

REPORT TITLE: Outcome of review of Procurement Practices in accordance with the Council Motion resolved on 13 November 2024

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| Meeting: | Corporate Governance and Audit Committee |
| Date: | 20 June 2025 |
| Cabinet Member (if applicable) | |
| Key Decision Eligible for Call In | No No |
| Purpose of Report | |
| To provide the oversight of the outcome of the review of procurement practices as resolved in the motion on 13 November 2024. | |
| Recommendations | |
| It is recommended that Corporate Governance and Audit Committee note the outcome of the review of procurement practices that has been undertaken | |
| Reasons for Recommendations | |
| The committee plays a crucial role in assessing the adequacy of the review conducted. | |
| Resource Implications: | |
| None | |
| Date signed off by <u>Executive Director</u> & name | Rachel Spencer-Henshall – Deputy Chief Executive and Executive Director for Public Health and Corporate Resources (12/5/25) |
| Is it also signed off by the Service Director for Finance? | Kevin Mulvaney – Service Director Finance (20/5/25) |
| Is it also signed off by the Service Director for Legal Governance and Commissioning (Monitoring Officer)? | Samantha Lawton – Service Director Legal & Commissioning (8/5/25) |

Electoral wards affected: All

Ward councillors consulted: Not applicable

Public or private: Public

Has GDPR been considered? No GDPR considerations

1. Executive Summary

A motion was carried at Council on 13 November 2024 which requested that the Council committed to conducting a thorough review of its procurement practices to ensure that goods and consumables sourced from companies directly or indirectly involved in the Gaza conflict are not used. The Motion is attached at Appendix A.

The motion also requested that the Council avoids purchases of goods from Israeli companies illegally occupying Palestinian Territories where it is lawful and practical to do so.

On 7 March 2025, it was agreed that Corporate Governance and Audit Committee would oversee the review to ensure that it was undertaken with appropriate oversight and in accordance with applicable legislation.

The stages of the review conducted are outlined in Section 2 below. The review has concluded that the Council currently has no contracts in place for the supply of goods and consumables with companies directly or indirectly involved in the Gaza conflict.

Furthermore, the examination of relevant procurement legislation has confirmed that it would be unlawful for the Council to adopt policies that intentionally exclude companies based on their involvement in specific geopolitical matters

2. Information required to take a decision

A motion was received at Council on 13 November 2024 which requested that the Council committed to conducting a thorough review of its procurement practices to ensure that goods and consumables sourced from companies directly or indirectly involved in the Gaza conflict were not used. The motion requested that the Council avoids purchases of goods and consumables from Israeli companies illegally occupying Palestinian Territories where it was lawful and practical to do so.

A review has now been undertaken in compliance with all applicable procurement legislation, the stages of the review are set out below:

Stage 1 of the review focused on assessing available information regarding Israeli companies allegedly involved in the illegal occupation of Palestinian territories and compiling a list of suppliers accused of direct involvement in the Gaza conflict.

Stage 2 of the review entailed cross-referencing the list of suppliers with the Council's Contracts Register to identify any active contracts valued over £5,000 for the supply of goods and consumables with the suppliers identified in Stage 1. This confirmed that no direct contracts for the supply of goods and consumables with any of the suppliers listed currently exist.

Stage 3 of the review examined expenditure on goods and consumables through the SAP finance system for any of the suppliers identified in Stage 1. This stage, undertaken by HDOne Shared Services, verified that no expenditure at any level had been made on goods and consumables with any of the suppliers identified in Stage 1 since the motion was passed in November 2024, confirming that no active contracts exist for the supply of goods and consumables, and no spot purchases are currently taking place with any of the listed suppliers.

Stage 4 of the review involved examining all relevant procurement legislation in consultation with Legal Services, including the Local Government Act 1988, the Procurement Act 2023, and Procurement Policy Notes (PPN) issued by the Cabinet Office. The findings are outlined below:

Section 17 of the Local Government Act 1988 requires local authorities in England and Wales to exclude non-commercial considerations when making decisions regarding public supply contracts. As a result, this legislation prevents the Council, as a local authority, from influencing procurement decisions based on factors unrelated to the commercial aspects of a contract. It is anticipated this section will be disapplied by a Minister of the Crown in accordance with Part 12 (Amendments and Repeals) of the Procurement Act 2023 in due course and there are no current timescales. However, regardless of this the Council still cannot lawfully avoid purchasing goods and consumables from Israeli companies involved in the illegal occupation of Palestinian territories by way of a blanket ban as the Procurement Act 2023 applies as set out in the remainder of this report.

Under the Procurement Act 2023 (the Act), the Debarment Review Service (DRS) is empowered to investigate suppliers on behalf of a Minister of the Crown to determine whether they meet the criteria for exclusion or are deemed excludable. This evaluation informs the decision on whether to add them to the debarment list, a publicly accessible register that allows Ministers to prohibit suppliers from participating in public procurement if their past conduct or circumstances warrant disqualification. The Act grants the DRS authority to conduct these investigations to assess whether a supplier should be excluded, ultimately guiding the decision on their potential inclusion in the debarment list.

Oversight of this process falls under the Government's Procurement Review Unit (PRU), which carries out central assessments for supplier exclusion from public sector procurement. Final decisions rest with a Minister of the Crown rather than individual contracting authorities. Local Authorities are required to comply with these provisions unless directed otherwise by the Government through a Procurement Policy Note (PPN), a legislative amendment, or the addition of a supplier to the debarment list, which must be considered when conducting covered procurement under the Act.

In 2022, the Government issued [PPN 01/22](#) in response to the Russian invasion of Ukraine, later updating it in 2025 with [PPN 007](#). These Procurement Policy Notes instruct public sector organisations to evaluate contracts linked to Russian or Belarusian suppliers and determine whether termination is legally viable, if a replacement supplier could be secured without compromising value for money, affordability, or the continuity of public services.

At the time of undertaking the review, there have been no PPNs published regarding the use of suppliers illegally occupying Palestinian territories and there are currently no suppliers added to the debarment list.

Schedule 7, Section 11(1) of the Act outlines the grounds for professional misconduct, stating: "A discretionary exclusion ground applies to a supplier if a court, regulator, or other authority has ruled that the supplier or a connected person has engaged in such conduct."

As a Contracting Authority, the Council has the discretion to exclude a supplier from a covered procurement process if the PRU has deemed them an excludable supplier.

When exercising this discretion, the Council must consider the objectives set out in Section 12 of the Act, including delivering value for money, maximising public benefit, promoting information sharing, and demonstrating integrity in its actions.

More broadly, the Council must assess the risks posed by the misconduct or circumstances leading to the exclusion ground and weigh them against the public interest in allowing the supplier to participate. However, the Council cannot implement a blanket policy of always excluding or never excluding suppliers based on this ground; each case must be assessed individually, considering the specific procurement context and all relevant factors at the time.

3. Implications for the Council

3.1 Council Plan

The Council's capacity to work effectively and to deliver aspects of its corporate outcomes is underpinned by ensuring that its procurement practice operates within a legal framework that promotes free and open competition, adhering to both international and national obligations and regulations.

3.2 Financial Implications

None directly

3.3 Legal Implications

The Council is required to ensure its procurement practices are undertaken in accordance with the Local Government Act 1988, the Procurement Act 2023 and any associated guidance and policy notes that is issued by the Cabinet Office

3.4 Climate Change and Air Quality

None directly

3.5 Other (e.g. Risk, Integrated Impact Assessment or Human Resources)

None directly

4. Consultation

Consultation has been undertaken with HDOne Shared Services for stage 3 of the review and Legal Services for stage 4 of the review.

5. Engagement

The procurement team have engaged with CGAC to ensure appropriate oversight of the review.

6. Options

6.1 Options considered

1. Not carry out review (this would not address the motion agreed)
2. Carry out the review

6.2 Reasons for recommended option

It was agreed that the Corporate Governance and Audit Committee meeting on 7 March 2025 that the committee would have oversight of the review of procurement practices that has been undertaken to address the motion agreed upon at the Council meeting on 13 November 2024. The Committee's oversight will ensure the review's adequacy and compliance with all applicable legislation.

7. Next steps and timelines

The review of procurement practices, initiated by the council motion on 13 November 2024, has now concluded. The Procurement Team will stay vigilant for updates from the Cabinet Office concerning PPNs or legislative amendments, ensuring timely implementation as necessary. Additionally, they will continue to verify the debarment list for newly added suppliers during each covered procurement process undertaken and exercise discretion in excluding suppliers if the PRU has classified them as excludable.

8. Contact officer

Ruth Calladine, Head of Procurement (01484 221000, email – ruth.calladine@kirklees.gov.uk)

9. Background Papers and History of Decisions

- [Proposal for the Review of Procurement Practices in accordance with the Council Motion resolved on 13 November 2024 – 7 March 2025](#)

10. Appendices

Appendix A – Motion and resolution – 13 November 2024

11. Service Director responsible

Samantha Lawton, Service Director Legal & Commissioning

Appendix A - Council Motion resolved on 13 November 2024

12: Motion submitted in accordance with Council Procedure Rule 14 as to Gaza - a year on, urgent action is needed

To consider the following Motion in the names of Councillors J D Lawson, Arshad, Khan, Safdar, Anwar, Kahut and Bramwell.

“This Council notes that nearly a year on from the start of the latest conflict in Gaza:

- a) 10,000’s of innocent men, women and children have been killed or seriously injured. Many more are missing in the debris of Gaza.
- b) Gaza is being raised to the ground. There has been indiscriminate bombing of refugee camps, medical facilities, schools, places of worship of all denominations and the general infra structure.
- c) Aid is still not getting into Gaza in the quantity needed due to interference by the Israeli Govt this has resulted in widespread malnutrition and the remaining medical facilities running without even the basic of medical supplies.
- d) That the Israeli government is guilty of war crimes and breaching International Humanitarian Law. Creating an Apartheid State within the Palestinian Territories of Gaza and the West Bank.
- e) The International Court of Justice has declared the situation in Gaza to be genocide
- f) That many residents of Kirklees remain gravely concerned about the ongoing situation in Gaza and wish to see an end to the genocide in Gaza.

This Council calls on the Leader of the Council to write to Keir Starmer, the Prime Minister to urge him to revoke licenses which allow the selling of arms and military equipment to Israel until a time the Israeli Government stops the on-going genocide in Gaza, ceases to occupy the Palestinian Territories of the West Bank and Gaza, abides by the IJC rulings and the numerous United Nations resolutions. That the Prime Minister lobbies his Israeli counterpart to immediately allowed in aid to Gaza unfettered by obstructions, in a bid to holt the humanitarian crisis that is occurring within Gaza. And that the Prime Minister uses all diplomatic channels at his disposal to call for a ceasefire and the return of the Israeli hostages.

We ask that the Palestinian Flag be flown at Huddersfield, Batley and Dewsbury Town Halls in an act of remembrance for those who have died. This would be at no expense to local council tax payers as the flags would be purchased by a local group.

We ask that Kirklees Council where at all lawful and practical to avoid purchases of goods from Israeli companies illegally occupying the afore mentioned Palestinian Territories.

That the council commits to conducting a thorough review of its procurement practices to ensure that goods and consumables sourced from companies directly or indirectly involved in the conflict are not used.”

RESOLVED –

1) That this Council notes that nearly a year on from the start of the latest conflict in Gaza:

- a) 10,000’s of innocent men, women and children have been killed or seriously injured. Many more are missing in the debris of Gaza.

- b) Gaza is being raised to the ground. There has been indiscriminate bombing of refugee camps, medical facilities, schools, places of worship of all denominations and the general infra structure.
- c) Aid is still not getting into Gaza in the quantity needed due to interference by the Israeli Govt this has resulted in widespread malnutrition and the remaining medical facilities running without even the basic of medical supplies.
- d) That the Israeli government is guilty of war crimes and breaching International Humanitarian Law. Creating an Apartheid State within the Palestinian Territories of Gaza and the West Bank.
- e) The International Court of Justice has declared the situation in Gaza to be genocide
- f) That many residents of Kirklees remain gravely concerned about the ongoing situation in Gaza and wish to see an end to the genocide in Gaza.

2) That this is Council calls on the Leader of the Council to write to Keir Starmer, the Prime Minister to urge him to;

- revoke licenses which allow the selling of arms and military equipment to Israel until a time the Israeli Government stops the on-going genocide in Gaza, ceases to occupy the Palestinian Territories of the West Bank and Gaza, abides by the IJC rulings and the numerous United Nations resolutions.

- lobby his Israeli counterpart to immediately allowed in aid to Gaza unfettered by obstructions, in a bid to holt the humanitarian crisis that is occurring within Gaza.

- all diplomatic channels at his disposal to call for a ceasefire and the return of the Israeli hostages

3) That we ask that Kirklees Council where at all lawful and practical to avoid purchases of goods from Israeli companies illegally occupying the afore mentioned Palestinian Territories.

4) That this Council commits to conducting a thorough review of its procurement practices to ensure that goods and consumables sourced from companies directly or indirectly involved in the conflict are not used.