

Item 4

5th March 2026



Glasgow City Council

**Wellbeing, Equalities, Communities, Culture and Engagement
City Policy Committee**

Report by Director of Legal and Administration

Contact: Gary Stewart Ext: 76403

HUMAN RIGHTS DUE DILIGENCE IN PROCUREMENT

Purpose of Report:

To inform committee of the progress, to date, regarding the implementation of the Professional Integrity Certificate in council procured contracts.

Recommendations:

Committee is asked to note the contents of the report.

Ward No(s): X

Citywide: ✓

Local member(s) advised: Yes No consulted: Yes No

1 Introduction

- 1.1 Glasgow City Council, (“the council”), at its meeting on the 28 March 2024, passed a motion committing to:

“Widening the present human rights due diligence process when making awards decisions by bringing a report to the city administration committee detailing actions that the council can lawfully take to assure itself of supply chains that do not conflict with international humanitarian law and seek legal expertise where necessary to advise of this”

- 1.2 In addition, the motion requested that:

“in the procurement process, organisations making bids to the council are able to provide evidence of best practice in relation to their operations to ensure they are operating in a manner that protects the human rights of those directly and indirectly involved or affected by the organisations operations.”

- 1.3 At its meeting on the 5 December 2024, the City Administration Committee (CAC), approved:

- 1.3.1 The adaptation of a Professional Integrity Certificate to include assurances that bidders for council procured contracts:

- a) do not exploit assets in the Occupied Palestinian Territories or any other illegal settlement in the world;
- b) comply with all international humanitarian obligations in accordance with international law, and
- c) give similar assurances regarding their supply chain;

- 1.3.2 The issue of the Professional Integrity Certificate to all existing suppliers with whom the council has a procured contract; and

- 1.3.3 The council’s Corporate Procurement Unit and HSCP’s Commissioning Team continue to follow the Scottish Government’s Scottish Procurement Policy Note (SPPN) 4/2014 guidance and maintain dialogue with the Scottish Government regarding the organisations listed on the UN database of business enterprises operating in the Occupied Palestinian Territories and monitor any changes to the list.

2 The Implementation of the Professional Integrity Certificate

- 2.1 Since implementation, the PIC has been included in 11 open/restricted tenders and all suppliers have confirmed compliance with the seven PIC elements, as set out below;

- i. that the Bidder recognises and understands its statutory obligations in terms of the Modern Slavery Act 2015 and the Human Trafficking and Exploitation (Scotland) Act 2015, and any subsequent regulations, orders or guidance, as amended from time to time;

- ii. that it has nothing to declare in terms of the legislation nor has it been convicted of any relevant offence;
 - iii. that the bidder does not exploit assets in illegal settlements in the Occupied Palestinian Territories or any other illegal settlements throughout the world;
 - iv. that the bidder complies with all international humanitarian obligations in accordance with international law;
 - v. that no person who is a member of the administrative, management or supervisory body of the Bidder nor anyone who has power of representation, decision or control in relation to the Bidder has breached any of the above-mentioned laws or engaged in any activity proscribed above; and
 - vi. that the Bidder has used all reasonable endeavours to ensure that its supply chain complies with all of the above requirements.
- 2.2 The PIC forms part of the pre-selection evaluation stage for open and restricted tenders and supplements the self-declaration requirements within the Scottish Government's Single Procurement Document (SPD) which covers Mandatory and Discretionary grounds for exclusion on matters such as criminal convictions, bankruptcy or insolvency, grave professional misconduct, unpaid taxes or social security contributions. The SPD and PIC help to support buyers assess whether a supplier is eligible, capable and reliable before awarding a contract.
- 2.3 Regulation 58 (8) (c) of The Public Contracts (Scotland) Regulations 2015 gives the council a discretion to exclude any bidder where it can demonstrate "by appropriate means" that the bidder is "guilty of grave professional misconduct, which renders its integrity questionable" (see Appendix A for fuller details).
- 2.4 Regulation 58 (8) (h), (i) and (j) of the 2015 regulations provide discretionary grounds for exclusion where there is either serious misrepresentation in supplying the information required, or withholding of such information, or negligent provision of misleading information.
- 2.5 If any bidder or contracted supplier fails to provide accurate confirmation, or knowingly provides false information, or is found to have committed an act which is considered to constitute grave professional misconduct then the council could decide whether their bid is deemed non-compliant or if any contract award ought to be terminated.
- 2.6 The PIC also states that each bidder is responsible for the accuracy of the information submitted in respect of its response and that knowingly providing false information may result in them being removed from any current contracts or future tender process.
- 2.7 In addition to open and restricted tenders, the PIC has been included as part of the award process in 40 Mini-Competitions/Direct Awards/Call Off contracts via

various Procurement Scotland, Scotland Excel and other collaborative frameworks.

3 Contracted Suppliers Compliance with the PIC Standards

- 3.1 The Corporate Procurement Unit and HSCP Commissioning Team issued the PIC to the council's 778 contracted suppliers, and all submitted a response confirming compliance with the elements of the PIC, as set out paragraph 2.1.
- 3.2 If any supplier should fail to be compliant against any of the elements of the PIC and such failure evidences a clear breach of specific contract provisions, the council can take action under the relevant contract.

4 Continued Supporting Activity

- 4.1 The Scottish Government's SPPN 4/2014 has been superseded following the issue of SPPN 3/2026 which was published on 5 February. The legal position, however, remains unchanged. The council's Corporate Procurement Unit and HSCP's Commissioning Team will, therefore, continue to follow SPPN 3/2026 guidance and maintain dialogue with the Scottish Government regarding the organisations listed on the UN database of business enterprises operating in the Occupied Palestinian Territories and monitor any changes to the list.
- 4.2 The last update from the Scottish Government (SG) confirmed that the SG does not receive advance notice of the list of suppliers that are being investigated by the UN nor when the UN plan to update their database and we cannot lawfully impose a blanket ban on suppliers based solely on the fact that companies are on the UN's database. However, public bodies can take the database into consideration, along with other evidence, when carrying out their normal due diligence in relation to individual companies.
- 4.3 Our last review of the UN database of business enterprises operating in the Occupied Palestinian Territories, which was last updated on 26 September 2025, and includes 158 organisations, showed no council contracted suppliers on the list.

5 Policy Resource and Implications

Resource Implications:

Financial: None

Legal: The recommended SPPN 3/2026 approach is to carry out an investigation where concerns are raised regarding any individual procurement exercise and seek legal advice, as required. This should help determine on a case by case basis whether involvement by a business in illegal settlements, such as the occupied territories to

which the motion refers, would meet the definition of grave professional misconduct.

A blanket ban of a particular organisation or general boycott of its goods and services, however, would not be permissible.

Personnel: No direct personnel implications.

Procurement: The use of the PIC is now embedded in the procurement process.

**Council Strategic Plan:
Equality and Socio-Economic Impacts:** Not Applicable

Does the proposal support the Council's Equality Outcomes 2025-29 The EQIA screening process will continue to be carried out as part of the individual evaluation and award of council contracts.

What are the potential equality impacts as a result of this report?

Please highlight if the policy/proposal will help address socio economic disadvantage. *Provide information on any economic impact. Any community benefits should be listed here>*

Climate Impacts:
Does the proposal support any Climate Plan actions? Please specify: Not Applicable

What are the potential climate impacts as a result of this proposal?

Will the proposal contribute to Glasgow's net zero carbon target?

Privacy and Data Protection impacts: None

6 Recommendations

The committee is asked to note the contents of the report

Appendix A - Lawful Course of Action

This section sets out the relevant legislation and statutory guidance applicable to the council when making procurement decisions relating to the potential exclusion of bidders or termination of contracts. In the case of section 28 of The Procurement Reform (Scotland) Act 2014 mentioned below, however, further regulations are necessary in order for it to come into effect.

Regulation 58 (8) (c) of The Public Contracts (Scotland) Regulations 2015 and Scottish Procurement Policy Note 3/2026

This regulation gives the council a discretion to exclude any bidder where it can demonstrate “*by appropriate means*” that the bidder is “*guilty of grave professional misconduct, which renders its integrity questionable.*”

Regulation 58 (8) (c) must be read in the light of regulations 58 (12) to (17) which are relevant to: (i) the period during which a bidder may be excluded (i.e. 3 years from the date of the grave professional misconduct); and (ii) the circumstances where the bidder may demonstrate it has taken sufficient self-cleansing measures to demonstrate its reliability. If the council is satisfied that a bidder has provided evidence to demonstrate it has taken sufficient self-cleansing measures it cannot be excluded.

The Scottish Government’s Scottish Procurement Policy Note (SPPN) 3/2026, states that “*A company’s involvement in the exploitation of assets in illegal settlements (irrespective of where that company is registered) would likely be regarded as constituting ‘grave professional misconduct’ for the purposes of procurement law*”

The recommended SPPN 3/2026 approach is to carry out an investigation where concerns are raised regarding any individual procurement exercise and seek legal advice, as required. This should help determine on a case by case basis whether involvement by a business in illegal settlements, such as the occupied territories to which the motion refers, would meet the definition of grave professional misconduct. A blanket ban of a particular organisation or general boycott of its goods and services, however, would not be permissible.

Where the council considers it is entitled to exclude a bidder, such exclusion must comply with the principles of procurement law (such as equal treatment and transparency) and must be “*proportionate in relation to the nature and scale of the offence or conduct*” (SPPN 3/2026).

The Procurement Reform (Scotland) Act 2014

Under section 28 of this Act, the Scottish Ministers have power to make regulations prescribing the circumstances in which a bidder may or may not be excluded on the basis of pre-set criteria. The legislation states the criteria may include that the economic operator has committed an act of misconduct of a kind specified in the regulations.

Although no regulations have been introduced to date, if such regulations were made then they would constitute another course of lawful action that could be followed albeit only in relation to lower value regulated procurements.

Section 17 of the Local Government Act 1998

This section prevents councils from taking ‘non-commercial matters’ into consideration in procurement decisions. The list of ‘non-commercial matters’ which local authorities are excluded from taking into account includes *‘the country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of contractors’* (see section 17(5)(e) of the Act).

This is subject to a provision that councils may refer to a ‘non-commercial matter’ to the extent that they consider it necessary or expedient to do so to comply with the public sector equality duty under section 149 of the Equality Act 2010. This includes a duty to have regard to the need to eliminate discrimination, harassment, victimisation, and any other conduct prohibited under the Act.

In setting award criteria or contractual performance conditions, for example, the council must have due regard to whether such criteria or conditions should include considerations that enable it to better perform the equality duty.

UN Database of Businesses Operating in the Occupied Palestinian Territories/ Section 62 of the Procurement Act 2023

Risk of legal challenge to any action taken by the council may be reduced in the event that a bidder/contractor’s exclusion for grave professional misconduct and/or steps towards contract termination were predicated on their inclusion within either the UN Database of Businesses Operating in the Occupied Palestinian Territories or the Procurement Debarment List under section 62 of the Procurement Act 2023. It should be noted, however, that to date there are no entries on the section 62 List, possibly because the legislation is relatively new.

It is also important to note that SPPN 3/2026 (which was published on 5 February 2026) states that the presence of a company on the UN database *“on its own is not likely to be sufficient grounds to exclude that company from a procurement procedure. Public bodies should also consider other sources of evidence when conducting due diligence.”*