



***Public Services (Social Value) Bill 2010-12* [Bill 238 of 2010-12]: Committee Stage Report**

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This is a report on the House of Commons Committee Stage of the *Public Services (Social Value) Bill 2010-12*. It complements [Research Paper 10/73](#) which was prepared for the Commons Second Reading of the Bill, then titled the *Public Services (Social Enterprise and Social Value) Bill*.

The Bill is a Private Members Bill. It was introduced by Chris White, who came third in the ballot, on 30 June 2010. Second Reading took place on 19 November 2010 and the Committee stage took place on 19 October 2011. Report is scheduled to take place on 25 November 2011.

As introduced, the Bill required the Government and local authorities to publish social enterprise strategies. It also required the consideration of economic, social and environmental well-being in the procurement of goods and services.

The Government tabled a number of amendments to the Bill, all of which were passed. The requirements for national and local social enterprise strategies were removed and the short title of the Bill was amended to reflect this. The procurement requirements were also amended so that the Bill now only applies to the procurement of public services. A number of other, largely technical, amendments were also passed. As amended, the Government supports the Bill.

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1 Introduction

The *Public Services (Social Value) Bill* is a Private Member's Bill and was introduced by Chris White on 30 June 2010 as the *Public Services (Social Enterprise and Social Value) Bill*, Bill 6 of 2010-12. Chris White came third in the Private Member's Bill ballot in the 2010-12 Session.

The Bill, introduced as the *Public Services (Social Enterprises and Social Value) Bill*, made provision regarding the promotion of social enterprise in a national social enterprise strategy and in local authority sustainable community strategies. The Bill also required certain public authorities to take account of wider economic, social and environmental well-being in commissioning goods, works or services and throughout the procurement process.

A number of Government amendments were made to the Bill during the Committee stage. These included the removal of the requirement for the national and local authority strategies. The short title of the Bill was amended to reflect this.

Background to provisions in the Bill can also be found in the Library Research Paper prepared for the Second Reading debate: Research Paper 10/73, *Public Services (Social enterprises and social value) Bill*. The Cabinet Office prepared [Explanatory Notes](#) to the Bill as introduced.

This Research Paper summarises the [Second Reading debate](#), which took place on 19 November 2010. It also briefly outlines the Government's consultations on *Modernising Commissioning* and on *Open Public Services* which were both published between the Bill's Second Reading and its Committee stage. It then sets out the main amendments and areas of discussion during the [Committee Stage](#) which took place on 19 October 2011.

Links to all stages of the Bill's progress and to Bill documents can be found through the [Bill page](#) on the Parliamentary website.

2 Second Reading debate

The Bill received an unopposed [Second Reading](#) on 19 November 2010.

Chris White explained that the Bill had three parts. The first two required the creation of national and local strategies concerning social enterprises. The third and "most important" part of the Bill concerned "social value":

The Bill asks all organisations that are currently publicly contracting authorities under the *Public Contract Regulations 2006* to consider how they might promote wider economic, social and environmental well-being in a contract and how they commission such contracts accordingly. Although considering that wider social value during the contracting process is only a small technical change, it would bring significant benefits for our public services in terms of the quality of contracting. It would also benefit communities, social enterprises, voluntary groups and small businesses, which generate considerable social value.¹

He stated:

The UK taxpayer spends nearly £200 billion a year on procuring and commissioning goods and services... I believe that we should be using this funding, which we need in order to provide the services that people want, to leverage and galvanise VSCEs [voluntary, community and social enterprises].²

Mr White argued that procurement exercises should not only consider short-term costs but also the long-term value of awarding contracts to social enterprises and voluntary organisations. The Bill was not “trying to help one set of providers at the expense of others”, nor would it “replace or undermine the concept of value for money”. Instead, its intention was to make commissioners of public services “more enlightened in their approach”, making what was currently seen as good practice, normal practice.³

Hazel Blears (Labour) spoke in support of the Bill but raised a “few notes of caution”. She noted that if the Bill were a first step to converting public services to the private sector this would damage social enterprises and voluntary groups. She stated that she considered the Bill’s definition of social enterprise, contained in clause 2, as insufficient. She called for the Bill to ensure greater community involvement. She warned against the fragmented provision of public sector projects which could lack accountability, quality and standards, and prevent the personalisation of service delivery. Lastly, Ms Blears raised the question of for funding for voluntary groups and social enterprises.

Ben Gummer (Conservative) supported the Bill but queried the definition of social enterprise in Clause 2 of the Bill as introduced, commenting that it could apply equally to private companies that paid dividends to shareholders.

Steve Baker (Conservative) generally supported the Bill but stated that he was “ambivalent on a few philosophical points”. He said that for him, the key question was the role of the coercive power of the state in building a better society. He noted that he was “sceptical” about the need for both the national social enterprise strategy and the local strategies.

John Trickett (Shadow Minister for the Cabinet Office) stated that Labour Members wanted to see the further development of social enterprises, and were happy for the Bill to receive a Second Reading. He asked why legislation was needed for a national social enterprise strategy when Labour had introduced a social enterprise action plan without legislating. He drew out what he saw as a tension between the “communitarian aspirations” and the “neo-liberal drive to reduce the cost and extent of government” which he saw reflected in the Bill. He also asked Ministers to deny that the Bill had been drafted by the Cabinet Office.

¹ HC Deb 19 Nov 2010 c1177-1178

² c1172

³ *Ibid*, c1173

Nick Hurd (Parliamentary Secretary in the Cabinet Office) stated that the Government was happy for the Bill to go to Committee, but intended to amend it. He noted that the Bill was consistent with the “big society” and “localism” agendas of the Government. He stated that he supported Clause 3 of the Bill, on procurement, because “the Bill sends an unequivocal message to those spending public money that it is vital that they maximise the value achieved by every penny”.⁴ In response to an intervention from Christopher Chope, he stated that the legislation would not compromise local authority autonomy because it was a requirement to consider only where “relevant” and “proportionate”.⁵ Mr Hurd then explained that the Government would seek to amend the Bill in Committee to remove both Clause 1 and 2 which referred to the “national social enterprise strategy” and “local authority strategies”.⁶

Christopher Chope expressed a concern that small businesses might be “squeezed out” by social enterprises in competitions for public sector procurement contracts. The Minister drew his attention to the measure the Government had introduced to make progress towards the Government’s aspiration that 25% of Government contracts should be awarded to Small and Medium Sized Enterprises.⁷

3 Developments since Second Reading

The Cabinet Office published the *Modern Commissioning Green Paper* on 7 December 2010. This outlined the Government’s intention to increase the role of charities, social enterprises, mutuals and cooperatives in public service delivery. The Green Paper sought views on four key questions:

1. In which public service areas could government create new opportunities for civil society organisations to deliver?
2. How could government make existing public service markets more accessible to civil society organisations?
3. How could commissioners use assessments of full social, environmental and economic value to inform their commissioning decisions?
4. How could civil society organisations support greater citizen and community involvement in all stages of commissioning?⁸

The consultation closed on 5 January 2011. Its results were then fed into the *Open Public Services White Paper* published on 11 July 2011.⁹ Oliver Letwin, the Cabinet Office Minister, gave an oral statement on the White Paper’s publication which emphasised opening up services to a broad range of providers:

Our principles are clear. They are choice, decentralisation, diversity, fair access and accountability. We will increase choice wherever possible; power will be decentralised to the lowest appropriate level; public services will be open to a diverse range of

⁴ *Ibid*, 1216

⁵ *Ibid*

⁶ *Ibid*, c1217

⁷ *Ibid*, c1220

⁸ Cabinet Office, *Modernising Commissioning*, p7

⁹ See Library Standard Note SN/PC/6011, *Public Service Reform* for more information about the *Open Public Services White Paper*.

providers; we will ensure that there is fair access and fair funding for all; and services will be accountable to users and taxpayers.¹⁰

The White Paper stated that the Government would consider barriers to new entrants in participation in commissioning:

...the Government will address the barriers that can constrain open public services in practice. It is important to note that these barriers apply as much to movement within the public sector as they do to movement between sectors. In examining such barriers, the Government is not looking to give preference to any particular sector. Our aim is simply to level the playing field and ensure that a range of providers have opportunities to compete. In the *Modernising Commissioning* Green Paper we sought views from providers, public service professionals and the public on how the Government can make existing public service markets more accessible to innovative providers. The responses showed that practical barriers can deter many providers from competing to deliver public services, particularly when they are small in size. Without action to address these issues, there is a risk that smaller providers will be unable to take full advantage of the opportunities of open public services – particularly charities, social enterprises, small and medium sized businesses and new mutuals.¹¹

The Cabinet Office published an open letter to civil society organisations on 25 July 2011 which acknowledged responses to the *Modernising Commissioning* consultation paper. The letter, entitled [The Road Ahead: A journey through public service reform for civil society organisations](#), summarised responses to the consultation as follows:

...you told us that:

- Commissioners needed support to: engage with civil society organisations; tackle persistent barriers to commissioning for better outcomes; and to develop markets
- Procurement processes were complex, protracted and overly bureaucratic;
- Greater transparency around issues such as TUPE and pensions was needed;
- Incentivising outcomes and consideration of social value were important aspects of reform.

Along with announcing funding for a programme to help civil society organisations to take advantage of new markets in public sector delivery, the letter drew attention to changes in procurement processes that would encourage social enterprises to bid for public sector contracts. It stated that the Local Government Group had confirmed their intention to encourage the use of the standardised Pre-Qualification Questionnaire (PQQ), and that the Government would seek to eliminate the use of PQQs for all central government procurements under the EU threshold of £100,000. These measures would also be of benefit to SMEs.¹²

4 Committee stage

The Bill spent one day in [Public Bill Committee](#) on 19 October 2011. A number of amendments were passed, as summarised below. The membership of the Public Bill Committee is set out in the Appendix to this note. Report is scheduled to take place on 25 November 2011.

¹⁰ HC Deb 11 July 2011 c26

¹¹ Cabinet Office, [Open Public Services](#), June 2011, para 6.18

¹² For more information see Library Standard Note, [Public Sector Procurement: Savings and SMEs](#).

4.1 Requirements for national and local strategies

Clause 1 of the Bill had required the preparation of a national social enterprise strategy. Clause 2 had required the preparation of social enterprise strategies by local authorities, and had provided a definition of social enterprise. The Government tabled amendments to remove both clauses from the Bill. Chris White noted that the amendments were “a condition of the Government’s support”.¹³ They also tabled an amendment to the short title of the Bill to remove reference to social enterprises. There were a division on the motion that Clause 1 stood as part of the Bill; this was lost by 8 to 6.¹⁴ Clause 2 was removed from the Bill without a Division.¹⁵

Social Enterprise UK commented before the Committee stage that the decision to remove the term “social enterprise” from the Bill could be “very bad news” for the sector:

The Government has always been clear that it didn’t support the social enterprise strategy clauses of the Bill... But a decision to remove the term “social enterprise” could be very bad news for Britain’s growing social enterprise sector. The Coalition Government has committed itself to creating a greater role for social enterprises as well as charities and co-operatives to deliver public services. In fact the Big Society vision hinges on this. We are concerned that this important signpost for commissioners may be removed and change the spirit and letter of the Bill.¹⁶

Nick Hurd summarised the ways in which the Government was trying to open up new market opportunities to social enterprises:

... We are trying to create new market opportunities for social enterprises and to make it easier for them to access capital in addition to the Big Society Capital project, which is working towards creating a new institution with £600 million of capital. That is a serious play in this area. We have also announced that we will set aside at least £10 million for a technical assistance fund to help social enterprises become more investment-ready, so that they can go to Big Society Capital through intermediaries and try to access the money.

Additionally, we are working closely with Ministers at the Department for Business, Innovation and Skills to ensure that we are fully joined up on the work that they are doing and the opportunities that they present to social enterprises, which, in my view, can play an incredibly important role in the growth agenda, or the economic priority to create jobs. The regional growth fund is relevant here, as are the plans to develop a network of 40,000 mentors to support small businesses, including social firms.

The Government are joined up. A huge amount of activity is going on to support social enterprises and other entrepreneurs. That is being communicated to stakeholders, and I continue to discuss with Ministers whether there are merits in joining that up in a formal strategy document. I will come back to my earlier point: the previous Administration were guilty of believing that just publishing a strategy document was enough and that suddenly doing so would be transformative. In my view, it is not. There are occasions when a strategy document is useful—we certainly felt that it was

¹³ PBC Deb 19 October 2011, c4

¹⁴ *Ibid*, c16

¹⁵ *Ibid*, c18

¹⁶ Social Enterprise UK, [Social Enterprise UK responds to proposed amendments to Public Services Bill](#), 18 October 2011

in relation to our plans to grow the social investment market—but we do not think that it is necessary to legislate for one.¹⁷

4.2 Procurement

The Government tabled a number of amendments to Clause 3 of the Bill which concerned public sector procurement. The Minister argued that the purpose of the Government amendments was to “focus the legislation on where it will make the most impact”.¹⁸ The amendments were all passed without division.

The main effects of the amendments to clause 3 were:

- to limit the scope of the Bill only to include public services, removing contracts for goods and work;
- to limit the scope of the Bill to the pre-procurement stage of the commissioning process;
- to require that commissioners should consider not only improving the economic, environmental and social well-being of the service procured but how the procurement process itself may be improved;
- to add a provision so that the legislation will not impede commissioning in urgent circumstances, but that delays or short time scales caused by the contracting authority would not count towards urgent need;
- after consultation with the Welsh Assembly Government, to ensure that authorities in Wales that exercise wholly or mainly devolved functions are excluded from the Bill.

There were also a number of technical amendments.

During the debate the Minister also clarified how the Bill would interact with the best value duty placed on local authorities by the Secretary of State for Communities and Local Government:

- the Best Value duty required local authorities to consider value, including social value, on all contracts, services, goods and works throughout the procurement process on contracts of any value.
- The Bill would place a duty on all commissioners in contracting authorities to consider how to improve social, economic and environmental well-being in services-only contracts that are pre-procurement stage, with contract values only above the EU procurement threshold.

The Bill is scheduled to have its report stage on 25 November 2011.

¹⁷ PBC Deb 19 October 2011 c15

¹⁸ *Ibid*, c20

Appendix – Members of the Public Bill Committee

Chair

David Crausby MP

Members

Steve Baker

Harriett Baldwin

Hazel Blears

Fiona Bruce

Lorely Burt

Jonathan Edwards

Charlie Elphicke

Michael Fabricant

Richard Fuller

Paul Goggins

Kate Green

Mr Nick Hurd

Anas Sarwar

Mr Barry Sheerman

Mr Gareth Thomas

Chris White

Committee Clerk

Kate Emms