contract monitoring processes are an effective way to identify mutual areas for improvement and generate change. Lastly improvements can be sought in how goods and services are used internally and disposed of.

Appendix A contains a summary of the legal context.

Use Sustainable Development risk assessment to identify priority areas

The priority areas for action can be identified using risk assessment. Sustainable development risk is defined as a potential negative impact on the long-term development of resources – people, communities, economic prosperity and environment, with some organisations also including risk to their reputation. Priority areas would be products or services that can have a high positive or negative impact. How these are best dealt with will depend on the results of separate expenditure / business risk assessments used to identify the appropriate procurement strategy for the individual product or service.

Set realistic action plans

An incremental approach, focusing on both process and policy change, and the review of specific high risk goods and services will probably be the most effective. Producing a yearly action plan, which is meaningful and achievable, is better than simply producing generic policy statements which cannot be translated into action. Plans should be realistic for all stakeholder groups and agencies, and recognise the need to engage those individuals involved in delivery. Measures should be in place to track results and monitor progress.

A recommended 12-month action plan is contained in Appendix B.

Walk the Talk

Organisations that ask suppliers to address issues they are not themselves willing to recognise internally will lack credibility. A review of procurement should go along-side a review of internal policies for facilities management, equality, training and development, and other key in-house service provision.

Invest in a strong procurement function

Despite more procurement focus not enough organisations are investing in procurement professionals. If procurement is not recognised, resourced and trained implementing sustainable procurement will prove difficult.

Effective sustainable procurement means considering the wider picture and involves a number of new skills. Not only does a procurement function have to understand how to work within the EU Directives for procurement, but it also needs to have the right internal profile and standing, the right controls in place and the skills to manage the supply base to achieve the results required. Sustainable development can mean making choices between conflicting priorities. Trying to develop sustainable procurement without having a strong professional procurement function in place is unwise. Assessment of training needs should not only focus on awareness of issues, but include key procurement skills such as risk assessment, market awareness, supply chain development, and supplier relationship development. Resources should be reviewed to ensure that there are robust processes to monitor contract compliance and manage supply chains to ensure that the desired outcomes are actually achieved.

Invest in Expenditure Management Systems

Without information the best procurement professional can have little impact. Not having easy access to what is spent where and with whom is not only inefficient, it makes it virtually impossible to take any co-ordinated procurement action. We cannot effectively manage our external resources without information, and failure to invest in the tools needed is at best short-sighted.

Section Four: Sustainable Development Policy in Wales

Sustainable Procurement is an important contributor to the overall implementation of Sustainable Development. This section covers the policy drivers for change in Wales, and the role for procurement.

Sustainable Development means **“development that meets the needs of the present without compromising the ability of future generations to meet their own needs.”** (World Commission on Environment and Development).

Sustainable Development Targets

Through the Rio Earth Summit of 1992, through the Kyoto Treaty on climate change, through the Millennium Development Goals, and through the Johannesburg World Summit on Sustainable Development in 2002, international commitments have been made on key areas.

As shown in Table 4A, these commitments flow down through European and UK policy into the Welsh Assembly Government activity. Six Sustainable Development challenges have been identified at European Union level, based on their severity, long-term and pan-European nature. UK Government has defined Sustainable Development as meeting four key objectives, and the National Assembly for Wales (the Assembly) has stated it wants to follow Sustainable Development principles in setting policies and taking decisions.

Sustainable Development Duty

The Assembly has a duty under Section 121 of the Government of Wales Act 1998 to make and review a Scheme setting out how it proposes to promote sustainable development in the exercise of its functions. The Assembly established such a Scheme in 2000 entitled ‘Learning to Live Differently’. This Scheme has been updated and re-issued in March 2004 as ‘Starting to Live Differently’. The associated Action Plan which sets out how the Scheme will be implemented was issued in October 2004. The Scheme and Action Plan work in conjunction with other documents including ‘Wales: A Better Country’ containing political priorities, and the ‘Wales Spatial Plan’ which works at a regional level. Other policy documents such as ‘Wise about Waste’ and the ‘Energy Action Plan’ include actions which require the implementation of sustainable procurement.

Community and Well-Being Strategies

The Local Government Act 2000 empowers local authorities to “do anything which they consider is likely to achieve the promotion or improvement of the social economic and environmental well-being of their area”. Section 4 of the Act contains a mandatory requirement for a ‘Community Strategy’, to be produced for promoting or improving the social, economic and environmental well-being of the local authority area and contributing to the achievement of sustainable development in the UK. Similarly Local Health Boards have a duty to work in partnership with Local Authorities to produce a Health and Well-Being Strategy for their region. Both sectors have a unique opportunity to deliver sustainability through how they deliver these strategies. Their understanding of National, UK and Global issues can be used to influence and balance at local level the pressures and priorities of their communities.

Through Policy Agreements each Local Authority is setting targets to reduce carbon emissions from buildings that they own, and housing in their area. Targets came into force in April 2004 to be met by April 2007.

Delivery of all these strategies will impact how procurement is carried out.

Table 4A: Development Targets

World Targets on Sustainable Development

- Reducing greenhouse gas emissions that are driving climate change – including substantially increasing renewable energy; and establishing domestic programmes for energy efficiency as another;
- Creating programmes of action on sustainable production and consumption – that is changing the way goods and services are made and influencing what people buy so that their needs can be met with much less impact on the environment and on scarce resources;
- Reducing the rate of loss of biodiversity world-wide by 2010, as a precursor to halting it; and in particular, halting loss of marine biodiversity and, by 2015, maintaining or starting to restore fish stocks;
- Managing woodlands sustainably, with a view to their importance for biodiversity and their role in reducing climate change and its impacts;
- Minimising significant adverse effects of chemicals on human health and the environment by 2020;
- By 2015, making progress towards: eradicating extreme poverty and hunger; achieving universal primary education; promoting gender equality; reducing child mortality; improving maternal health; combating HIV/AIDS, malaria and other diseases; ensuring environmental sustainability; and developing a global partnership for development;
- Respecting human rights and extending public participation in decision-making; actively promoting corporate social responsibility; increasing education and awareness of sustainable development issues.

European Union – Sustainable Development Challenges

- Global warming
- Potential threats to public health stemming from persistent toxic substances, resistance to antibiotics, or food safety risks
- Poverty and social inclusion
- The implications of an ageing population
- Loss of biodiversity in Europe
- Transport congestion and regional imbalances

UK Government Sustainable Development Objectives (1999 UK Sustainable Development Strategy A Better Quality of Life)

- Social progress that meets the needs of everyone
- Effective protection of the environment
- Prudent use of natural resources
- Maintenance of high and stable levels of economic growth and employment

The Vision of a Sustainable Wales

The Assembly will pursue, on an effective partnership basis, a sustainable future for Wales based on:

- Promoting a diverse, competitive, high added-value economy, with high skills and education, that responds to sustainable development opportunities, minimises demands on the environment and maximises the distribution of the benefits;
- Action on social justice that tackles poverty, poor health, and consequences of disadvantage and provides people and their communities with the means to help themselves break out of the poverty trap;

- Action in our built and natural environment that enhances pride in the community, promotes biodiversity, promotes local employment and minimises waste generation, energy, water and transport demands;
- Strengthening Wales' cultural identity and helping to create a bilingual country, while looking confidently outwards and welcoming new cultural influences;
- Creating a place which values its children and where young people want to live, work and enjoy a high quality of life, and where future generations enjoy better prospects in life and are not landed with a legacy of problems bequeathed by us;
- Supporting people to live healthy and independent lives, irrespective of income, location or disability;
- Valuing everyone in society and promoting equality of opportunity;
- Promoting openness, partnership and participation, so that people can play a part in taking decisions that affect them;
- Contributing to sustainable development at a global level as well as locally and taking account of the global impacts of decisions made in Wales.

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Sustainable Development Scheme

The Assembly's Vision for Sustainable Development is set out in its Sustainable Development Scheme.

"The National Assembly for Wales will promote development that meets the needs of the present without compromising the ability of future generations to meet their own needs. By this we mean the needs of all human life, within the carrying capacity of supporting ecosystems, without compromising the ability of future generations to meet their own social, economic, environmental and cultural needs."

Starting to Live Differently March 2004

The Scheme contains the principles that the Assembly wishes to follow in delivering the Vision. It also contains examples of how the Assembly seeks to fulfil its duties in the areas of decision making, strategic policy, specific policies, working with others, leading by example, indicators and targets and monitoring and evaluating. In October 2004 the Assembly launched the associated Action Plan. The Assembly is keen to turn its ideals into practical action and much of the emphasis of the new plan is on achieving real change.

Headline Indicators and Targets

In simple terms the Assembly treats sustainable development as having three core elements – our society, the economy and the environment. The Assembly currently uses 12 headline indicators to measure progress, namely; Employment, Education, Crime, Housing, Climate Change, Air Quality, River Water Quality, Wildlife, Waste, Welsh Language, Electricity from Renewable Sources, Ecological Footprint. Results are mixed, and a number of areas show that more action is required.

Sustainable Development Action Plan

The Assembly's revised Action Plan includes its top priorities as set out in Table 4B. It requires procurement to play a key role in delivering sustainable development. A summary of the four main headings and delivery strategies is given in Table 4C. A number of these seek implementation through procurement.

Table 4B:
Top 10 Commitments – Sustainable Development Action
Plan October 2004

- By 2010 100% of electricity used in all Assembly buildings will be supplied from renewable sources or good quality embedded generation; and we shall work towards a similar figure for other public sector buildings.
- The Assembly Government, its agencies and the NHS in Wales will report annually on the use of energy in its estates.
- From January 2005 we will specify in all contracts for new or refurbished public buildings procured by or for the Welsh Assembly Government, that the design achieves as a minimum, the BREEAM 'very good' standard, or equivalent and the BREEAM 'excellent' standard wherever possible. We will work with Local Authorities to help them achieve similar standards for new and refurbished public buildings for which they are responsible.
- By 2006 we will have established pilot projects that explore the potential of using renewable energy solutions in our policies and programmes aimed at tackling fuel poverty amongst low income vulnerable households, particularly those unable to benefit from traditional improvement solutions.
- The Assembly and its agencies will encourage the development of an indigenous microgeneration "renewables" industry in Wales, with a particular focus on opportunities for SMEs. WDA, Carbon Trust and EST, and where appropriate, other renewables focused organisations, to work together closely to provide a joined up approach
- We will commission a project to investigate the benefits and barriers to promoting the uptake of alternative fuels in Wales, such as biofuels, biogas, natural gas and hydrogen.
- We will work with Local Education Authorities and school governing bodies so that, as they come up for renewal, all specifications for contracts for school meals address issues of health and nutrition and food seasonality.
- We will introduce a targeted top tier agri-environment scheme to encourage co-operative action, bringing about wider environmental benefits in the countryside across farm boundaries.
- With our Advisory Panel we will produce a Wales-wide strategy for Education for Sustainable Development and Global Citizenship by Spring 2005.
- By Spring 2005 we will also introduce the ECOHomes environmental assessment process and set energy efficiency standards significantly above that currently required by building regulations for all new homes built in Wales by Registered Social Landlords using Social Housing Grant.

Table 4C: Summary of 2004 Sustainable Development Action Plan

Section Heading	Sub-Heading	Action Area
Living Differently (structural issues)	Climate Change	Energy Efficiency Action Plan, use of renewable sources, trunk road lighting,
	Liveable Places	Deprived communities, construction, transport, land use
	Natural Resources	Pollution, farm policies, bio-diversity, landscape, timber, marine environment
	Sustainable Production	Waste minimisation, support for business sector, social enterprises
	Reducing Consumption	Home Energy Efficiency Scheme, Public Sector Sustainable Waste Management, travel planning
Leadership and Delivery (governance)	Creating Organisational Excellence	Assembly decision making processes, resources, staff training
	Delivering through our agents	Training and Guidance, NHS Kings Fund work, NHS Healthcare Waste Strategy, ASPB remit letters
	Delivering with Local Government	A Local Authority Standard, Performance Management Reviews, Community Strategies, recycling Exemplars
	Delivering with Partners	Promote and share best practice, 'Sustainable Production and Consumption'
	Wales: A Global Citizen	Fair Trade, international best practice, NRG4SD
	Promoting Awareness and Leadership	Cynnal Cymru / PSMI Executive Leadership Programme
	Education for a Sustainable Future	Education Curriculum, whole school policy, teacher training, HE and FE strategic plans
Making Our Money Talk (expenditure)	Procurement	Business Procurement Taskforce, Assembly procurement practices, Welsh Procurement Initiative SP Programme, WPI Procurement Fitness Checks, Business Support Mechanisms
	Grants	Approval process and conditions
	Food	'Food for Thought' guidance and case studies. Targets in education and health food provision.
	Estate Management	Green Dragon, Waste management, energy saving, construction guidance
Measuring Our Progress (management)	Monitoring and Reporting	Integration of reports
	Indicators	Development of indicators used

Significantly for the wider public sector, the Assembly plans to promote the importance of the principles of Sustainable Development, leading by example, whilst encouraging local authorities, public bodies, business, the voluntary sector and communities, to integrate the principles of Sustainable Development into their work to deliver change. Specific examples mentioned in the Scheme and Action Plan include the WLGA compact and Performance Reviews, revisions to the ASPB remit letters, the NHS Kings Fund, strategy guidance for HE / FE and a review of the grant system.

For those operating in public sector procurement the need to adopt a more sustainable approach has to be translated into delivery within the organisational context of each public sector organisation, and within the legislative context of the Treaty of Rome, the EU Directive for Procurement and the Public Procurement Regulations. The Sustainable Procurement Programme gives practical support to allow this to be achieved.

Section Five: Next Steps

Those organisations seeking to make their procurement more sustainable are asked to sign up to the WPI Sustainable Procurement Programme.

This involves:

- setting up a cross functional team to address Sustainable Procurement,
- completing the WPI Sustainable Procurement Self Assessment Tool and providing WPI with results,
- reviewing the available guidance,
- attending the WPI programme of training and development events,
- creating and following a twelve 12-month action plan based on the WPI guidance, and
- sharing the plans and resulting activities with WPI and the wider public sector in Wales.

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The Welsh Procurement Initiative

This document is produced through the Welsh Procurement Initiative. In 2000/1 a review of public sector procurement was completed across Wales, which resulted in 42 recommendations for improvement published in the Better Value Wales report (www.wales.gov.uk/bettervalue). The Welsh Procurement Initiative was established in August 2002 to act as the catalyst to achieving the goals of improving the value for money obtained from procurement, and supporting the delivery of public services while benefiting the Welsh economy, its environment and its communities. The Initiative is unique in that it addresses the entire Welsh public sector (i.e. the Assembly and Assembly Sponsored Public Bodies, the National Health Service, Further and Higher Education, Local Government and the Emergency Services).

Acknowledgements

This document draws a number of sources of sustainable procurement guidance. Access to these documents and a summary of their content is provided in a separate document "Sources of Sustainable Procurement Guidance".

Appendix A: Legal Annex

EU Directive on Public Procurement

Introduction

Public sector procurement must be carried out in accordance with the Public Procurement Regulations¹ and the new EU Directive on Public Procurement². This new Directive covers the procurement of works, goods and services: it consolidates and replaces the three procurement Directives which governed the procurement of works, goods and services respectively. The UK Government must implement the new Directive by 31st January 2006 but, until then, the existing Public Procurement Regulations remain in force.

The new Directive retains the fundamental principles of the “old” procurement Directives (although it is worth noting that the new Directive contains a number of significant amendments which are not covered by this note). In particular, the main aim of the new Directive remains the need to ensure that the public procurement market is opened up to promote the free movement of goods and services within the EU, thereby increasing the opportunities for competition between suppliers, contractors and service providers across EU borders. The overriding objective of the Directive is to ensure honesty, fairness and transparency in the procurement procedure and to ensure that contracting authorities do not discriminate against suppliers from other EU Member States.

Non-compliant public sector procurement is at risk of challenge from aggrieved suppliers through the UK Courts or through complaint to the European Commission, from the European Commission directly or from auditors.

Procedure to be followed

Where contracts for works, goods or services are above a certain specified threshold, the Directive sets out the procedures that must be followed in relation to the advertisement of the contract, the short-listing of potential suppliers, the evaluation and the ultimate selection of the successful supplier(s).

Before starting a procurement exercise, a public sector body will wish to put together the specification of the works, goods or services required. The Directive contains detailed provisions in respect of how to draft specifications for the supply required and specific provision is made for the use of environmental factors in drafting performance specifications for contracts. In particular, provision is made for the use of “eco-labels”. Great caution should be exercised in referring either to a brand name or the need for the supply to come from a particular region or location (legal advice should be sought if there is any doubt whatsoever in this respect). Any public procurement which has the effect of giving preference to any supplier or contractor on the basis of nationality or location is likely to be in breach of the European Union Treaty (in particular Articles 12, 28, 43 and 49) as well as in breach of the Directive. The ability to justify a preference policy for products or services from a particular region or location is very limited.

Contracts can be awarded either on the basis of the lowest-price compliant tender or, as is usually selected, the tender that is most economically advantageous to the organisation. This latter basis involves the consideration of wider criteria than price alone, including for example, delivery date, running costs, cost-effectiveness, quality, aesthetic and functional characteristics, technical merit, after-sale service and technical assistance.

¹ The Public Works Contracts Regulations 1991 (SI 1991/2680), The Public Services Contracts Regulations 1993 (SI 1993/3228), and The Public Supply Contracts Regulations 1995 (SI 1995/201).

² Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contract and public service contracts.

In a case in 2002 (the “Concordia” case), the Court of Justice of the European Communities accepted that environmental criteria could be used as part of the assessment of what constitutes the “most economically advantageous tender” provided that the following conditions are met –

- the criteria must be linked to the subject matter of the contract;
- they must not confer on the contracting authority an unrestricted freedom of choice between tenderers;
- the criteria must be expressly mentioned in the contract documents/tender notice, preferably in order of importance; and
- they must comply with all the fundamental principles of EU law, in particular non-discrimination.

The new Directive makes particular reference to the fact that contract conditions can include requirements as to the performance of environmental and social conditions where this is compatible with the Directive and is not directly or indirectly discriminatory. As a matter of law, contract conditions which include environmental or social conditions should not be “disguised” tender evaluation criteria.

Appendix B:

Recommended 12-month Action Plan

We recommend that an organisation seeking to make its procurement activity more supportive of sustainable development go through the following steps over the first 12 months. A number of these can be carried out concurrently, so that priority goods and services can be looked at while the organisation is also addressing its standard processes. An organisation may also wish to initially pilot a new approach in limited areas. Performance against the Action Plan can be measured in terms of how many activities have been completed in a given period, and improvement against specific areas of the WPI Sustainable Procurement Self Assessment Tool. Implementing this initial plan is likely to support an organisation seeking to apply for Green Dragon Level 1 and move towards Level 2, and is compatible with the Procurement Fitness Check model used by WPI.

First 12 Months

Management Issues

1. Establish top level support for the Action Plan, and resource commitment.
2. Set up a cross-functional team. This should include policy decision makers, large budget holders and procurement professionals. An example of a team would be Procurement, Estates, IT, Catering, operational managers, Environmental/Economic specialists and HR.
3. Review the guidance and agree an organisation specific Action Plan with agreed time-scales and responsibilities.
4. Communicate the objectives and scope of the team across the organisation, and where appropriate to external suppliers and stakeholders
5. Ensure the cross-functional team has an adequate understanding of the core issues involved and the relevant legislation. This should include the legal parameters within which the organisation must operate (e.g. compliance with the Treaty of Rome, the EC Directive for Procurement and the Public Procurement Regulations), the WEEE and RoHS Directive and various operational legislation. It should also include the potential supply base and key sustainability issues for Wales.

Base-line Measurement

6. Assess the extent to which the organisation is operating in a sustainable way. Along with the results of any PFC, use the WPI Sustainable Procurement Self Assessment Tool produced by Forum for the Future to identify the base-line and priority target areas. Repeat the process after 12 months to track progress.
7. If this process identifies a lack of data, ensure that robust processes are established to regularly measure specific outputs (e.g water and energy consumption and waste streams).
8. Obtain expenditure analysis, by supplier name, SME, commodity, and area of origin. (Available from WPI EXPEND database if information has been submitted). Carry out a sustainable development risk assessment against the top 10 goods or services in terms of expenditure, and identify if any high expenditure areas are also high sustainable risk areas.

Policy and Process

9. Review the following documents and if appropriate recommend revisions:

- Sustainable development policy
- e-Business policy
- Procurement policy
- Procurement strategy documents
- Standard supplier appraisal forms
- Standard contract conditions.

For supplier approval forms and contract terms either the documents can be amended or preferably the process revised to allow individual procurement exercises the flexibility to build in sustainability where appropriate. Evaluation processes should also be made flexible to allow sustainable criteria to be used where this is relevant for the individual tender. Suppliers should be encouraged to provide comparative budget costs of more sustainable alternatives as variant bids during the tender process. When identifying areas for revision ensure that processes do not act as a barrier to smaller suppliers.

Priority Goods and Services

10. Select three-five top priority goods or services which have a high sustainable risk. Over time a sustainable risk audit can be carried out across all expenditure, for the first year it is recommended that a few areas are piloted. Assessing existing base-lines and completing risk assessment against the top spend areas should identify initial priority areas. However the following are likely to be included:

- Construction projects
- Facilities Maintenance
- Energy
- Transport
- Waste
- Computer equipment
- Food
- Paper and Packaging

11. For the selected goods or services:

a) Review current usage patterns and drivers of consumption. Identify what could be changed which would result in the organisation consuming less, either by demanding less or by re-using existing material.

b) Complete a sustainable development risk assessment against the existing specification. Use whole life costing techniques to fully understand the impact. Review the specification against a model such as the LAPS sustainable checklist or Environment Agency checklist and consider the opportunities and implications of making changes to the specification. Consult with suppliers where appropriate. Specification changes should consider asking for recycled material, usage reduction, ability to re-use and re-cycle, and disposal implications. Greater use of performance or output based specifications can be considered, as can removing elements which act as barriers to particular supplier groups. Requiring specific actions which provide wider community benefit can also be considered.

c) Review the opportunity and implication of making changes to the evaluation criteria where relevant and appropriate, bearing in mind that the scope for lawfully using sustainable requirements as evaluation criteria is more limited, and legal advice may be required. Encourage suppliers to propose options for more sustainable alternatives or variants in their tenders.

d) Undertake research into the local supply base to better understand the scope for developing additional competitive sources of supply.

e) Review the existing procurement approach to ensure it does not create any unnecessary barriers to smaller suppliers in the packaging of the work or the minimum criteria (for example consider the use of 'lots'). Consider the appropriate contract period.

f) Communicate any planned changes to specifications or evaluation criteria to the supply base well in advance of tendering.

g) Review the existing contract conditions and identify the scope to build in requirements that ensure the contract delivery supports sustainable development. Ensure that longer term contracts allow for flexibility and development over time. Discuss ideas with suppliers – changes will be more effective if suppliers see them as practical improvements. Be mindful that the organisation will need to monitor performance against any new requirements.

Supply Base

12. Make it easy for suppliers to do business with your organisation. Review how accessible information on contract opportunities, on organisational requirements, on contact points and demand volumes are to suppliers. Maximise use of 'xchange.wales.co.uk' and ensure that organisational websites provide clear guidance to suppliers.
13. Expand the contract management process with the top five 'strategic critical' suppliers to build in supplier development. Establish the contribution to sustainable development as one of the areas for development review. Agree action plans for the coming year with the top five suppliers.
14. Identify goods or services with a high risk of having non-ethical production processes. In conjunction with existing suppliers establish a plan to start to map global supply chains. Make use of existing data sources through collaboration or voluntary groups. Develop appropriate procurement strategies to influence change.
15. Encourage existing suppliers to review the extent to which their operations support sustainable development. Encourage the adoption of Environmental Management Systems, and waste minimisation, and the review of equality policies, health and safety and skills training. Put key suppliers in touch with organisations funded to help the business sector.

Forward Planning

16. Establish an action plan for the second 12 months, building on the findings from the first period. The focus would be on mainstreaming the work carried out to date, and recording the business benefits. Areas for consideration would be:
 - communication of good examples of work to date,
 - sustainable procurement training for organisation,
 - forthcoming major projects,
 - additional priority goods or services,
 - implementation of recommended changes to policies and processes,
 - implementation of supplier action plans,
 - completion of supply chain mapping,
 - further development of web-sites and IT,
 - targets for coming years, and
 - pursuit of EMS accreditation such as Green Dragon or ISO14001.

