



## Report to Policy Committee

**Author/Lead Officer of Report:** James Henderson, Director of Policy and Democratic Engagement

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**Report of:** *Director of Policy and Democratic Engagement*

**Report to:** *Strategy and Resources Policy Committee*

**Date of Decision:** *23 July 2024*

**Subject:** *Responding to the petition brought by the Sheffield Coalition Against Israeli Apartheid*

Type of Equality Impact Assessment (EIA) undertaken	Initial <input type="checkbox"/>	Full <input checked="" type="checkbox"/>
Insert EIA reference number and attach EIA:		
Has appropriate consultation/engagement taken place?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
Has a Climate Impact Assessment (CIA) been undertaken?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Does the report contain confidential or exempt information?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

### **Purpose of Report:**

To provide the Strategy and Resources Policy Committee with advice in relation to the petition asking the council to “stand with Palestine” that has been referred to it by Full Council, and to recommend a course of action for the committee to consider in response to the three requests in the petition.

## **Recommendations:**

That Strategy and Resources Policy Committee:

1. Note the content of the petition asking the Council to 'stand with Palestine', as referred to the committee by Full Council.
2. Note that points 1 and 3 of the requests made in the petition have been fulfilled, by, respectively, the publication of a cross-party statement of solidarity on 25 March 2024, and the debate that took place on the issues raised by the petition at the Full Council meeting on 6 March 2024.
3. In relation to point 2 of the petition:
  - a) Note that none of the recommendations of the Amnesty International report referred to in the petition are directed towards Sheffield City Council; note that matters of international law as set out in that report are not within the competence of Sheffield City Council; and further note that, as such, it is not open to the committee to make a designation of the type suggested by the petition.
  - b) With the exception of investments, note that none of the actions in the 1981 Statement of Action published by Sheffield City Council as part of declaring Sheffield to be a South African Apartheid Free Zone are ones that the Council could now lawfully take in respect of Israel.
  - c) With respect to investments note that in the current Treasury Management Strategy the Council has determined that it will only invest in countries with a defined sovereign credit rating of AA- or above and that this currently excludes Israel, but requests that as part of the next review of the Treasury Management Strategy consideration is given to the issues raised in the petition, along with all other considerations including duties under the Equalities Act 2010, best value, and proper financial management.
  - d) Agree to take no other action in respect of this aspect of the petition.

## **Background Papers:**

Lead Officer to complete:-		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed.	Finance: Philip Gregory
		Legal: Andrea Simpson
		Equalities & Consultation: Bashir Khan
		Climate: <i>n/a</i>
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>		
2	<b>SLB member who approved submission:</b>	<i>James Henderson</i>
3	<b>Committee Chair consulted:</b>	<i>Cllr Tom Hunt</i>
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Committee by the SLB member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	<b>Lead Officer Name:</b> <i>James Henderson</i>	<b>Job Title:</b> <i>Director of Policy and Democratic Engagement</i>
	<b>Date: 25 June 2024</b>	

## 1. BACKGROUND

### Purpose

- 1.1 At the Full Council meeting held on 6 March 2024, a petition containing 7,664 signatures requesting the Council to “Stand with Palestine” was debated. At the conclusion of that debate, Full Council agreed to refer the petition to the Strategy and Resources Committee. This decision was taken in line with the Council’s constitution as one of the two options open to it, the other being to take no further action. The third possible option (of taking the action requested by the petitioners) was not available to Full Council as it was not within Full Council’s remit to take that action.
- 1.2 The petition calls for the City Council to:
- 1) *“Welcome the work of the International Court of Justice as it proceeds to try Israel for genocide and issue a statement saying that they stand in “unity and solidarity” with Palestinians [as the Council did with Ukrainians]*
  - 2) *Accept the Amnesty International designation: “Israel’s Apartheid Against Palestinians: a cruel system of domination and a crime against humanity” and declare Sheffield an “Israeli Apartheid Free Zone” [as the Council did in 1981 in relation to South Africa]*
  - 3) *Have the above two issues debated in full council in the interests of democracy.”*
- 1.3 This report sets out the action that Strategy and Resources Policy Committee may take in respect of the three requests in the petition. In doing so, it draws the Committee’s attention to the authority’s responsibilities under the Equality Act 2010, specifically the third strand of the S149 Public Sector Equality Duty around fostering good relationships between different groups. as well as other relevant information, including reminding the committee about the decisions that it took in relation to the report at its meeting on 21 February 2024 on the City Council’s actions in relation to the ongoing conflict in Israel and Palestine.
- 1.4 In considering the petition, the committee should note that the use of some of the language in the petition, including the use of the terms ‘genocide’ and ‘apartheid’ (which are both terms with definitional and threshold qualifications under international law) in relation to the Israeli Government may be offensive or upsetting to some, and some may also feel that it does not give due consideration to the impact on Israel of the Hamas attack of 7 October (which took place after the Amnesty International report was published) or the ensuing war.

- 1.5 The council has also adopted the international definition of antisemitism as well as the APPG definition of Islamophobia which have a relevance to this decision.

### Background

- 1.6 The ongoing and unresolved conflict between Israel and Palestine is one that has raised extremely strong feelings and concerns from many people and communities in the city, both before the 7 October attacks, and, particularly, following it.
- 1.7 The committee considered a report at its meeting on 21 February 2024 that set out the action that the council is taking in respect of the ongoing conflict. This included:
- Reconfirming Sheffield’s recognition of Palestine as an independent, sovereign state
  - Agreeing to proceed with a friendship agreement between Sheffield and the Palestinian city of Nablus
  - Noting that Sheffield City Council does not have any contractual relationship with any of the companies named in the UN Human Rights Council as enabling or supporting the construction or continued existence of illegal settlements in the Occupied Palestinian Territories
  - Noting the forthcoming review of the Council’s ethical procurement policy
- 1.8 As part of that report, the committee also noted the support that the people of Sheffield have demonstrated for those who have been affected by the conflict, and the campaign that has taken place in the city against the ongoing violence.
- 1.9 The requests made in the petition cover somewhat different ground to those considered by the committee in February. However, in considering the petition, the committee is asked to be mindful of the resolutions it made at its meeting on 21 February.

## **2 PROPOSAL**

- 2.1 As noted above, the petition asks the Council to do three things. Of these, two have already been undertaken (in relation to points 1 and 3 of the petition):
- 2.2 In response to point 1 of the petition, and as noted in the draft minutes of the Full Council meeting, the Leader of the Council committed to “*develop a cross-party statement of solidarity to be issued, if possible, before the start of the pre-election period on 26th March 2024.*” A cross-party

statement was agreed and published on the Council's SheffNews website on 25 March 2024. This statement condemned the ongoing violence in Gaza, called for an immediate ceasefire, and expressed the Council's solidarity and sympathy for the victims of the violence. It also called on Israel to comply with the orders in the International Court of Justice's interim ruling in full. There is no further action that the committee is required to take on this element of the petition.

- 2.3 In response to point 3 of the petition, a debate was held on the issues raised at the Full Council meeting on 6 March 2024. At this meeting eight Members of the Council spoke in the debate, and representatives of the petitioners spoke to open and close the debate, in line with the procedure set out in the Council's constitution. There is no further action that this committee is required to take on this element of the petition.
- 2.4 Point 2 of the petition relates to a call for the Council to '*accept the Amnesty International designation: "Israel's Apartheid Against Palestinians: a cruel system of domination and a crime against humanity" and declare Sheffield an "Israeli Apartheid Free Zone" [as the Council did in 1981 in relation to South Africa]*'. There are two distinct issues contained within this element – the Amnesty International report designation and the declaration of Sheffield as an "Israeli Apartheid Free Zone".

#### The Amnesty International Report

- 2.5 The first part of the second element of the petition refers to a report published by Amnesty International on 1 February 2022 and available on their website: ([Israel's apartheid against Palestinians: Cruel system of domination and crime against humanity - Amnesty International](#)). This part of the petition asks the Council to "accept the Amnesty International description of Israel as a state practising the crime against humanity of Apartheid".
- 2.6 To act on this part of the petition would require the committee to properly consider the issues raised in the report – and potentially a wider body of evidence – and come to a decision about whether or not to accept those, based on officer advice.
- 2.7 Of note, the report makes a substantial number of recommendations aimed at the Israeli Government, the Palestinian Government, intergovernmental organisations (such as the UN and the Office of the International Criminal Court Prosecutor), and other states and regional actors (particularly the EU, USA and UK). There are also a number of recommendations for national and international humanitarian and development organisations, and for businesses. None of the

recommendations are directed towards local governments in countries outside Israel and Palestine.

- 2.8 In addition to the fact that none of the recommendations of the report are aimed at Sheffield City Council, because matters of international law and war crimes do not fall within the remit of English local government nor are they issues over which the authority has any control, Sheffield City Council does not retain officers who are able to provide specialist foreign policy or international human rights advice, and it is not considered that it would represent value for money for the authority to commission such advice.
- 2.9 However, even were the committee minded to commission such advice, the question of whether a nation state has committed apartheid is not a matter that is within the remit or competency of a local authority in England. As such, whatever the conclusions of that advice, the committee would not be able to take a decision in respect of it, including deciding whether or not to adopt the designation asked for in the petition.
- 2.10 In summary, whilst Amnesty International is a respected international human rights organisation:
- Officers are not able to provide advice to Elected Members about the findings or recommendations of the Amnesty International report, and nor is it considered to offer best value to the authority to commission such advice
  - Even if that advice were to be provided, none of the recommendations of the report are aimed at Sheffield City Council or English local government more generally, so it is very unlikely that any practical action could be taken as a result
  - Furthermore, the overall subject matter of the report and its recommendations cover an area of policy that Elected Members are not able to make a decision about as it does not fall within the remit either of this committee or of the authority more broadly.
- 2.11 For those reasons, this part of the petition is not capable of being agreed or enacted by this committee (or by Full Council itself or any other committee of the Council).

#### Proposed Declaration of Sheffield as an “Israeli Apartheid Free Zone”

- 2.12 The reference in this element of the petition to ‘declaring Sheffield an Israeli Apartheid Free Zone [as the Council did in relation to South Africa in 1981]’ relates to the action that Sheffield City Council took in 1981 to produce a statement of action about the South African Government’s apartheid policies. That statement of action covered a number of areas. These are set out below, with a commentary on the current legal position

were the Council to consider a similar statement of action against Israel now. This commentary mirrors the advice provided to the committee in the report that was considered in February 2024:

1. Cease purchasing goods that originate from [Israel] within the purchasing authorities in which the council is involved

*[Current position: Section 17 of the Local Government Act 1988, which passed into law after SCC's actions in respect of South Africa, prevents local authorities from taking "non-commercial matters" into account when procuring goods or services. These non-commercial matters include: "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." It would therefore be unlawful for Sheffield City Council to agree a policy such as this in respect of Israel]*

2. Refuse to hold investments in companies with [Israeli] interests.

*[Current position: There are two aspects to consider here: treasury management investments; and pensions. Investments are distinct from the Council's procurement functions, which are governed by separate rules.*

*With respect to treasury management investments, SCC has a general power to make investments for any purpose relevant to its functions or for the purposes of the prudent management of its financial affairs.<sup>1</sup> All investment decisions must be made in accordance with various statutory codes of practice and guidance.*

*SCC operates an Annual Ethical Investment Strategy (which was most recently approved as part of its 2024/25 Revenue Budget by full Council on 6 March 2024 and is part of the broader Treasury Management Strategy) the aims of which are "to ensure investment decisions comply with its investment priorities (Security, Liquidity and Yield) do not contradict the Council's ethical values."*

*The ethical investment strategy currently states:*

*"the Council will not knowingly invest directly in businesses whose activities and practices are inconsistent with the Council's values. To that end, the Council commits not to hold any direct investments in fossil fuels, tobacco, arms companies or, to the best of our knowledge, companies involved in tax evasion or grave misconduct."*

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<sup>1</sup> Although this includes a power to make commercial investments, SCC does not currently have plans to make investments of this type.



*As part of the broader Treasury Management Strategy the Council has determined that it will only invest in countries with a defined sovereign credit rating of AA- or above. This excludes Israel at the current time.*

*Therefore, in principle, there is currently no legal restriction which prevents a local authority from making investment decisions in a way that indicates a moral or political disapproval of a foreign state's conduct.*

*However, the wording of this part of the petition refers to "companies with [Israeli] interests". This is a vague concept which would be difficult to translate into a workable ethical investment strategy and would be at risk of a legal challenge on the basis that it is unreasonable. If the committee is minded to take this proposal forward, it should be considered as part of the next review of the Treasury Management Strategy (and the accompanying Annual Ethical Investment Strategy) alongside other material considerations such as the Public Sector Equality Duty, Best Value duty, and proper financial management.*

*With respect to pensions, the "administering authority" under the statutory Local Government Pension Scheme is the South Yorkshire Pensions Authority, which is a separate body from SCC, meaning that the council has no direct control over SYPA's investment decisions.]*

3. Ensure that the Council is not officially represented at any function attended by the [Israeli] government or trade missions.

*[Current position: It is likely that adopting this policy on a blanket basis would be unlawful (by "fettering" the Council's discretion). Each case would need to be considered on its merits, weighing up the potential benefits and risks of attending against those of not attending. In practice, the Council is not likely to attend many, if any, such functions or trade missions.]*

4. Withhold use of recreational facilities from any sporting or cultural event involving representatives of [Israeli] organisations which give support to the [Israeli government].

*[Current position: This would be very likely to amount to discrimination under the Equality Act 2010. Nationality and national origin are components of the definition of 'race' in the Equality Act. It is unlawful for public bodies to discriminate on the basis of race; prohibiting representatives or members of Israeli sporting or cultural organisations is likely to be caught by this provision, as it would largely affect only Israeli nationals.]*

5. Discourage all economic links with [Israel], promoting better relations with the developing economies of the Third World.

*[Current position: The term 'discourage' is not clearly defined, but is likely to be prohibited under s142 of the Local Government Act 1972 which provides that a local authority may only provide information to the public concerning either the services available within its area and its functions. Expressing a position on a matter of international relations would therefore fall outside this relatively limited power to inform the public. The courts have also held that this power does not include a power to seek to "persuade" the public, which this part of the petition would also infringe.*

*In making public statements, the Council is also required to have regard to the statutory Code of Recommended Practice for Local Authority Publicity which states:*

*"Such publicity may set out the local authority's views and reasons for holding those views, but should avoid anything likely to be perceived by readers as constituting a political statement, or being a commentary on contentious areas of public policy."*

*"local authorities should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy".*

*Using Council resources to "promote understanding of the situation in Israel" is likely to be caught by this provision. Taking a position on this issue could also negatively impact relations between those with protected characteristics and those who do not have those characteristics which could be a breach of the Public Sector Equality Duty.*

6. Take steps to ensure that the history, culture and struggle for self-determination of [Palestinian] people are positively and equitably taught.

*[Current position: Following the passage of the Education Reform Act 1988, local authorities have no role in setting school curricula. Maintained schools must follow the national curriculum. Academies and free schools are not required to follow the national curriculum but local authorities do not have any influence over what those schools teach. As such, this action is not one open to Sheffield City Council in respect of Israel and Palestine.]*

7. Instruct the city Libraries and Schools not to make available [Israeli] government propaganda

*[Current position: For the reasons stated under points 5 and 6, this is not something that it would currently be permitted for Sheffield City Council to do in relation to Israel and Palestine.]*

8. Promote public understanding of the situation in [Israel and Palestine].

*[Current position: As set out under point 5, this would be unlawful under the s142 of the Local Government Act 1972 and contrary to the Code of Recommended Practice on Local Authority Publicity]*

- 2.13 Given the above, and as set out in the report to the committee in February, the Council may not now lawfully take the actions that it took in 1981 in respect of South Africa, with the exception of consideration of the council's Ethical Investment Strategy as part of the broader Treasury Management Strategy, and as such making a declaration such as that sought within the petition would have no practical effect.

### **3. HOW DOES THIS DECISION CONTRIBUTE ?**

- 3.1 This report is to support the committee in responding to the petition referred to it by Full Council. This decision does not contribute to the achievement of any of the outcomes in the Council Plan.

### **4. HAS THERE BEEN ANY CONSULTATION?**

- 4.1 There has been no consultation with the public or stakeholders in the development of this report as the report is focused on providing Elected Members with factual background and issues for consideration in determining a response to the petition. There has, however, been extensive public discourse regarding the matters raised by the petition, including the debate held at Full Council, and numerous public questions that have been asked at meetings of Strategy and Resources Committee and Full Council since October 2023.

### **5. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION**

#### **5.1 Equality Implications**

- 5.1.1 There are equality implications associated with this decision. The Council has a duty (the Public Sector Equality Duty) under the Equality Act 2010 to, in the exercise of its functions, have due regard to the need to:
  - Eliminate unlawful discrimination, harassment and victimisation.
  - Advance equality of opportunity between people who share a relevant protected characteristic and those who do not.
  - Foster good relations between people who share a relevant protected characteristic and those who do not.

- 5.1.2 The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion and or belief, sex, and sexual orientation. Everyone has protected characteristics. The protected characteristics of particular relevance in this instance are race (which includes nationality and ethnic or national origins) and religion
- 5.1.3 The Act explains that having due regard for advancing equality involves:
- Removing or minimising disadvantages suffered by people due to their protected characteristics.
  - Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
  - Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.
- 5.1.4 The Act also explains that having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to tackle prejudice and promote understanding.
- 5.1.5 The Equality Impact Assessment first prepared for the report to this committee on 21 February 2024 is a live one and has been updated to take into account the petition and recommendations in this report. It notes that since the events of 7 October, there has been an increase in concern within the city about the events taking place in Israel and Gaza, with a number of protests taking place. There have been reports that some members of both the Jewish and Muslim communities have felt less safe in the city since October, and there has been a rise in some types of hate incident, which may be associated with the events in the Middle East.
- 5.1.6 The committee should be particularly aware of the requirement under the Equality Act to have due regard to the need to eliminate discrimination and to foster good relations between different groups of people. The recommendations in the report seek to proportionately consider the council's equality obligations both to Palestinian and Arab people and Muslims, and to Jewish people and Judaism.
- 5.1.7 The EIA notes that the recommendations in this report may be perceived differently by different groups of people in the city. In particular, the recommendation to note that the Council may not take the action proposed in point 2 of the petition is likely to be viewed negatively by those who are campaigning in support of the Palestinian people (including people of Palestinian nationality or the Muslim faith) and may be viewed positively by some in the Jewish community.
- 5.1.8 It is also important that the committee consider the implications of the recommendations on the council's workforce. The council employs a large number of Muslims and a smaller number of Jewish people.

Although there is no evidence of an increase in specific incidents associated with the Israel-Gaza conflict amongst our staff, they are likely to have had similar experiences to other members of their communities. As such they may feel at heightened risk since the events of 7<sup>th</sup> October.

5.1.9 Council EIAs consider social cohesion, which takes account of factors like community relations, harmony and tensions, social inclusion and local connectivity. Since 7<sup>th</sup> October there have been multiple peaceful protests in the city about the conflict in Gaza. There has however been an increase in antisemitic and anti-Muslim hate crime and hate incidents being reported in the city.

5.1.10 It is unlikely that any Council report on the topic of the Israel-Gaza conflict could, in itself, reduce community tensions without a wider solution to the conflict being in place. However, the Council is supporting continued dialogue with faith and community leaders about the action that many partners in the city are taking in order to reduce tensions and to promote understanding.

5.1.11 The committee should be mindful of those concerns which impact both the race and religion/belief protected characteristics (and the requirement to have due regard to the need to foster good relations) when considering the recommendations. Nevertheless, the report suggests a range of actions that seek to demonstrate that the council is listening and responding proportionately and in line with the law to the concerns raised, in line with the Public Sector Equality Duty.

## 5.2 Financial and Commercial Implications

5.2.1 These are set out in the main body of the report.

## 5.3 Legal Implications

5.3.1 These are set out in the main body of the report.

5.3.2 Section 1 of the Localism Act 2011 gives a local authority the power to do anything an individual may do (the “general power of competence”). The power is not unfettered: it does not enable a local authority to do anything which is prohibited, restricted or limited by another statutory provision. For the reasons set out in the report the Council is prevented from taking the requested actions by a number of statutory restrictions.

## 5.5 Climate Implications

5.5.1 There are no climate implications arising from this proposal

**6. ALTERNATIVE OPTIONS CONSIDERED**

6.1 There are no alternative options available to the committee in respect of this issue.

**7. REASONS FOR RECOMMENDATIONS**

7.1 The recommendations in the report set out the only action available to the committee in respect of the requests made in the petition presented to Full Council.