

Report to:	Overview and Scrutiny Committee (Regulatory, Compliance and Corporate Services)	Date of Meeting:	28 February 2023
Subject:	Ethical Business Practices Working Group Final Report – Update on Recommendations	Wards Affected:	All
Report of:	Chief Legal and Democratic Officer		
Is this a Key Decision?	No	Is it included in the Forward Plan?	No
Exempt/Confidential	No		

Purpose/Summary

To update on the implementation of recommendations contained in the final report of the Ethical Business Practices Working Group that was approved by Council in February 2020; and to seek approval for the cessation of further updates.

Recommendations: That

- (1) The report updating on the implementation of recommendations contained in the final report of the Ethical Business Practices Working Group be noted; and
- (2) No further update reports be submitted to Committee.

Reasons for the Recommendation:

To comply with a Council resolution to update the Committee on the implementation of recommendations contained in the Working Group's final report.

Alternative Options Considered and Rejected:

No alternative options were considered. The Overview and Scrutiny Committee needs to be updated on the implementation of recommendations contained in the Working Group's final report.

What will it cost and how will it be financed?

(A) Revenue Costs

There are no financial implications arising for the Council as a direct result of this report. The implementation of recommendations that result in efficiency savings and any necessary financial investment will be the subject of separate reports.

(B) Capital Costs

There are no financial implications arising for the Council as a direct result of this report. The implementation of recommendations that result in efficiency savings and any necessary financial investment will be the subject of separate reports.

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Financial	
Legal: Public Services (Social Value) Act 2012	
Human Resources	
Equality	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>
Climate Emergency Implications:	
The recommendations within this report will	
Have a positive impact	No
Have a neutral impact	Yes
Have a negative impact	No
The Author has undertaken the Climate Emergency training for report authors	Yes
There are no direct climate emergency implications arising from this report.	

Contribution to the Council's Core Purpose

Protect the most vulnerable: None directly associated with this report
Facilitate confident and resilient communities: None directly associated with this report
Commission, broker and provide core services: The context for the Ethical Procurement Policy centres on the legal position regarding social value in procurement as defined in the Public Services (Social Value) Act 2012; and the statutory duty to consider the social value of public services on contracts above the European Union procurement thresholds
Place – leadership and influencer: None directly associated with this report
Drivers of change and reform: The nature of public sector services reflects many of the principles of Corporate Social Responsibility/Ethical Business Practice. To embed Corporate Social Responsibility/Ethical Business Practice an organisation needs to be operating in line with good Corporate Social Responsibility/ Ethical Business Practice in its various roles as service provider, purchaser, employer and its engagement with the public as consumers, customers and clients.

For the purposes of the Working Group the term Ethical Business Practice was used which encompassed several key elements of Corporate Social Responsibility. The Working Group focussed on:

1. Proposing a revised Ethical Investment Policy/Strategy
2. Proposing a revised Ethical Procurement Policy/Strategy to embed Social Value

Facilitate sustainable economic prosperity: As above

Greater income for social investment: The nature of public sector services reflects many of the principles of Corporate Social Responsibility/Ethical Business Practice. To embed Corporate Social Responsibility/Ethical Business Practice an organisation needs to be operating in line with good Corporate Social Responsibility/ Ethical Business Practice in its various roles as service provider, purchaser, employer and its engagement with the public as consumers, customers and clients.

For the purposes of the Working Group the term Ethical Business Practice was used which encompassed several key elements of Corporate Social Responsibility. The Working Group focussed on:

1. Proposing a revised Ethical Investment Policy/Strategy
2. Proposing a revised Ethical Procurement Policy/Strategy to embed Social Value

Cleaner Greener: In respect of the Ethical Investment Policy there are corporate social responsibility environmental aspects, e.g., reducing direct impact on the environment by managing waste, emissions and consumption of natural resources. The Working Group did not directly include this in its inquires, as it will be embedded through Green Sefton initiatives and can be included as part of the overall revision of updating policy on Corporate Social Responsibility/Ethical Business Practice.

What consultations have taken place on the proposals and when?

The Executive Director Corporate Resources and Customer Services (FD 7117/23) has been consulted and notes there are no direct financial implications arising from this report.

The Chief Legal and Democratic Officer (LD 5317/23) is the author of the report.

Assistant Director of Corporate Resources and Customer Services (Strategic Support).

Implementation Date for the Decision

Immediately following the meeting

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Background Papers:

There are no background papers available for inspection

Introduction/Background

At its meeting held on 11 September 2018 the Overview and Scrutiny Committee (Regulatory, Compliance and Corporate Services) approved the establishment of a Working Group to review the topic of the Council's Ethical Business Practices with the terms of reference and objectives set out below.

The Committee on Standards in Public Life, which is responsible for promoting the Seven Principles of Public Life (selflessness, integrity, objectivity, accountability, openness, honesty, leadership) to all those involved in the provision and delivery of public services, published a report in May 2018 "The Continuing Importance of Ethical Standards for Public Service Providers", which was a follow-up to their 2014 report on this issue.

The report identifies that the public want services to be delivered responsibly and ethically, regardless of provider and that high ethical standards need to be applied when managing public money. The report further states that, where this involves commercial arrangements, it is incumbent on government to design service delivery and manage the life cycle of the contract in such a way as to engender and reward high ethical standards. Clearly this is equally applicable to local government.

In last couple of years Sefton Council has agreed a number of motions and actions relating to ethical business, including: UNISON's Ethical Care Charter (February 2016) and Unite's Construction Charter (September 2018).

A number of other Councils have sought to address this, including: Birmingham [Birmingham Business Charter for Social Responsibility](#) Dudley [Suppliers Code of Practice](#) and Preston [Fairness Charter](#) and the Working Group considered these approaches and others in order to both benchmark Sefton's position and identify appropriate and workable future approaches.

To review the topic of the Council's Ethical Business Practices, considering:

- Current Sefton practice
- Current good practice within other local authorities or similar organisations
- Areas of good practice within the Council's practices
- Areas for improvement within the Council's practices
- Recommendations for improving the Council's practices
- The provision of a policy for the ethical business practices of the Council in respect of investment, procurement and commissioning

Accordingly, the Working Group met on five occasions to undertake such review and its Final Report, together with associated recommendations, can be accessed using the link below:

<https://modgov.sefton.gov.uk/ecSDDisplay.aspx?NAME=SD2736&ID=2736&RPID=36787769>

To set the context for the recommendations, the provision of a policy for the ethical business practices of the Council in respect of investment, procurement and

commissioning can be defined by the EU definition of Corporate Social Responsibility (Ethical Business Practice) as ‘the responsibility of enterprises for their impacts on society and organisations should have processes in place to integrate social, environmental, ethical and consumer concerns and ensure that these are embedded into their business operations and core strategy’.

The Working Group agreed that Corporate Social Responsibility was a good overarching context for improving social impact / social value, embracing the impact of what we do; how we do it; and what others (contractors) do for us.

An example of how this can be achieved is by the attached flowchart [Delivering Social Value within a Corporate Social Responsibility Framework](#)

Regarding Public Sector and Corporate Social Responsibility, the nature of public sector services reflects many of the principles of Corporate Social Responsibility/Ethical Business Practice. To embed Corporate Social Responsibility/Ethical Business Practice an organisation needs to be operating in line with good Corporate Social Responsibility/Ethical Business Practice in its various roles as service provider, purchaser, employer and its engagement with the public as consumers, customers and clients.

For the purposes of the Working Group the term Ethical Business Practice was used which encompassed several key elements of Corporate Social Responsibility. The Working Group focussed on:

1. Proposing a revised **Ethical Investment** Policy/Strategy
2. Proposing a revised **Ethical Procurement** Policy/Strategy to embed Social Value

In respect of the Environmental Aspects of Corporate Social Responsibility there were also CSR Environmental aspects, e.g., reducing direct impact on the environment by managing waste, emissions and consumption of natural resources. The Working Group did not directly include this in its inquiries, as it would be embedded through Green Sefton initiatives and can be included as part of the overall revision of updating policy on Corporate Social Responsibility/Ethical Business Practice.

Finally, and in respect of the Ethical Procurement Policy (including Social Value) the legal position regarding social value in procurement as defined in the Public Services (Social Value) Act 2012 was used; and the statutory duty to consider the social value of public services on contracts above the European Union procurement thresholds. The position regarding social value in procurement as defined in the [Contract Procedure Rules](#) was also considered

The Working Group recognised much of the good work already taking place in relation to the above and that the policy should focus on continuous improvement.

The Overview and Scrutiny Committee (Regulatory, Compliance and Corporate Services), Cabinet and Council subsequently approved the recommendations set out in the final report; and requested also that update reports be submitted to this Committee on the implementation of the recommendations.

The last report updating on the implementation of recommendations was submitted to the Committee in January 2022 and the updates provided to the meeting are contained in the table below at the end of the report.

Current Position

The Assistant Director of Corporate Resources and Customer Services (Strategic Support) has now provided an update on the recommendations as set out below:

The Contract Procedure Rules include

“The Council goes beyond the provisions of the Public Services (Social Value) Act 2012 in its assessment of social value in alignment with the principles laid out in the Ethical Business Practices.

The Council supported the principles on [Procurement Policy note 5/21](#) that Public procurement should be leveraged to support priority national and local outcomes for the public benefit.

The Council intends to ensure that their approach to social value supports:

- Creating new businesses, new jobs and new skills in the UK.
- Improving supplier diversity, innovation and resilience.
- Tackling climate change and reducing waste.

[Ethical business practices](#) (see report to Council 23rd January 2020 page 281).”

[Social Value £20,000 to £100,000 \(whole life cost\)](#)

Social Value must be considered with appropriate social value questions embedded within the tender questionnaire. Generally, the weighting of social value should 10% of evaluation model, however this weighting can be flexible based on the opportunity within the market to deliver meaningful social value.

Works contracts below £100,000 may be excluded from social value assessment, unless the Officer believes there is a significant opportunity to embed social value into the requirements.

Client Officers are responsible for contract managing the delivery of social value outcomes.

[1.1.8.3 Social Value over £100,000 \(whole life cost\)](#)

Social Value must be considered with use of the Social Value Portal required within the tender questionnaire. The Social Value Portal provides an opportunity for Bidders to detail the proposed social value, quantify the value of the social value against validated standards, and to provide a methodology for the delivery of the social value.

Works contracts above £100,000 are included for use of Social Value Portal

[Social Value Portal](#)

1.1.8.4 Social Value weighting

Generally, the weighting of social value should be 10% of evaluation model, however this weighting can be flexible to a maximum of 15% based on the opportunity within the market to deliver meaningful social value.

1.1.8.5 Social Value Contract Management

Client Officers are responsible for contract managing the delivery of social value outcomes. This can be best achieved by the Contractors reporting their Social Value quarterly progress clearly identified with the contract KPI reports. Social Value Portal will proactively work with successful suppliers awarded Contracts to report Social Value outcomes delivered within the tool.

In the event of a Services tender being issued using Public Contract Regulations processes and not including social value a file note should be captured by the Procurement Officer to ensure a justification for not considering social value is captured.

Finally, over 70 staff are now trained on the use of the Social Value Portal

Conclusion

Following consultation with the Assistant Director of Corporate Resources and Customer Services (Strategic Support) it is now recommended that this be the last update report to Committee as all the recommendations contained in the Final Report have now been implemented.

UPDATE ON RECOMMENDATIONS ARISING FROM THE ETHICAL BUSINESS PRACTICES WORKING GROUP

Recommendation

request the Head of Corporate Resources to make arrangements, via the Council’s decision-making processes, to include the revised statement of draft ethical business/investment principles as referred to below in the Treasury Management Strategy and to adopt it as part of the Council’s Policy for investment:

ETHICAL INVESTMENT POLICY

“The Local Authority at times invests surplus funds with third party organisations and institutions and the Council’s [core values](#) will play a major role in making investment decisions which will be aligned where possible to the following four overarching core principles;

- Sustainable and Responsible – manage the effect on the environment, community and for the good of society
- Value Based – invest in businesses that are aligned with the organisations core values;
- Maximising Impact – achieve a measurable positive, social or environmental impact, in addition to a financial return;
- Green – improving the environment.”

In deciding and then approving the counterparty list in which the Council will invest, the principles of security, liquidity and yield will always be the primary consideration to ensure compliance with statutory guidance. As part of this evaluation, the Council will consider ethical investment opportunities and identify and apply an appropriate weighting based on the Council’s Core Values/overarching core principles.

Where the Council deposits surplus balances overnight or for a short-term, investments will be made with financial institutions in a responsible manner (aligned to the overarching core principles/councils core values) where possible and in accordance with advice from its Treasury Management Advisor. In the event that the Council has surplus balances that it can invest for the longer term (e.g. terms over 1 year) it will exclude direct investment in financial products that do not contribute positively to society and the environment. This will include the principle that

Update

June 2021

The agreed wording was included within the Treasury Management Strategy approved by Council on 27 February 2020. Action on this recommendation is now complete.

<p>investment in specific financial products whose performance is driven by off-shore trading, financial malpractice, debt swops, short selling, the arms trade and tobacco industry will be avoided. The same rigorous criteria will be used to assess whether investment in certain countries will be contrary to Sefton's core values.</p> <p>It is recommended that the Head of Corporate Resources, to assess whether investment in certain countries will be contrary to Sefton's core values, give consideration to the exclusion of those countries on the EU list of non-cooperative tax jurisdictions (the black list and the grey list), which aims to tackle external risks of tax abuse and unfair tax competition, within the Council's Treasury Management Strategy.</p> <p>In order for these organisations to be included on the Council's counterparty list they will be evaluated against the same criteria as other counterparties and assessed against the Council's core values and ethical business and investment principles/policy, including the ethical weighting to ensure balance and investments are aligned with the new policy.</p> <p>The Council's Treasury Management Team will be continually engage on progress in this sector, understanding where possible that Council investments and deposits are aligned with its core values – for example, generating income for social reinvestment and not investing in such companies as highlighted above.</p> <p>This approach will be supported by considering the opportunity for ethical investments as part of the development of the annual Treasury Management Strategy and engaging with the Council's Treasury Management Advisors as to whether any investment is contrary to the Council's values (including the ethical investment weighting). A specific section in the annual Treasury Management report will cover how the adopted ethical investment strategy is being applied to investment decisions.</p> <p>The Local Authority publishes a list of its investments to ensure openness and transparency.”</p>	
<p>Request the Head of Strategic Support to make arrangements, via the Council's decision-making processes, to adopt the following revised statements of ethical procurement principles/policy.</p>	<p>June 2021 The Head of Strategic Support has advised that Since the agreement of the</p>

ETHICAL PROCUREMENT POLICY

“The Local Authority routinely procures goods and services with a range of providers and the Council’s [core values](#) will play a major role in making procurement decisions which will be aligned where possible to the following four overarching core principles;

- Sustainable and Responsible – manage the effect on the environment, community and for the good of society
- Value Based – work with businesses that are aligned with an organisations core values;
- Maximising Impact – achieve a measurable positive, social or environmental impact, as a result of a contract;
- Green – improving the environment.”

Procurement will enhance Social impact/value, including opportunities associated with national themes of Jobs: Promoting Local Skills and Employment; Growth: Supporting Sustainable Growth of Responsible Regional Business; Social: Healthier, Safer and more Resilient Communities; Environment: Protecting and Improving Our Environment; and Innovation: Promoting Social Innovation; and their outcomes and measures.

Implement and enhance a Procurement Strategy, based on the Local Government Association (LGA) National Procurement Strategy providing an effective mechanism for improving the social impact/social value from our contracted providers, particularly its focus on “Achieving Community Benefit”, which includes “obtaining social value”.

The local strategy for social value opportunities to include the increased emphasis in the refreshed Corporate Commissioning Framework and on developing an updated Social Value Action Plan.

Implement a stand-alone phased two-year Social Value Action Plan to include the guiding principles of catching up with those leading the field, going beyond compliance with the Public Services (Social Value) Act 2012, maximising the full breadth of Social Value outcomes and effectively measuring, monitoring and reporting delivery.

Ethical Investment Policy the following actions have been undertaken.

All Procurement staff have received Chartered Institute of Purchasing and Supply Ethical Accreditation, this training ensures that Procurement staff have built their understanding of how to behave ethically and establishes a commitment to ethical behaviour. The training is renewed annually to ensure they have knowledge of up to date good practice.

December 2021

The Head of Strategic Support has advised that Standard Social Value questions are now embedded in strategic tenders, together with supporting information to advise Bidders what social value is and key local organisations and initiatives they can engage with to deliver social value. On occasions these social value questions have been

The Social Value Action plan will address the areas for development identified through the self-assessment against the LGA strategy and include tangible, clear, measurable, timebound targets to improve social value.

Maximise Social value opportunities connected with the joined-up approach across the Liverpool City Region – LCR Procurement Hub and work undertaken with Proactis and the Social Value Portal to join-up the Chest, the National Themes, Outcomes and measures and the online Measurement Tool”

customised with project specific outcomes attached.

The Government’s procurement consultation outcome sets out its detailed proposals including: “Levelling up - under new rules, procurers will be able to give more weight to bids that create jobs for communities, build back better from the COVID-19 pandemic and support the transition to net zero carbon emissions. These ‘social value’ factors mean that buyers won’t just consider price alone.”

The Cabinet Office is unable to confirm the start date of the new procurement regime as it is subject to Parliamentary process, but the plan is to give a minimum of six months’ notice before ‘go-live’ – once the legislative process has concluded. This will not be until 2023 at the earliest. The existing legislation will apply until the new regime goes live and will continue to

	apply to procurement started under the old rules.
<p>request the Head of Strategic Support to make arrangements, via the Council’s decision-making processes, to develop, adopt and implement a Social Value Action Plan in line with the following:</p> <p style="text-align: center;"><u>SOCIAL VALUE ACTION PLAN</u></p> <p>“The guiding principles for development of our approach to Social Value are to catch up with those leading the field; Go beyond compliance with the Public Services (Social Value) Act 2012; maximise full breadth of Social Value outcomes; and effectively measure, monitor and report delivery.</p> <p>Self-assessment against “Obtaining Social Value” in the LGA National Strategy will provide a framework whereby we can evaluate what we already do and identify areas for improvement including assessment against the following statements, “the extent to which...”:</p> <ul style="list-style-type: none"> • the requirements of the Social Value Act are embedded into corporate policy; • social value awareness is embedded across all management levels; • social value themes, outcomes and measures are reported and used (including evaluating the usefulness of social accounting quantitative measures to evaluate impact); • social value requirements are embedded in the commissioning process; • social value requirements are embedded in the procurement process; • obtaining social value is part of engagement and third-party relationships; • social value requirements in contracts are managed; • social value is embedded in a wider collaborative environment; • obtaining social value is communicated and reported; • social value is embedded and managed in the commissioning and procurement process. • These can all be addressed within the scope of the guiding principles, through specific, tangible and time-bound actions in a Procurement/Social Value Action Plan.” <p>The policy will be reviewed on completion of the SV action Plan</p>	<p>June 2021</p> <p>The Head of Strategic Support has advised that Standard Social Value questions are now embedded in strategic tenders, together with supporting information to advise Bidders what social value is and key local organisations and initiatives they can engage with to deliver social value. On occasions these social value questions have been customised with project specific outcomes attached.</p> <p>In order to support Social Value evaluation a specialist application called Social Value Portal has been procured. This tool allows bidders to put forward proposals tied into specific Themes, Outcomes and Measures which are quantifiable against nationally recognised standards. We are currently trialling the implementation of Social Value Portal on two</p>

pilot projects. Once these are completed we will review lessons learnt and roll out training to Procurement staff and Commissioners.

Once Social Value Portal is live we will create a web portal and communication plan to support Suppliers to respond to our social value expectations.

On delivery of Social Value Outcomes, Suppliers will have the facility to report their delivery to Social Value Portal who will produce a dashboard of benefits delivered to Sefton Council.