

DECISION-MAKER:	CABINET		
SUBJECT:	ETHICAL PROCUREMENT POLICY		
DATE OF DECISION:	21 JANUARY 2014		
REPORT OF:	CABINET MEMBER FOR RESOURCES		
<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY
None

BRIEF SUMMARY

The Council has a responsibility to ensure that its procurements minimise any risk of social exploitation and that our suppliers respect the human rights of their employees and the communities in which they operate.

The responsibility to procure ethically can be defined as the practice of buying products and services produced in a way that minimises social and/or environmental damage, whilst avoiding products and services that have a negative impact. As such the objective of the Ethical Procurement Policy is to define how the Council expects its suppliers to behave and how the Council will behave.

The Council's Ethical Procurement Policy is based upon the principles of the Ethical Trading Initiative (ETI) Base Code, which were founded on the conventions of the International Labour Organisation (ILO) and is an internationally recognised code of labour practice.

In addition the Council is proposing to add three additional questions into its pre qualification questionnaire (PQQ) and one new term and condition into its contracts to ensure suppliers are clear on the Council's position regarding compliance with The Employment Relations Act 1999 (Blacklists) Regulations 2010 and the relevant parts of The Trade Union and Labour Relations (Consolidation) Act 1992,

RECOMMENDATIONS:

- (i) That the Council approves the Ethical Procurement Policy and that this applies to all new procurements with effect from 1st February 2014
- (ii) That the Council approves the changes to the pre qualification questionnaire and the new term and condition and that these apply to all new procurements with effect from 1st February 2014.

REASONS FOR REPORT RECOMMENDATIONS

1. To ensure that the Council complies with its responsibility to ensure that its procurements minimise any risk of social exploitation and that our suppliers respect the human rights of their employees and the communities in which they operate.
2. To ensure that our suppliers understand that the Council only wishes to procure from organisations who will behave ethically and in accordance with our Ethical Procurement Policy
3. To ensure suppliers are clear on the Council's position regarding compliance with The Employment Relations Act 1999 (Blacklists) Regulations 2010 and the relevant parts of The Trade Union and Labour Relations (Consolidation) Act 1992,

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

4. None

DETAIL (Including consultation carried out)

5. Consultation has taken place with the Council's Management Team, Leadership Group, Cabinet Member for Resources, Councillor Pope and Communities and Improvement Manager.
6. Within its obligations as a Best Value Authority, and in compliance with UK and underpinning EU legislation, SCC will conduct its procurement process in line with its Ethical Procurement Policy which is based upon the principles of the Ethical Trading Initiative (ETI) Base Code, which were founded on the conventions of the International Labour Organisation (ILO) and is an internationally recognised code of labour practice.
7. The Council expects its suppliers to maintain high standards of integrity and professionalism in their business dealings and practices, adhering to the laws of the countries where they operate. The Council therefore requires its suppliers to abide with the Ethical Procurement Policy principles where proportionate and directly relevant to the subject matter of the contract. These are not normally included in the subject matter of contracts as most are governed by labour law within the EU and, as such, are legal requirements which if breached could be grounds for excluding the supplier for non compliance.
8. This policy will have a positive impact in terms of sending a strong signal to our suppliers that we expect the following behaviours and compliance with International Labour Organisation protocols and the ETI Base Code:
 - Freedom of association and the right to collective bargaining are respected;
 - No discrimination is practised;
 - Employment is freely chosen;
 - Working conditions are safe;
 - Good health is promoted;
 - Working hours are not excessive;

- Wages meet at least national minimum legal standards;
- Regular employment is provided;
- Training is provided;
- Clear dispute procedures are in place;
- Child labour is eliminated;
- No inhumane treatment is allowed.; and
- Acting with integrity and transparency.

- 9 In addition to the Ethical Procurement Policy three new questions (Appendix 2) will be added to the Council's pre qualification questionnaire (PQQ) and a new condition (Appendix 3) will be added to our new standard form contracts to ensure suppliers are clear on the Council's position regarding compliance with The Employment Relations Act 1999 (Blacklists) Regulations 2010 and the relevant parts of The Trade Union and Labour Relations (Consolidation) Act 1992,
- 10 The Employment Relations Act 1999 (Blacklists) Regulations 2010 states that no person shall compile, use, sell or supply a prohibited list which a) contains details of persons who are or have been members of the trade unions or persons who are taking part or have taken part in the activities of trade unions, and b) is compiled with a view to being used by employers or employment agencies for the purposes of discrimination in relation to recruitment or in relation to the treatment of workers.
- 11 The Trade Union and Labour Relations (Consolidation) Act 1992, states that, amongst other things, it is unlawful to refuse a person employment, a) because he is, or is not, a member of a trade union, or b) because he is unwilling to accept a requirement – (i) to take steps to become or cease to be, or to remain or not to become, a member of a trade union, or (ii) to make payments or suffer deductions in the event of his not being a member of a trade union.
- 12 In the event that a supplier breaches either of those Regulations or the Act or commits any breach of the Data Protection Act 1998 by unlawfully processing personal data in connection with any blacklisting activities, the Council may terminate this Agreement with immediate effect. In addition the matter will be reported to the Information Commissioner who may decide to take separate action..
- 13 The new questions in the PQQ ask suppliers if they have breached the Employment Relations Act 1999 (Blacklists) Regulations 2010 or section 137 of the Trade Union and Labour Relations (Consolidation) Act 1992 and or The Data Protection Act 1998 or been served with an enforcement notice in relation to unlawfully processing personal data in connection with any blacklisting activities. Suppliers which have been convicted of a criminal offence are asked to disclose full details of the conviction, together with any remedial steps they have taken. Any supplier which has committed a breach of the relevant legislation should be considered to have committed an act of gross misconduct in the course of its business and should be excluded from tendering unless it can demonstrate that it has taken appropriate remedial steps. Any exclusion must be proportionate to the scale and nature of the offence or misconduct.

- 14 Public bodies have a duty to act proportionately in deciding whether to exclude a supplier in such circumstances. Each case should be considered on a case by case basis taking account of the specific circumstances of the case. It is therefore important that consideration is given to any remedial steps taken by the supplier.

RESOURCE IMPLICATIONS

Capital/Revenue

- 14 None

Property/Other

- 15 None

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

- 16 S.1 Localism Act 2011 and S.101 Local Government Act 1972.

Other Legal Implications:

- 17 None.

POLICY FRAMEWORK IMPLICATIONS

- 18 None

KEY DECISION? No

WARDS/COMMUNITIES AFFECTED:	none
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SUPPORTING DOCUMENTATION

Appendices

1.	Ethical Procurement Policy
2.	New questions for the Council's Pre Qualification Questionnaire
3	Standard Form Contracts – new condition

Documents In Members' Rooms

1.	None
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Equality Impact Assessment

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	Yes
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Other Background Documents

Equality Impact Assessment and Other Background documents available for inspection at:

Title of Background Paper(s) Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	None	
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