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Small business demands access to justice within the public procurement system

Aspire Community Works today called on the UK Government and the devolved nations to launch reviews of access to justice within the public procurement system to tackle inequities faced by smaller organisations in the not for profit and private sectors as part of its #BetterforUs campaign.

This recommendation is included in Aspire's new report, *Public Good Procurement 2024*, published today, which highlights the significant barriers that small organisations face when challenging procurement decisions.

Aspire's report based on its lived experience as a community business bidding within the public procurement process identifies a critical gap in the procurement system, where small businesses and mission-led enterprises are effectively excluded from seeking redress due to the high costs of legal challenges, which can run into hundreds of thousands of pounds. This financial burden prevents these organisations from holding contracting authorities accountable for errors in the procurement process, acts as a barrier to their involvement and prevents improvements being made by public authorities as a result of lessons learned.

Aspire recommends that the Governments could consider a number of options including the establishment of a small business tribunal; a self-funded Ombudsman system, as in Northern Ireland, or use the appeals process within the NHS Provider Selection Regime introduced in England as a model. The latter includes a formal complaints and appeals process that offers independent review, regardless of contract value to all providers including small businesses and community organisations. Any of these would offer a lower-cost and more accessible alternative to court challenges for small businesses and would help to enhance their involvement within the system.

"The cost of taking a procurement case exceeds the turnover of organisations such as ours. The current procurement system is failing social enterprise and small businesses, leaving poor decisions unchallenged and no improvements made," said Dr Katharine Sutton, Director of Aspire Community Works. "Giving small organisations the power to challenge unfair decisions will not only bring justice, but will also drive real, needed change in how public contracts are awarded. It's time to fix this broken system and ensure public procurement works for everyone."

-Ends

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Notes to editors

1. About Aspire Community Works

Aspire Community Works is a UK-based community enterprise dedicated to promoting fair working conditions and tackling inequality in the labour market. Through public procurement and advocacy, Aspire seeks to build stronger communities and create sustainable employment opportunities for disadvantaged groups.

2. The Government has recently announced that the Procurement Act 2023 will come into force in February 2025. It has delayed its implementation to draw up a new National Procurement Policy Statement and is currently consulting on this issue. It proposes to introduce a National Procurement Plan as part of its Making Work Pay Strategy.

3. In the UK procurement is devolved and the report outlines the differences in approach within the UK. Aspire is calling on the UK Government to incorporate the Sustainable Development Goals as the golden thread to run through all procurement in the UK.

4. Aspire Community Works derives the majority of its income through public procurement. Its policy and campaigning work is supported by Trust for London.