



## 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:** *12 March 2024*

**Subject:** *Flag Protocol*

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:

Full Council passed a resolution at its meeting on 1 November which called for a review of the council's flag flying protocol.

This report provides Strategy and Resources Committee with the outcome of that review and proposes a revised flag protocol which the committee is recommended to adopt.

**Recommendations:**

That Strategy and Resources Committee

- Adopt the **Protocol for flying of flags at Sheffield City Council sites and other commemorative activity** as set out in the appendix to this report.
- Delegate authority to the Chief Executive, in consultation with the chair of the Strategy and Resources Policy Committee, to make decisions on ad hoc requests to fly particular flags, in line with the provisions of the protocol.

**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:
		Legal: Andrea Simpson
		Equalities & Consultation:
		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: 27 February 2024</b>	

## 1. BACKGROUND

- 1.1 Sheffield City Council (SCC) has, in common with most other local authorities, a flag protocol that governs the flying of flags at the Town Hall and on other SCC buildings. The flag protocol sets out how flags should be flown, the circumstances in which flags should be flown at half mast, which commemorative flags should normally be flown on which days, and the process by which ad hoc requests for flying a particular flag should be considered.
- 1.2 Full Council passed a resolution at its meeting on 1 November calling for a review of the Council's existing flag protocol. This resolution followed the decision made by the Chief Executive in line with the existing protocol, in consultation with the leaders of the three political groups in the administration, to fly the Israeli flag on 10 October 2023, and the subsequent request by a number of Elected Members to fly the Palestinian flag. Following the completion of an Equality Impact Assessment and Community Tension Impact Assessment, the Chief Executive, in consultation with the leaders of the three political groups in the administration, decided not to fly the Palestinian flag.
- 1.3 During these events, the current flag protocol was used as the basis for the decision making about whether or not to fly both the Israeli and Palestinian flags. A number of significant deficiencies in the current protocol were identified as follows:
- No general requirement to carry out an Equality Impact Assessment of a decision to fly (or not fly) a particular flag.
  - No ability for the Chief Executive to commission additional work to inform a decision to fly (or not fly) a particular flag where the existing information available may be incomplete or partial.
  - Lack of clarity about how requests from Government or Elected Members to fly a flag should be treated and what should happen if a decision could not be reached in the time available.
  - It was not sufficiently clear what other options were available to commemorate or mark an event if flying a flag was not considered to be suitable.
- 1.4 Upon review, it became clear that there were a number of other problems with the existing protocol:
- The occasions on which the union flag should be flown at half-mast had not recently been updated and were no longer fit-for-purpose
  - The annual calendar of commemorative flags to be flown had not recently been updated and did not accord with the list of awareness days agreed by Strategy and Resources Committee in March 2023

- The protocol did not reflect the latest legislation and Government guidance that is in force.

## 2 PROPOSAL

- 2.1 Given the deficiencies identified with the current protocol, it was considered that a wholly new protocol would be needed to respond to the current needs of the council. As such, flag protocols of other local authorities were reviewed and areas of useful practice were incorporated into the proposed new protocol.
- 2.2 The proposed new protocol is appended to this paper. It consists of the main protocol and three appendices.
- 2.3 The main protocol sets out:
- That the union flag is flown at full mast at all times except when a commemorative flag is flown, or when the union flag is lowered to half-mast
  - The circumstances in which the union flag should be lowered to half-mast. This has been updated to provide a more consistent approach following the deaths of serving and former elected politicians (councillors, MPs and Combined Authority Mayors) and other local dignitaries (such as honorary freemen of the city)
  - The flying of other flags at certain times (including the flags of the patron saints of England, Scotland, Wales and Ireland, and commemorative flags associated with particular awareness periods such as Pride or Armed Forces Day)
  - The role of the Chief Executive in making decisions about flying another country's flag during a civic delegation from that country
  - The ways in which ad hoc requests can be made to the Chief Executive to fly the union flag at half-mast or to fly the flag of another country or cause following a national or local disaster or major humanitarian or terrorist incident. The new protocol proposes that requests may only be made by a relevant Government department or by either a policy committee chair or by the leader of a political group on the council.
- 2.4 Appendix A to the protocol sets out the correct manner in which the union flag should be flown.
- 2.5 Appendix B to the protocol sets out the proposed annual calendar of commemorative flag flying activity. This aligns with the awareness days calendar agreed by Strategy and Resources Committee at its meeting in April 2023. The following changes are proposed from the current protocol:
- Moving the period for flying the Pride flag from LGBT+ History Month (February) to Pride Month (June)

- Flying the Windrush flag on 22 June

It also notes that some flags will require planning consent in order for them to be flown and that others either have deemed consent or do not require consent.

- 2.6 Appendix C sets out suggested guidance for the Chief Executive to follow when considering requests made under the protocol. This can be either a request from a Government department or a request from a policy committee chair or leader of a political group. The guidance is designed to provide the Chief Executive a supporting framework within which to make a decision about whether or not to fly a flag, and if not, whether to consider any other type of commemorative activity (such as lighting up the Town Hall).
- 2.7 The guidance is clear that before a decision can be taken, the equalities implications of flying (or not flying) a flag must be considered and that an Equalities Impact Assessment should be undertaken. The Chief Executive may reach a view that the information contained within an EIA may be insufficient to enable her to come to a decision, and the guidance recommends that further evidence be obtained in this case. This could include commissioning other forms of impact assessment (e.g. a community tension impact assessment) or undertaking more detailed community engagement and consultation work to gauge the likely impact of flying a particular flag.
- 2.8 In some circumstances, there may be particular time pressure to reach a decision quickly. The guidance suggests that if the Chief Executive is not satisfied with the information available at the point of a deadline, then usually the decision should be taken not to fly the flag.
- 2.9 The guidance is not binding on the Chief Executive and there is discretion to disapply it if required given the particular circumstances in question.

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

- 3.1 Strategy and Resources Committee has endorsed the draft Council Plan. The Council Plan includes a specific commitment to “championing equality and diversity, including developing a new anti-poverty action plan, supporting the Sheffield Poverty Truth Commission and leading the response to the Race Equality Commission and the delivery of the new Race Equality Partnership for Sheffield.”
- 3.2 Aligned to the Council Plan is the draft Equality Framework, which was endorsed for public consultation at the meeting of the Strategy and Resources Committee on 21 December 2023. The Equality Framework builds upon the commitments set out in the Council Plan, and proposes a

series of outcomes and goals for our work to promote equality, diversity and inclusion in the council across our three roles of employer, service deliverer, and city and community leader.

- 3.3 In adopting the new flag protocol, the Council will be better able to celebrate the diversity and inclusion of the city through the flying of flags, and will have a clearer mechanism for ensuring that the flying of any particular flag supports equality and promotes good relations between different groups of people in the city.

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

- 4.1 Consultation on an earlier draft of the protocol was undertaken with a range of community leaders. This consultation has highlighted the following points:

- That there is general support for developing a new flag protocol
- That most respondents were supportive of the overall approach set out in the new protocol, and that the new process would support a more considered approach to flying ad hoc flags following a request
- That the main focus of the flag protocol needs to be on maintaining and improving community cohesion within Sheffield
- That flag-flying is an intrinsically political statement and decisions about whether and when to fly a particular flag are at risk of being over-politicised
- That it is important that decisions (and the rationale behind decisions) are recorded and available for public scrutiny
- Concern that the level of discretion available to the Chief Executive was too high
- That consultation is already included as a feature of the Equality Impact Assessment process so it wasn't clear why further consultation would be required.
- The protocol needed to draw a clearer distinction between situations where the council may be asked to show solidarity with a particular group of people (as opposed to commemoration) and to note that this can cause significant issues where a conflict is very complex or complicated

- 4.2 In response, the flag protocol was redrafted and the key elements of the feedback incorporated, particularly in describing more clearly the discretion that the Chief Executive should have in departing from the protocol; the importance of clearly recording decisions and the rationale for those decisions when requests are made; and clarifying that some consultation would normally be expected as part of developing an EIA, and that the reference to further consultation is intended to be additional/in greater depth compared to what may have been undertaken during the first stages of an EIA.

## 5. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

### 5.1 Equality Implications

5.1.1 There are equality implications associated with this decision. As set out in the Legal implications section below, the Council has a number of obligations under the Equality Act, including the duty to pay due regard to fostering good relations between people who share a protected characteristic and those who do not.

5.1.2 The flying of flags can be a very visible symbol of support for a particular nation, group or cause. However, it can also be very hard to convey nuance of meaning through the flying of a flag and the council's intentions in doing so can be open to misinterpretation. As such, there is a risk that in flying a flag, community tensions could be created or exacerbated or that a particular group may feel excluded or unheard.

5.1.3 An Equality Impact Assessment has been completed for this protocol which highlights some of the inherent issues with flag-flying, and in particular, when a request is made to fly a different flag from that which would normally be flown. To mitigate the issues identified, the protocol makes clear that a request to fly a different flag should only be agreed following the completion of an Equality Impact Assessment (as a minimum) and that other supporting evidence or activity can be commissioned where particular risks are highlighted within the EIA.

5.1.4 Nevertheless, the flying of flags can also be an important way of raising awareness for different groups and can serve an extremely positive purpose. This is highlighted in the EIA.

### 5.2 Financial and Commercial Implications

5.2.1 There are no immediate financial implications of this proposal.

### 5.3 Legal Implications

5.3.1 The flying of flags is governed by the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. These regulations are summarised in the Government's guide to flying flags: [Flying flags: a plain English guide - GOV.UK \(www.gov.uk\)](http://www.gov.uk). This protocol is considered to be compliant with those regulations.

5.3.2 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.



5.3.2 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.

5.3.3 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.

## 5.5 Climate Implications

5.5.1 There are no climate implications arising from this proposal

## **6. ALTERNATIVE OPTIONS CONSIDERED**

6.1 The only alternative option considered was to retain the existing flag protocol. For the reasons set out at paragraphs 1.3 and 1.4 of this report, the current protocol is not considered to be fit for purpose, and therefore this option was rejected.

## **7. REASONS FOR RECOMMENDATIONS**

7.1 By adopting the new flag protocol, the Strategy and Resources Committee will ensure that the Council has a modern and fit-for-purpose approach to the flying of flags on Council buildings, and a mechanism for making decisions on ad hoc requests to fly a particular flag.

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