

**REPORT TO:** Environment and Urban Renewal Policy and Performance Board

**DATE:** 16<sup>th</sup> March 2011

**REPORTING OFFICER:** Strategic Director, Environment & Economy

**SUBJECT:** Construction Halton

**WARDS:** Boroughwide

## **1.0 PURPOSE OF THE REPORT**

- 1.1 To update members on the implementation of Construction Halton.
- 1.2 To share the recruitment and training workflow model with members, that highlights the council departments and partner organisations that will be involved when undertaking procurement exercises and negotiating planning agreements, focused on achieving Construction Halton job and training outcomes.

## **2.0 RECOMMENDATIONS: That**

- 1. the report is received;**
- 2. members comment on the progress to date; and**
- 3. members comment on the proposed recruitment and training workflow models.**

## **3.0 BACKGROUND**

- 3.1 The Construction Halton project is focused on facilitating a range of measures to deliver community benefits from construction related work, in the form of employment, apprenticeships, training and work experience opportunities.
- 3.2 The project is seeking to maximise the recruitment and training benefits arising from council contracts and the development control function, by embedding targeted recruitment and training obligation clauses in tenders and Section 106 planning agreements.
- 3.3 Construction Halton is also assisting Halton based small and medium size enterprises (SMEs) to access opportunities arising from the new planned development activity in the area.

## **4.0 PROGRESS UPDATE**

- 4.1 Since the last report to the Board in November, 2010, significant progress has been made in a number of key priority areas.

### **Skills Forecasting**

- 4.2 Options for purchasing a skills forecasting tool are currently being market tested. The tool will provide forecasts of the skills required, eg bricklayers, electricians, glaziers etc, to deliver construction projects that will assist in the design of pre-employment training and recruitment programmes. Using the skills forecast as the baseline, the tool will also provide accurate forecasts of the subsequent training opportunities that will arise from construction projects, which can then be translated into obligation clauses that become part of the tender documents/Section 106 planning agreement. A demonstration of a commercial skills forecasting tool will be presented at the Board meeting.
- 4.3 Obligation clauses commit the supplier/developer to deliver targeted recruitment and training outcomes as part of the overall procurement/planning agreement. For example, clauses could refer to the number of apprenticeships that will be made available; the number of work experience weeks that will be provided or; the percentage of the contract value that will be spent locally etc.
- 4.4 Comprehensive guidance on the drafting and application of obligation clauses in local authority contracts/Section 106 agreements is widely available and has been shared with key departments in the council.
- 4.5 At the procurement/Section 106 negotiation stage, bidders and developers will be required not only to commit to targets, but will also be required to complete a method statement that describes how they would go about achieving the target.
- 4.6 The skills forecasting tool will be utilised at specific stages of the procurement/planning agreement process, which is covered in paragraphs 5.1 to 5.7 of this report.

### **Building Schools for the Future Programme (BSF)**

- 4.7 Following the appointment of the Halton Transformational Partnership (HTP) in December 2010, to deliver the revised BSF programme in Halton, work is now underway with council officers and members of the Halton Employment Partnership (HEP) to support HTP in achieving the key performance indicators (KPI's) relating to employment, training and recycling the local pound. The construction works will focus on Wade Deacon and The Grange schools.
- 4.8 The local employment related KPI's that HTP have undertaken to deliver are:-

- 5 jobs
  - 10 apprenticeships
  - 19 weeks work experience
  - 17 days careers and learning input
  - 40% of contract value to be spent within the WA postcode area, plus a 5 mile radius
- 4.9 In addition to any posts that HTP will be seeking to fill, all supply chain vacancies will be fed through Halton People into Jobs for job matching/assistance with selection etc.
- 4.10 To assist local SMEs, a meet the buyer event has been scheduled on 21 February. Businesses that match the trades HTP are seeking to appoint as part of their supply chain will be invited to attend for one to one interviews with HTP representatives.

### **3MG/A5300 Link Road**

- 4.11 The council is proposing to enter into a Development Agreement with a private company whereby, in exchange for council owned land, the company will procure the necessary infrastructure for the works at their own cost.
- 4.12 Subject to planning permission being granted, the works will comprise an 850,000 sq ft warehouse and associated offices; car parking; rail siding; and rail connection to the Liverpool branch of the West Coast Main Line. The highway connection to the 3MG site will be via the A5300/A562 roundabout. The development will include landscaping and a sustainable drainage system and utilities.
- 4.13 A draft Development Agreement clause, that is seeking to secure a training commitment that would lead to 1 full time equivalent trainee for every £1m of contract value, is under consideration by the company.
- 4.14 To assist the company, should it agree to include community benefit clauses when it tenders for the works, although it is under no obligation to do so, examples of targeted recruitment and training clauses and a sample method statement have been forwarded for their consideration.

### **Mersey Gateway**

- 4.15 To ensure that the procurement process for the Mersey Gateway Project could proceed quickly, while waiting for the coalition government's decision about funding support for the Project and the Planning Inspector's report to be published, work continued on exploring ways in which social and community benefit obligation clauses can be integrated into the Mersey Gateway tender.

- 4.16 The Mersey Gateway Procurement Manager has been briefed on the approach taken by the BSF team to securing community benefit employment KPI's and is fully aware of the employment and training opportunities that the Mersey Gateway has the potential to deliver.
- 4.17 The delayed decision on the funding of the Mersey Gateway Project means that the detailed drafting of community benefit obligation clauses will also be slightly delayed.
- 4.18 The progress being made on Construction Halton will assist the Mersey Gateway procurement team, as it is expected that there will be a community benefit procurement model in place when the procurement process reaches the stage when decisions are being made about the nature and delivery of obligation clauses to be included in the tender.

### **Section 106 Planning Agreements**

- 4.19 A report presented to the Development Control Committee on 14 February, 2011, illustrated how planning agreements, negotiated under Section 106, offer the Council a significant opportunity to secure developer support for targeted recruitment and training initiatives, to assist in tackling the high levels of economic exclusion and worklessness in the Borough.
- 4.20 Members were informed that the Council will be looking to negotiate planning obligations with developers and occupiers of major new job creating developments to secure initiatives and/or contributions towards the recruitment and training of local people. The training schemes should offer help particularly to disadvantaged groups so that they may obtain the necessary skills to increase their job opportunities.

### **5.0 RECRUITMENT & TRAINING WORKFLOW MODEL**

- 5.1 Halton Borough Council is already committed, within the law, to maximising the recruitment and training benefits arising from procurement contracts and planning obligations, by including targeted recruitment and training obligation clauses in tenders and planning agreements.
- 5.2 Contractors and developers will be expected to work with training and employment organisations in Halton to secure the resources that it needs to deliver these requirements.
- 5.3 There is now a need to ensure that the strategic level commitment to the project is more widely understood, in order that the council departments and partners that will be involved in delivering Construction Halton fully understand their role and the anticipated contribution they will be making to achieve its outcomes.

- 5.4 To illustrate the contributions by the council and the partners at different stages of the procurement and planning process, a workflow model has been developed that covers both council procurement and planning agreements, which will guide the flow of information, the actions to be taken and the contributions by council departments and partners at each stage of the process.
- 5.5 Appendix I illustrates the Council Procurement/Construction Halton Workflow and Appendix II illustrates the Council Planning Agreements/Construction Halton Workflow.
- 5.6 Both models are based on a three stage process. Stage 1 describes the pre-procurement and pre-planning application phase. Stage 2 goes on to describe the procurement and the planning application phases and Stage 3 describes the implementation phase, when the training and employment plans, agreed at stage 2 in both models, are being delivered.
- 5.7 The workflow models will be subject to further consultation within the council and the Halton Employment Partnership (HEP), before being finalised and adopted.

## **6.0 NEXT STEPS**

- 6.1 Preparations for the handover of the project to the Adult Learning and Skills Division are being made, as the contract for the Construction Halton Project Manager expires at the end of March 2011.
- 6.2 Further fine tuning of the delivery arrangements will be necessary after April 2011, to fit in with the new council structure.

## **7.0 FINANCE IMPLICATIONS**

- 7.1 An allocation of uncommitted Working Neighbourhood Funding has been made to the Halton Employment Partnership that will enable the continuation of Construction Halton after March 2011.

## **8.0 IMPLICATIONS FOR THE COUNCIL'S PRIORITIES**

### **8.1 Children and Young People in Halton**

Supports key objectives C and E.

Ensuring children and young people are offered the opportunity to explore training and qualifications in the construction industry will put them in good stead to apply for future jobs in the sector.

### **8.2 Employment, Learning and Skills in Halton**

Supports key objectives B and C.

The scale of inactivity within areas of Halton, alongside significant construction activity and investment, reinforces the need to find more

effective ways of 'matching' people currently excluded from the labour market to the jobs in the industry.

**8.3 A Healthy Halton**

Supports key objective C.

Construction Halton will assist placing hard to help groups currently disadvantaged in the labour market into employment and training opportunities

**8.4 A Safer Halton**

None applicable

**8.5 Halton's Urban Renewal**

Supports key objectives A and E.

The relatively high stock of small businesses in Halton suggests that the local industry could continue to grow and provide additional employment opportunities if they are in a position to compete effectively for public sector supply chain contracts

**9.0 RISK ANALYSIS**

9.1 The UK government and European Commission are encouraging public agencies to use procurement to achieve social policy goals. The council should aim to maximise the extent to which its procurement generates jobs and training opportunities. However, this may conflict with European Commission principles relating to most economically advantageous tenders.

9.2 Overcoming resistance to linking employment and training benefits with procurement is the main barrier, but there is also need to proceed with care to accommodate the EU and UK legal frameworks.

9.3 European case law on the extent to which a public body can include employment and training requirements in their procurement mostly relates to situations where these were seen as 'added value' – that is – secondary considerations – rather than part of the subject of the contracts – core requirements. It is considered good practice, therefore, to embed employment and training requirements into tenders and score them as part of the overall tender. This can only be done to the extent that there is evidence that by doing so the authority is able to secure Best Value across its functions.

9.4 Local authorities have broad powers to promote social, environmental and economic well-being under the Local Government Act 2000. This can include training and job outcomes as core requirements – eg, buying 'highways maintenance and skills development.' What we are currently not permitted to do is to have regard to matters of the location of trainees and/or suppliers and contractors: Local Government Act 1988.

- 9.5 By referring to these requirements, a local authority can take bidders' offers in relation to these matters into account in the award of the contract. Secondary considerations can be included as contract conditions, but must not be used in the tender evaluation and award. As indicated in paragraph 9.3 of this report, by embedding employment and training outcomes into the tender they can be taken into consideration and will form part of the award.
- 9.6 Under European case law, the inclusion of employment and training requirements could disadvantage non-local bidders. This is because they have no local workforce or knowledge of local labour markets.
- 9.7 It is important, therefore, to avoid 'local referencing', by only specifying targets that can be met from anywhere in Europe – eg, recruiting trainees – and instead, specifying a source of beneficiaries – for example, HEP, HPIJ, the College, Job Centre or agency – that will ensure equal access to bidders from anywhere in Europe.
- 9.8 Providing information to bidders on the resources and services of the named source is important in creating a level playing field at the tender stage.

## **10.0 EQUALITY AND DIVERSITY ISSUES**

- 10.1 The Halton Employment Partnership operates within the LSP framework, which in turn operates under the Council's Equality and Diversity policy.

## **11.0 LIST OF BACKGROUND PAPERS UNDER SECTION 100D OF THE LOCAL GOVERNMENT ACT 1972**

- 11.1 There are no background documents under the meaning of this Act.

## APPENDIX I

### Council Procurement/Construction Halton Workflow

(1) Pre-Procurement	(2) Procurement	(3) Delivery/Monitoring
Project Owner (buyer) to liaise with all relevant departments	OJEU Notice etc where applicable	Delivery of support/training/work placement activity by HEP Skills Group members, in line with Training and Employment Plan and the Delivery Plan
Refer to Procurement Division checklist  Assess value of contact  NB £1m> refer to Construction Halton	Pre Qualification Questionnaire (PQQ) and Evaluation	Regular monitoring and compliance meetings with contractor and nominated representative from HEP Skills Group
Construction Halton generate training forecast. Provisional training target and obligation clause(s), if applicable, forwarded to HEP Skills Group	Invitation to Tender (ITT) & evaluation	Training and Employment Plan evaluation on completion of contract with contractor/Procurement Division/Property Services/Construction Halton
Construction Halton/HEP Skills Group discuss provisional training target, obligation clauses, individual contributions/role and a draft Delivery Plan to assist achievement of the training target	Contract award	
Final training target, obligation clauses and Delivery Plan agreed by HEP Skills Group – notified to Procurement Division, Property Services and Legal Services		
Prepare Official Journal of the European Union (OJEU) documentation if applicable – incorporating obligation clauses if applicable		
Construction Halton/Procurement Division – soft marketing testing		
Ensure specification and tender documentation and evaluation matrix are complete and agree to incorporate obligation clauses/method statement in line with Construction Halton guidance	↓	↓

NB: Green denotes areas of responsibility outside Procurement Division



## APPENDIX II

### Council Planning Agreements/Construction Halton Workflow

<b>(1) Pre-Application (Up to 2 years)</b>	<b>(2) Application (Up to 6 months)</b>	<b>(3) Delivery (Up to 3 years)</b>
Development Control assess if the proposed development is in scope? NB Applies to developments that are greater than 1000m <sup>2</sup> or more than 10 residential units; or valued at more than £1m	Planning application received	Meeting – third stage Delivery Plan meeting(s) with developer/main contractor/Development Control/Construction Halton – Draft Delivery Plan agreed
Development Control notify details of the proposed development to Construction Halton	HEP Skills Group members notified about development by Construction Halton. Construction Halton generate updated training forecast and forward to Development Control	Draft Delivery Plan circulated to HEP Skills Group members and agreed – developer notified
Details logged – Construction Halton generate initial training forecast and forward to Development Control	Meeting – second stage meeting with developer/Development Control/Construction Halton – detailed discussion about training and employment targets/planning obligations	Delivery of support/training/work placement activity by HEP Skills Group members, in line with the Training and Employment and the Delivery Plan
Meeting – First stage meeting with agent/ developer/Development Control and Construction Halton to discuss training and employment targets – in broad terms only at this stage	Draft Training and Employment Plan agreed with developer and circulated for consultation to HEP Skills Steering Group members and other interested parties	Regular monitoring and compliance meetings with contractor and nominated representative from HEP Skills Group
	Notification of consultation feedback and recommendations to developer	Training and Employment Plan evaluation on completion of contract with contractor/Development Control/Construction Halton/HEP Skills Group
	Final Training and Employment Plan agreed with developer	
	Notification of Plan to Development Control Section 106 Officer	
	Section 106 planning obligations drafted by Development Control Section 106 Officer	