

# Ethical Procurement Policy

## 1. Introduction

The Council spends c£300m per annum with third party suppliers/contractors on a range of Goods, Works and Services. Procurement is therefore considered an enabler in assisting the Council to deliver its strategic objectives by using its purchasing power to drive socio-economic and environmental improvements for its residents and society at large.

Ethical behaviour is at the core of delivering against this agenda, and the Council expects the suppliers it does business with to share similar values and an ethical ethos. This policy sets out the range of measures and initiatives the Council is utilising to achieve this and should be read in conjunction with the [Council's Social Value Policy](#) as a core suite of documents.

## 2. Legal Context

As a Local Authority, the Council has a duty to comply with the legal framework governing public procurement, namely the EU Treaty and Public Contracts Regulations 2015 ("the Regulations"); and ethical practice is at its core.

The EU Treaty provides a set of overarching principles to be adopted when awarding contracts; including non-discrimination, equal treatment, transparency, procedural fairness, mutual recognition and proportionality.

The Regulations provide the operational basis for conducting procurement procedures above certain thresholds. They mandate that organisations should be excluded from procurement exercises; where they have been found guilty and received a conviction for one (or more) of the following types of offences within a five year period prior to the procurement procedure:

- Conspiracy (participation in criminal organisations)
- Corruption (including bribery)
- Fraud
- Money laundering or terrorist financing
- Child labour and other forms of trafficking human beings

The Regulations also provide for discretionary grounds to disqualify organisations in certain situations, unless there is satisfactory evidence of *self-cleaning* to demonstrate the measures taken by the organisation and validate its reliability despite the existence of the relevant ground.

- Non-payment of tax and social security contributions.
- Obligations in the field of environmental, social and labour law
- Bankruptcy

- Grave professional misconduct
- Distortion of competition
- Misrepresentation and undue influence
- Conflicts of interest

### 3. Professional Standards

Rotherham Council takes pride in delivering high quality, professional procurement services. Senior Officers within the Council’s Corporate Procurement Team are qualified members of their professional body the Chartered Institute for Procurement and Supply (CIPS). The CIPS qualification is considered to provide the ideal training for procurement professionals of all levels and is accredited by the organisation that promotes and protects the high standards of the sector.

As a qualified member of CIPS, officers are required to adhere to the CIPS [Code of Conduct](#) which defines a range of ethical behaviours and actions which must be maintained and promoted across all organisations they engage with. This includes;

- Enhancing and protecting the standing of the profession;
- Maintaining the highest standard of integrity in all business relationships;
- Promoting the eradication of unethical business practices;
- Enhancing the proficiency and stature of the profession; and
- Ensuring full compliance with laws and regulations.

To further embed the professional standard, the Council will aim to ensure all members of the Procurement Team in a buying capacity are qualified in the profession (where appropriate).

### 4. Policies, Commitments and Decisions

Over recent years the Council has made positive commitments to drive forward ethical practises in its procurement activity and change / improve behaviours in its supply chain over and above the requirements set out within the legal framework referred to above. However, these are all currently captured in separate policy statements, Council motions, and Cabinet decisions. The aim of this Ethical Procurement Policy therefore, is to pull all these individual commitments / decisions into one comprehensive policy.

| Date          | Commitment / Decision                                | Detail   | Rotherham Approach   |
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| November 2004 | Council passed a motion to support the principles of | Council resolves to take the necessary steps to move towards Fair Trade Status for the Rotherham Borough | Rotherham Town obtained Fair Trade status in 2006.<br><br>Continued consideration is |

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|              | Fair Trade.  |   | to be given through pre-procurement activity, to the products being procured and whether fair trade is a requirement. Where it is identified to be appropriate this should be built into the tender documentation accordingly.  |
| October 2015 | Council passed a motion to support the ' <a href="#">Charter for Sustainable British Steel</a> ' as promoted by the 'UK Steel' organisation. | <p>The Charter seeks to:</p> <ul style="list-style-type: none"> <li>• Help ensure the best possible economic benefit to the UK economy by increasing GVA in UK manufacturing supply chains;</li> <li>• Unlock the social, environmental and economic benefits of shortened and localised supply chains</li> <li>• Promote and facilitate the use of UK produced steel in construction and infrastructure projects</li> <li>• Support highly paid, skilled manufacturing jobs and training opportunities in communities across the UK</li> </ul> | <p>Through the pre-procurement activity steel requirements will be considered and how these are translated into the tender. For example, Rotherham Council is the lead organisation of the YORbuild framework for South Yorkshire. This framework includes the option to specify in its call-off contracts that steel must confirm to BES6001 or an equivalent standard.</p> <p>The Council also provides updates of forward indicative steel requirements (major requirements) to support the national steel procurement pipeline, which North Lincolnshire Council collate on behalf of Yorkshire and Humber and feed into the Department for Business, Energy and Industrial Strategy.</p> |
| July 2016    | Cabinet and Council endorsed and approved the <a href="#">Corporate Safeguarding Policy</a> .  | The policy makes clear that safeguarding is everyone's business and everyone at the Council (including suppliers/contractors) shares a responsibility, both corporately and individually, to ensure that  | <p>Safeguarding will be considered throughout all stages of the commissioning and procurement lifecycle.</p> <p>A standard clause is included in all contracts</p>  |

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|                  |  | <p>every person is treated with dignity and respect and protected from others who may abuse them.</p> <p>Specifically, the policy makes clear that those contractors which work with or are commissioned to undertake activity on behalf of the Council are made subject to the same safeguarding responsibilities as directly employed members of staff.</p>  | <p>making it known/understood that suppliers/contractors have a safeguarding responsibility.</p> <p>Where the contract involves direct contact with vulnerable individuals, consideration shall be given during the pre-procurement phase to determine the exact safeguarding requirements and how these are translated into the tender (i.e. contract clause, specification requirement and supplier response to method statement question).</p>                     |
| <p>July 2016</p> | <p>Cabinet and Council endorsed and approved the Council's Equality and Diversity Policy</p> | <p>The purpose of the Council's Equality and Diversity Policy is to encourage respect for diversity and eliminate discrimination in both its role as an employer and as a provider/commissioner of services. The Council wants to create a culture that respects and values difference, that promotes fairness, dignity and respect, and that encourages individuals to develop and maximise their true potential.</p> <p>Specifically, the policy makes clear that those contractors which work with or are commissioned to undertake activity on behalf of the Council are</p> | <p>Equality and Diversity is one of the key requirements stipulated within the Legal Context for procurement. Organisations are required to demonstrate their commitment to equality and diversity.</p> <p>Through the pre-procurement activity consideration will be given to whether additional specification requirements / method statement question for the bidders to respond to are required to evidence their approach to support this policy commitment.</p> |

within scope of the policy.

July 2018

Council passed a motion to adopt the [Cooperative Party's Charter against Modern Slavery](#).

The key aim of the Charter is to ensure that the Council's practices don't support slavery recognising the important role the Council can play in ensuring their contracted arrangements don't contribute modern slavery and exploitation by:

- Training its corporate procurement team to understand modern slavery through the Chartered Institute of Procurement and Supply's (CIPS) online course on Ethical Procurement and Supply.
- Requiring its contractors to comply fully with the Modern Slavery Act 2015, wherever it applies, with contract termination as a potential sanction for non-compliance.
- Challenging any abnormally low-cost tenders to ensure they do not rely upon the potential contractor practising modern slavery.
- Highlighting to its suppliers that contracted workers are free to join a trade union and are not to be treated unfairly for belonging to one.
- Publicising its whistle-

Modern Slavery will be considered at all stages through the Commissioning and Procurement cycle. Alongside the details provided within the Charter, modern Slavery is one of the key requirements stipulated within the Legal Context for procurement. Relevant commercial organisations are required to demonstrate their compliance with the reporting requirements under the Modern Slavery Act 2015, with failure to comply resulting in elimination from the tender process.

A standard clause is also included in all contracts making it known/understood that suppliers/contractors have a safeguarding responsibility and Modern Slavery is one element of this.

Through the pre-procurement activity consideration is given to those high risk industries here slavery is more prevalent, and clear consideration is given to additional specification requirements / method statement question for the bidders to respond to, to evidence their approach to eliminating modern slavery through their own supply

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|                     | <p>blowing system for staff to blow the whistle on any suspected examples of modern slavery.</p> <ul style="list-style-type: none"> <li>• Requiring its tendered contractors to adopt a whistle-blowing policy which enables their staff to blow the whistle on any suspected examples of modern slavery.</li> <li>• Reviewing its contractual spending regularly to identify any potential issues with modern slavery.</li> <li>• Highlighting for its suppliers any risks identified concerning modern slavery and refer them to the relevant agencies to be addressed.</li> <li>• Referring for investigation via the National Crime Agency's national referral mechanism any of its contractors identified as a cause for concern regarding modern slavery.</li> <li>• Reporting publicly on the implementation of this policy annually.</li> </ul> | <p>chains.</p>   |  |
| <p>October 2019</p> | <p>Cabinet approved the Council's <a href="#">Social Value Policy</a></p>   | <p>The Council aims to increase over time the proportion of its spend with local businesses and organisations and to open up opportunities for more co-designed services through its commissioning and procurement</p> | <p>Build social value into all Council contracts (&gt;£100k) and introduce a rigorous system for assessing and measuring social value commitments. Social Value will account for 20% of the marks available from the evaluation criteria (with</p> |

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|                     | <p>processes. The Social Value Framework, sets out the methodology for measuring Social Value through the procurement process and its framing around six high level outcomes, which were:-</p> <ul style="list-style-type: none"> <li>• Raising living standards for residents.</li> <li>• A strong local economy with employment and skills opportunities and a growing business base.</li> <li>• Young people have the opportunity to develop skills and find worthwhile employment.</li> <li>• Equality of opportunity for disadvantaged people and communities including disabled people.</li> <li>• Strengthened and sustainable community and voluntary organisations.</li> <li>• Greater environmental sustainability including accessible green public spaces.</li> </ul> | <p>other component parts being quality and price).</p> <p>When the Council invites written quotations – where possible – at least one of the quotes would be from a Rotherham organisation, and where this was not possible from the Sheffield City Region.</p> <p>Commit to co-designing services wherever possible and adoption of the Keep it Local principles.</p>   |
| <p>October 2019</p> | <p>Council passed a motion to declare a Climate Change Emergency</p>  | <p>As part of the work it is proposed to develop an informed target for the Council's carbon reduction by 2025 and to review this every five years thereafter, and to develop a "Carbon Action Plan" towards these goals. To assist in</p> <p>Through the pre-procurement activity consideration is to be given to carbon impacts and how this might be mitigated / reduced and ensure that where suppliers make a commitment through their tender submissions to reduce carbon emissions,</p> |

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| achieving this reduction external providers of Council services should be encouraged to reduce their carbon emissions as part of the Council's Social Value Policy. | ensure that this is delivered and reported. |
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### Case Study

*Following Council's decision to adopt the Cooperative Party's Charter Against Modern Slavery, officers of the Council undertook detailed analysis seeking to drive and strengthen controls around this agenda and reinforce the obligations contained with the Modern Slavery Act 2015 and ensure transparency in our supply chain.*

*The Council partnered with TISC.org, to identify organisations who potentially were non-compliant with the Modern Slavery Act 2015, and through dialogue and engagement with those suppliers, ensured compliance was reached.*

*To prevent similar occurrences and to embed a proactive approach in support of this agenda, the Council is now clear in its tender documentation, that organisations are required to be compliant with the Act and upload their Transparency Statements to TISC.org.*

## 5. The Rotherham Approach

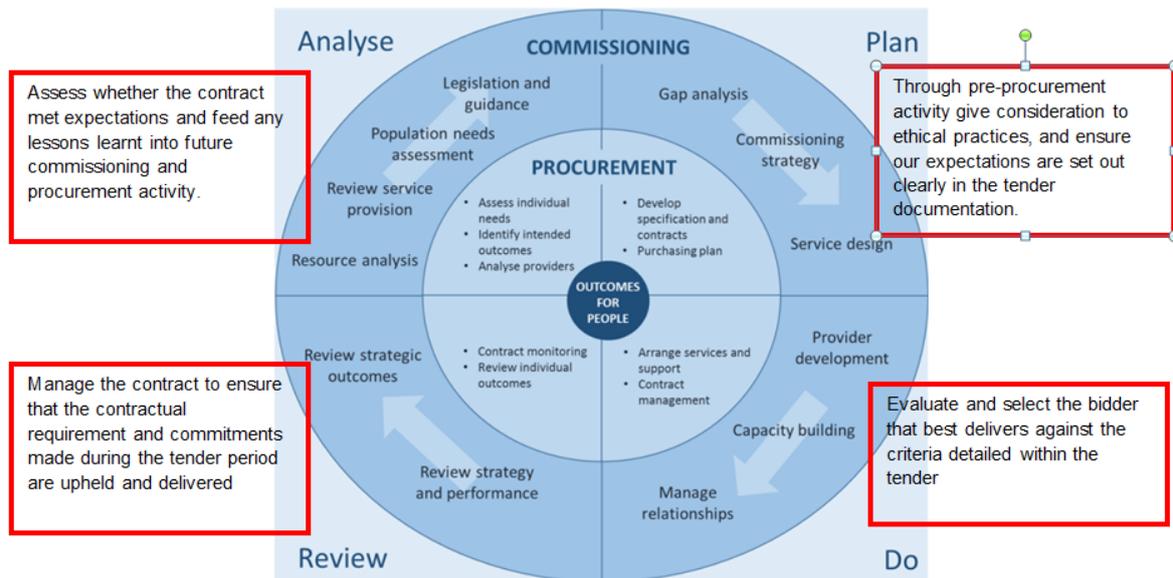
The Council is continually seeking to ensure it maximises its spending power for the benefit of Rotherham residents. To support the commitment made in its Social Value policy regarding the promotion of the Joseph Rowntree Living Wage, the Council is committed to becoming Living Wage accredited. In support of this the Council is also committed to becoming a signatory to Unison's Ethical Care Charter, giving the outcomes from the charter clear and detailed consideration in its tender for Home Care provision undertaken during the summer 2019.

Ethical practice is considered at all stages of commissioning and procurement related activity. The diagram below at *Figure 1* gives a high level illustration of the interface between commissioning and procurement and the types of activity that are undertaken to ensure ethical practice is embedded.

From the cycle presented below the **Plan** phase is critical. It is during this phase, the Council will consider whether there is still a need for the delivery of a contract, and if so, whether this is best delivered directly by the Council, in collaboration with another public service provider or by an external organisation. All decisions will be undertaken in accordance with the Council's [Constitution](#).

Where it is deemed delivery is best met by external organisations, ethical practice, behaviours and approaches will be considered. The Council's expectations will be clearly documented through the tender procedure and organisation's will be expected to fully understand these requirements when making their tender submission as through the management of the contract, the Council will ensure these expectations are adhered to and/or delivered.

**Figure 1: Commissioning and Procurement Cycle**



## 6. Review Process

The Council will keep this policy as a live and up to date document. When future commitments surrounding ethical procurement activity are made by Council / Cabinet updates to this Ethical Procurement Policy will be carried out accordingly.