

# Ethical Procurement Policy

## 1. Introduction

In the financial year 2022/23 the Council spent in excess of £400m 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 Public Contracts Regulations 2015 (as amended) ("the Regulations"); and ethical practice is at its core.

The Regulations provides a set of overarching principles to be adopted when awarding contracts; including non-discrimination, equal treatment, transparency, procedural fairness, mutual recognition and proportionality and 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 practices 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
November 2004	Council passed a motion to support the principles of Fair Trade.	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.  Continued consideration is to be given through pre-procurement activity, to the products being

			<p>procured and whether fair trade is a requirement. Where it is identified to be appropriate this should be built into the tender documentation accordingly.</p>
<p>October 2015</p>	<p>Council passed a motion to support the <a href="#">‘Charter for Sustainable British Steel’</a> as promoted by the ‘UK Steel’ organisation.</p>	<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, specifying that steel must confirm to BES6001 or an equivalent standard in specifications.</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</p>

			<p>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>
<p>July 2018</p>	<p>Council passed a motion to adopt the <a href="#">Cooperative Party's Charter against Modern Slavery</a>.</p>	<p>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:</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• Challenging any abnormally low-cost tenders to ensure they do not rely upon the potential contractor practising modern slavery.</li> </ul>	<p>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.</p> <p>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.</p> <p>Through the pre-procurement activity consideration is given to those high risk industries here slavery is more</p>

- 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-blowing system for staff to blow the whistle on any suspected examples of modern slavery.
  - 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.
  - Reviewing its contractual spending regularly to identify any potential issues with modern slavery.
  - Highlighting for its suppliers any risks identified concerning modern slavery and refer them to the relevant agencies to be addressed.
  - 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.
  - Reporting publicly on the implementation of this policy annually.
- 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 chains.
- Following an Overview and Scrutiny Management Board (OSMB) spotlight review, a working group is to be established (led by Community Safety) to try and better tackle modern slavery across the organisation as a whole.

October 2019

Cabinet approved the Council's [Social Value Policy](#)

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 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:-

- Raising living standards for residents.
- A strong local economy with employment and skills opportunities and a growing business base.
- Young people have the opportunity to develop skills and find worthwhile employment.
- Equality of opportunity for disadvantaged people and communities including disabled people.
- Strengthened and sustainable community and voluntary organisations.
- Greater environmental sustainability

Build social value into all Council contracts (>£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 other component parts being quality and price).

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.

Commit to co-designing services wherever possible and adoption of the Keep it Local principles.

		including accessible green public spaces.	
October 2019	Council passed a motion to declare a Climate Change Emergency	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 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.	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, ensure that this is delivered and reported.  Procurement is represented on the Officer Climate Change working group, supporting the development and delivery of the Council's climate change action plan.
August 2021	Officer Decision taken by the Chief Executive to apply to become Real Living Wage accredited by the Living Wage Foundation (LWF)	This action supports the commitment made by the Council through the Social Value policy (see above).  In becoming an accredited Living Wage Employer, the Council can ensure that all their directly employed and third-party contracted staff engaged in "in scope" contracts are earning a wage that meets the cost of living, safeguarding them from in-work poverty and providing enough income to live a healthy life.	Through the pre-procurement activity consideration is given to whether the services being procured are within scope of the LWF accreditation:  (i) Are aged 18 or over; (ii) Are either contracted or sub-contracted by the Council; (iii) Provide a service to or on behalf of Rotherham Council involving 2 or more hours of work a week, for 8 or more consecutive weeks in a year on: a. Rotherham Council's premises; and/or b. Property owned or occupied by the

			<p>Council (including where Rotherham Council is a tenant and is provided building related services through a Lease); and/or</p> <p>c. Land which Rotherham Council is responsible for maintaining or on which it is required to work.</p> <p>The accreditation is assessed annually by the LWF following the submission of evidence by the Council.</p>
<p>May 2022</p>	<p>Council passed a motion to declare a Nature Crisis for Rotherham</p>	<p>Ask the Overview and Scrutiny Management Board to consider commissioning a review into how the Council can support improvements to ensure a more natural environment is enhanced.</p> <p>Ensure our responsiveness on tackling climate change is extended to be complimentary to this separate but well aligned cause.</p> <p>Continue to further our work on enhancing biodiversity by adopting innovative approaches to support wild flowered areas and ecological approaches to grounds maintenance.</p> <p>Note the ongoing significant progress the Council is making through its Climate</p>	<p>As referenced in the detail of the motion passed, the activity picked up as part of this declaration, will be addressed under the Climate Change emergency theme.</p>



		Change Action Plans for a carbon neutral Council by 2030 and Borough by 2040.	
June 2022	Cabinet approved the Council's equality, diversity and inclusion strategy 2022-25	<p>The Council Plan 2022/2025 sets out the Council's ambition to create an inclusive borough for people to live, work and enjoy. A borough where nobody is left behind and where all are welcome and treated fairly.</p> <p>The Equality, Diversity and Inclusion Strategy sets out the commitments that the Council is making to support those outcomes. It ensures that equality objectives truly underpin the themes of the Council Plan to ensure that achieving equality outcomes are embedded in everything that the Council does. It also commits to achieving the highest national standards set out in the Equality Framework for Local Government.</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>
November 2022	Cabinet approved the Council's Corporate Safeguarding Protocol	<p>The Corporate Safeguarding Protocol superseded the previous Safeguarding Policy that had been in place for the previous 5 years.</p> <p>The Corporate Safeguarding Protocol makes clear that safeguarding is everyone's business and does not only apply to</p>	<p>Safeguarding will be considered throughout all stages of the commissioning and procurement lifecycle.</p> <p>A standard specification requirement is included in all contracts making it known/understood that suppliers/contractors have</p>

		<p>Council employees but also to suppliers delivering services to, or on behalf of the Council.</p> <p>For commissioning activity that involves vulnerable children, young people or adults, the Council's Commissioning teams are required to consider safeguarding requirement specific to the contract.</p>	<p>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>
November 2022	<p>Council passed a motion to support the 'Councils for Fair Tax Declaration' as promoted by the Fair Tax Foundation</p>	<p>The key aim of the Declaration is to do whatever the Council can within existing frameworks and pledge to do more given the opportunity by being active supporters of international tax justice by:</p> <ul style="list-style-type: none"> <li>• Approving the Councils for Fair Tax Declaration.</li> <li>• Leading by example and demonstrating good practice in our tax conduct, right across our activities.</li> <li>• Ensuring IR35 is implemented robustly, and contract workers pay a fair share of employment taxes.</li> <li>• Not using offshore vehicles for the purchase of land and property, especially</li> </ul>	<p>The Council already has in place robust arrangements, processes and procedures for determining the IR35 status of contract workers.</p> <p>Recognising the limitations within the current Procurement Regulations, the Council will include a non-scored question (for information only) within its tender documentation. The Council will review its position as and when the Regulations are amended.</p>

where this leads to reduced payments of stamp duty.

- As far as possible, undertaking due diligence to ensure that not-for-profit structures are not being used inappropriately by suppliers as an artificial device to reduce the payment of tax and business rates.
- As far as possible, demanding clarity on the ultimate beneficial ownership of suppliers UK and overseas and their consolidated profit & loss position, given lack of clarity could be strong indicators of poor financial probity and weak financial standing.
- Promoting Fair Tax Mark certification especially for any business in which we have a significant stake and where corporation tax is due.
- Supporting Fair Tax Week events in the area, and celebrate the tax contribution made by responsible businesses who are proud to promote responsible tax conduct and pay their

fair share of corporation tax.

- Supporting calls for urgent reform of UK procurement law to enable local authorities to better penalise poor tax conduct and reward good tax conduct through their procurement policies.

### Case Study

*As documented in the Council's annual update to Cabinet around Social Value (March 2023), since the implementation of the Social Value policy the Council had £13,562,908 Social Local Economic Value (SLEV) committed from the Contracts it has procured over this period, with £3,978,965 delivered (up to the end of November 2022).*

*The type of commitments being made span the full range of measures available under the Council's framework including local employment, new employment for disadvantages groups, skills (i.e. apprenticeships, unemployment support, workplacements), through to local supply chain opportunities and supporting VCSE organisations.*

*In recognising the Council's drive and commitment to this agenda, the Council won the Public Sector Leadership award at the 2023 Social Value Conference (Towards a Social Value economy).*

*In addition, and in support of the Council's commitment to the Real Living Wage, since the Council made it's submission to the Real Living Wage foundation to become an accredited employer, it has maintained this accreditation with the Foundation recognising we go further than required by securing this as a contractual commitment.*

## 5. The Rotherham Approach

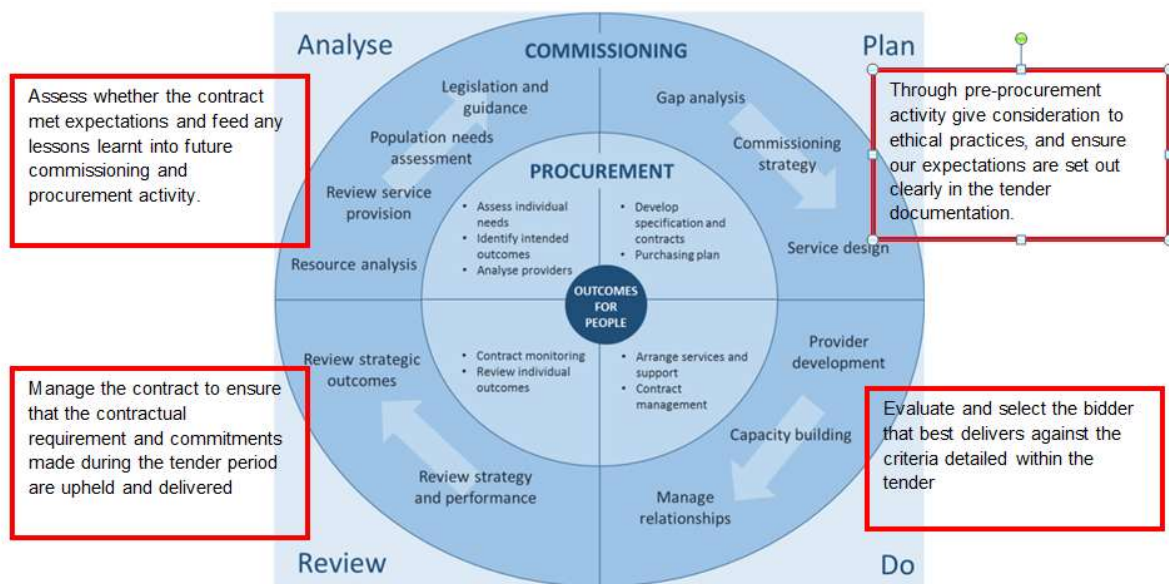
The Council is continually seeking to ensure it maximises its spending power for the benefit of Rotherham residents, businesses and communities.

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 review this policy annually to ensure it is kept as a live and up to date document.