

## Divestment from Egregious Activities – Proposals for Council

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### 1. Purpose

For Council to consider and vote on proposals concerning LSE's responsible investment practices, including on matters of divestment, transparency, ESG policy and governance.

### 2. Background

2.1 On 13 June 2024, the UN released a report accusing Israeli Defense Forces of war crimes, including the use of explosive weapons in populated areas, starvation as well as the killing and maiming of tens of thousands of children.<sup>i</sup> This follows a preliminary ruling by the International Court of Justice that the state of Israel is at risk of violating its obligations under the Genocide Convention and also an application for warrants by the Prosecutor of the International Criminal Court to arrest the Israeli Prime Minister and Minister of Defense for crimes against humanity and war crimes.<sup>ii</sup> Israel's military occupation of Palestinian land and systematic subjugation of the Palestinian people relies on global and institutional impunity and complicity. As a result, divestment has become a pressing ethical and reputational issue for universities worldwide.

2.2 LSESU Palestine Society's *Assets in Apartheid* report<sup>iii</sup> identifies at least £89 million of LSE's investments in 117 holdings in 137 companies involved in the following egregious activities;

- Crimes against the Palestinian people, including supporting illegal Israeli settlements; and/or supporting the Israeli military and/or police; and/or sustaining apartheid;
- Extraction and/or distribution of fossil fuels;
- Proliferation and/or manufacture of arms;
- Financing fossil fuel companies and/or nuclear weapons producers.

2.3 In 2022, LSE reviewed its Socially Responsible Investment (SRI) Policy which resulted in an improved Environment, Social, and Governance (ESG) Policy, but critical deficiencies remain (as per section 4 in *Assets in Apartheid*).

### 3. Divestment Discussions

3.1 The LSE community has made clear its demands for divestment through multiple means including:

- Student Union referendum: in the highest-ever turnout, 89% of students voted in favour of supporting “full and meaningful divestment” in line with the *Assets in Apartheid* report.
- LSE UCU motion: “[w]e resolve as a branch to pressure LSE to divest funding” and “avoid investment in weapons manufacturing that contribute to the ongoing genocide.”<sup>iv</sup>
- Student-staff assemblies on divestment (14 May, 13 June) were accompanied by several petitions by students,<sup>v</sup> staff members,<sup>vi</sup> alumni,<sup>vii</sup> and LSE Jewish voices.<sup>viii</sup>
- Widespread student, staff, and external expert endorsement of the *Assets in Apartheid* report, including People and Planet, War on Want, and Campaign Against Arms Trade.

3.2 Council must seriously contend with these perspectives, otherwise it would realise staff and students' worst fears that there is otherwise little meaningful practical commitment by the School to social justice and to solving the world's most pressing social problems.

3.3 A precedent for divestment has been set at world-leading peer institutions, some with endowments significantly larger than LSE's:

- University of Cambridge, Trinity College (May 2024) voted to divest from all arms companies. Trinity is Cambridge's wealthiest constituent college with an endowment of over \$2 billion in 2022.

- The University of York (April 2024) announced divestment from “companies that primarily make or sell weapons and defence-related products or services.”
- Trinity College Dublin (May 2024) announced that it will divest “from investments in Israeli companies that have activities in the Occupied Palestinian Territory and appear on the UN Blacklist” by June 2024.
- Columbia University, Union Theological Seminary (May 2024) announced it will divest its endowment from all “companies substantially and intractably benefiting from the war in Palestine.”

3.4 LSE ought to leverage its expertise in human rights, environmental governance, and climate justice when managing its investment portfolio to practise its stated commitments to responsible investment and Equity, Diversity, and Inclusion (EDI).

3.5 The LSE External Funding Acceptance Policy states risk criteria which designates industries such as “arms dealing and manufacture, in particular, controversial weapons/indiscriminate armaments” as a “caution industry.”<sup>ix</sup> The Policy further considers the serious legal, ethical, and reputational issues with accepting funding linked to proven cases, or allegations, of: “[t]errorism or political engagement with controversial, anti-democratic, corrupt or human-rights abusing regimes or sanctioned regimes.”<sup>x</sup> This due diligence process of external funding should be applied, at a minimum, to *all* holdings and companies in LSE’s investments portfolio.

3.6 The fiduciary duty of LSE Trustees will not be legally compromised by considering ethical factors. In the *Susan Butler-Sloss & Others v Charity Commission* [2022] EWHC 974 ruling, the court affirmed that a charitable trust fulfils its fiduciary duty in cases when it adopts an investment policy with ethical considerations.<sup>xi</sup> Further, the court emphasised that trustees’ power to invest must not be in conflict with the charities’ purpose.<sup>xii</sup>

3.7 Divesting from holdings following ethical considerations does not mean abandoning a diversified portfolio. An ethically-informed portfolio may yield higher returns in the long term.<sup>xiii</sup>

3.8 Continued investment in egregious activities as identified in the *Assets in Apartheid* report undermines LSE’s wider academic and professional reputation.<sup>xiv</sup> Consideration of reputational risk is a precedent set by LSE’s External Funding Acceptance Policy. It is also recognised as a consideration for Charity Trustees by the UK government.<sup>xv</sup>

3.9 LSE does not have sufficient leverage and capacity for meaningful engagement at the entity level. As a result of investing through asset managers and mutual fund managers, the university is twice removed from most of the companies it invests in. Therefore, using engagement as a method to encourage ethical business practices is unrealistic and unpromising.

3.10 LSE has committed to Net Zero by 2030; the university must seriously consider how investing in the global arms trade fundamentally impedes this goal. Corporations involved in the manufacture and financing of the arms trade often use “green militarism” to posit that war can be environmentally sustainable. Experts estimate that the world’s military is responsible for at least 5.5% of total greenhouse gas emissions,<sup>xvi</sup> therefore, divestment from arms companies supports Net Zero objectives.

3.11 LSE is already a signatory of the University of Cambridge’s Request for Proposals, which seeks to develop a market for cash products that do not finance fossil fuel expansion.<sup>xvii</sup> Like the *Assets in Apartheid* report, this request calls for excluding banks identified in the *Banking on Climate Chaos* report.

3.12 If Israel is eventually found to have violated its obligations under the Genocide Convention or its leadership to have committed crimes against humanity or war crimes, then the School would potentially become liable for prosecution for complicity in these crimes under s51(2)(b) of the International Criminal Court Act 2001.<sup>xviii</sup>

#### 4. Preference on Voting Procedure

The following proposals outline steps LSE must take to cut its ties to companies engaged in egregious activities. We appreciate the willingness of the FEC to improve democratic oversight of investment decision-making by reviewing the ESG policy and increasing transparency. In line with this, we request that the forthcoming proposals be voted upon democratically, each requiring a simple majority for assent.

#### 5. Proposals

**5.1 Divestment.** LSE commits to immediately and fully divest from holdings involved in the following activities, as identified in the *Assets in Apartheid* report:

- 5.1.a. Companies involved in crimes against the Palestinian people, including divestment from:
  - 5.1.a.i. Companies that are profiting from the genocide in Gaza;
  - 5.1.a.ii. Companies that work with and/or supply the Israeli military;
  - 5.1.a.iii. Business enterprises listed by the Office of the High Commissioner for Human Rights as involved in illegal settlement activities;
  - 5.1.a.iv. European financial institutions that are investors and/or creditors in business enterprises listed by the Office of the High Commissioner for Human Rights as involved in illegal settlement activities;
  - 5.1.a.v. Companies involved in resource extraction and/or operations in the Occupied Palestinian Territory.
- 5.1.b. Companies involved in the proliferation and/or manufacture of arms.
- 5.1.c. Companies that are profiting from the extraction and/or distribution of fossil fuels.
- 5.1.d. Companies involved in financing fossil fuel companies and/or nuclear weapons producers.

**5.2 Transparency.** LSE will ensure accessibility and public accountability of its investments portfolio, and commit to:

- 5.2.a. Institutionalising dedicated quarterly checks and reports with the LSE Asset Managers to review investments' compliance with LSE's ESG policy;
- 5.2.b. Publishing the full name of the bond issuers in the publication of the investment portfolio;
- 5.2.c. Publishing the full name of all companies held within mutual funds<sup>xix</sup> and link to the annual reports of all mutual funds;
- 5.2.d. Releasing all information on funds managed by Mercer;
- 5.2.e. Producing a public annual report communicating relationships with companies at the entity level (explicitly tied to holdings).

**5.3 ESG Policy.** LSE commits to revising the ESG policy starting September 2024 and will:

- 5.3.a. Actively include a wide range of relevant stakeholders in its drafting. This includes students and staff (e.g. LSE SU, UCU, UNISON, UNITE); LSE-based and external experts in human rights, environmental justice, and business and human rights (e.g. LSE Human Rights, Grantham Institute, SOMO Centre for Research on Multinational Corporations);
- 5.3.b. Change the exclusion criteria from 'indiscriminate' arms to the proliferation and manufacture of arms;<sup>xx</sup>
- 5.3.c. Equally apply the ESG policy to indirect and direct investments;
- 5.3.d. Expand exclusion criteria to companies involved in illegal activities, specifically including business activities that violate International Humanitarian Law and human rights law including the UN database of business enterprises involved in activities related to settlements in the Occupied Palestinian Territory.<sup>xxi</sup>

**5.4 Governance.** Establish accountability mechanisms and reconfigure investments governance to ensure democratic and ethical oversight via the following commitments:

- 5.4.a. Incorporate experts on human rights and climate breakdown through an expansion and/or reconfiguration of Investment Sub-Committee membership;

5.4.b. Establish a reporting system whereby LSE members can register potential violations of the ESG policy and other instances of fund mismanagement;

5.4.c. Institutionalise regular feedback loops between the ISC and key LSE stakeholders (e.g. LSE Human Rights, Grantham Institute, the Student Union, and UCU) concerned with LSE's responsible investment practices and compliance.

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<sup>i</sup> UN Secretary General. 2024. "Children and Armed Conflict: Report of the Secretary-General." [undocs.org/A/77/895](https://undocs.org/A/77/895). General Assembly Security Council.

<sup>ii</sup> International Criminal Court. 2024. "Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for arrest warrants in the situation in the State of Palestine." <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-applications-arrest-warrants-situation-state>.

<sup>iii</sup> LSESU Palestine Society. 2024. "Assets in Apartheid: LSE's Complicity in Genocide of the Palestinian People, Arms Trade and Climate Breakdown." <https://sepalestine.github.io/documents/LSESUPALESTINE-Assets-in-Apartheid-2024-Web.pdf>. Page 5.

<sup>iv</sup> "LSE UCU Branch (Membership-led) Motion Solidarity with Palestine and Academic Freedom", 7 November 2023. <https://lseucu.com/>.

<sup>v</sup> "LSE Students in Support of Encampment for Divestment", May 2024. <https://bit.ly/LSEStudentsforDivestment>.

<sup>vi</sup> "LSE Divest: Staff and Faculty Petition", May 2024. <https://bit.ly/LSEStaffforDivestment>.

<sup>vii</sup> "LSE Alumni Open Letter in Support of the Student Encampment for Palestine: Signatories", June 2024. <https://bit.ly/LSEAlumniSupportforEncampment>.

<sup>viii</sup> "LSE Jewish Voices in Support of the Encampment", May 2024. <https://bit.ly/LSEJewishVoicesSupportEncampment>.

<sup>ix</sup> LSE 2021. "External Funding Acceptance Policy."

<https://info.lse.ac.uk/staff/services/Policies-and-procedures/Assets/Documents/extFunAccPol.pdf>. Point 6.1B.

<sup>x</sup> Ibid. Point 6.1A.

<sup>xi</sup> *Butler-Sloss & Ors v The Charity Commission for England And Wales* [2022] EWHC 974 (Ch).

<sup>xii</sup> Ibid, point 11. In fulfilling its fiduciary duty, LSE must ensure that investments are compatible with its Object. The LSE's Object, as stated in the Articles of Association, is to 'advance education, learning and research for the public benefit'. LSE "Articles of Association of the London School of Economics and Political Science.". Page 1.

<sup>xiii</sup> "USS Ethical Equity Fund." 2024. <https://www.uss.co.uk/-/Media/Project/Ussmainsite/Files/Fund-Factsheets/Ethical-Equity-Fund.pdf?Rev=Ccfffbe30e487428ca63715213e494a11>. Page 3.

<sup>xiv</sup> LSESU Palestine Society. 2024. "Assets in Apartheid: LSE's Complicity in Genocide of the Palestinian People, Arms Trade and Climate Breakdown."

<https://sepalestine.github.io/documents/LSESUPALESTINE-Assets-in-Apartheid-2024-Web.pdf>. Page 11.

<sup>xv</sup> LSE 2021. "External Funding Acceptance Policy." <https://info.lse.ac.uk/staff/services/Policies-and-procedures/Assets/Documents/extFunAccPol.pdf>. Point 1.1.

<sup>xvi</sup> LSESU Palestine Society. 2024. "Assets in Apartheid: LSE's Complicity in Genocide of the Palestinian People, Arms Trade and Climate Breakdown."

<https://sepalestine.github.io/documents/LSESUPALESTINE-Assets-in-Apartheid-2024-Web.pdf>. Page 21.

<sup>xvii</sup> "Responsible Investment", under section 'Our Plans for the Future'. <https://info.lse.ac.uk/staff/divisions/Finance-Division/Responsible-Investment>.

<sup>xviii</sup> Section 51(2)(b) of the U.K. International Criminal Court Act 2001 confers British courts with jurisdiction over genocide, crimes against humanity, and war crimes committed "outside the United Kingdom by a United Kingdom national, a United Kingdom resident or a person subject to U.K. service jurisdiction." Article 67(2) states that "[i]n this Part a 'United Kingdom resident' means a person who is resident in the United Kingdom." Finally, section 5 of the Interpretations Act 1978 states that "[i]n any Act, unless the contrary intention appears, words and expressions listed in Schedule 1 to this Act are to be construed according to that Schedule." The Schedule states that "'[p]erson' includes a body of persons corporate or unincorporate."

<sup>xix</sup> Imperial College London produces a document which lists all investee companies in mutual funds under a section on indirect holdings.

<sup>xx</sup> A short-life working group with similar expertise has been set up by the University of Edinburgh "to consider the definition of controversial weapons and armaments". The University of Edinburgh. 2024. "Responsible Investments." June 14, 2024. <https://www.ed.ac.uk/news/staff/2024/responsible-investments>.