

Committee: Overview and Scrutiny Commission

Date: 18 March 2020

Wards: All

Subject: How council officers involved in procurement are made aware of Modern Slavery

Lead officer: Caroline Holland, Director of Corporate Services

Lead member: Councillor Mark Allison, Deputy Leader and Cabinet Member for Finance

Contact officer: Dawn Jolley, Head of Commercial Services

Recommendations:

That the Overview and Scrutiny Commission discuss and comment on the report.

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. On the 18th November 2018 in support of a motion by Councillor Mundy and seconded by Councillor Henry, Council called on Cabinet to:
- Adopt the Co-operative Party's Charter against Modern day Slavery to ensure the Council's procurement practices do not support slavery.
 - Consider the wider impact of modern day slavery on the borough, and work to ensure that all forms of modern slavery are eliminated in Merton.
- 1.2 The Overview and Scrutiny Commission has asked for a report focusing on how council officers involved in procurement are made aware of and act in relation to Modern Slavery.

2 DETAILS

- 2.1. The Modern Slavery Act 2015 was designed to prevent slavery, servitude, forced or compulsory labour and human trafficking in organisations and their supply chains. The legislation supports government policy and aims to protect vulnerable people by raising awareness and protecting them from becoming victims and to ensure that public sector organisations are better prepared to reduce the harm that these crimes can cause.
- 2.2. The Act requires "commercial organisations" to disclose the steps they have taken to ensure human trafficking and slavery does not occur within them or their supply chains. Under section 54 of the Act, commercial organisations with a turnover of £36 million (Modern Slavery Act 2015 (Transparency in Supply Chains) Regulations 2015), must publish a statement for each financial year on or after 31 March 2016. The statement must be published on the organisation's website, with a link to the statement in a prominent place on their home page.
- 2.3. It is not a legal requirement for the Council to produce such a statement, as it is not a commercial organisation as defined by the Act.

2.4. There is also a duty under section 52 of the Act which requires specified public bodies (including Local Authorities) to notify the Secretary of State upon developing reasonable grounds to believe that a person may be a victim of slavery or human trafficking. The Public Contracts Regulations 2015 also requires the exclusion of any supplier which has itself committed a slavery offence.

2.5. The commitments required by the Charter are more specific than those required under the Modern day Slavery Act and the Charter asks each Council adopting it to:

- Train its corporate procurement team to understand modern slavery through the Chartered Institute of Procurement and Supply's (CIPS) online course on Ethical procurement and Supply.
- Require its contractors to comply fully with the Modern Slavery Act 2015, wherever it applies, with contract termination as a potential sanction for non-compliance.
- Challenge any abnormally low-cost tenders to ensure they do not rely upon the potential contractor practising modern day slavery.
- Highlight to its suppliers that contracted workers are free to join a trade union and are not to be treated unfairly for belonging to one.
- Publicise its whistle-blowing system for staff to blow the whistle on any suspected examples of modern day slavery¹.
- Require its tendered contractors to adopt a whistle-blowing policy which enables their staff to blow the whistle on any suspected examples of modern day slavery.
- Review its contractual spending regularly to identify any potential issues with modern slavery.
- Highlight for its suppliers any risks identified concerning modern slavery and refer them to the relevant agencies to be addressed.
- Refer for investigation via the National Crime Agency's national referral mechanism any of its contractors identified as a cause for concern regarding modern slavery.
- Report publicly on the implementation of this policy annually.

2.6. With specific reference to how council officers at Merton, involved in procurement, are made aware of and act in relation to this issue:

2.6.1 All officers within Commercial Services have completed the CIPS online course on Ethical Procurement & Supply. This is completed each financial year and monitored by the Head of Commercial Services.

¹ Our Whistle Blowing policy is accessible to all via the Council's website <https://www.merton.gov.uk/council-and-local-democracy/plans-and-policies/whistleblowing-policy>. Currently, specific reference to Modern Slavery is not included. The Head of Internal Audit is looking at addressing this during the next review. This will need to be submitted to Standards and General Purposes for approval. It is anticipated that policy will be updated before April 2020.

- 2.6.2 Officers that have responsibility for procurement but that sit outside of Commercial Services are encouraged to complete the online CIPS course (through the four departmental Operational Procurement Groups and/or the Council's Procurement Forum). Information regarding Modern Slavery, how to identify it and what to do if identified is also promoted via the Council's Procurement Toolkit and Commercial Services information pages on the Council's intranet².
- 2.6.3 Should a provider be found in breach of the Modern Slavery Act 2015, contract termination would be a potential sanction for non-compliance.
- 2.6.4 As part of the Standard Selection Questionnaire (SQ) issued to all bidders in relation to tenders over the EU thresholds, we ask organisations whether they are required to produce a Modern Slavery Statement and provide a link to the statement on their website if they are in-scope. All tender processes require bidders to provide confirmation that they are compliant with the Act.
- 2.6.5 The response of the highest scoring bidder is then verified prior to recommending the award of the contract
- 2.6.6 All abnormally low-cost tenders are challenged.
- 2.6.7 The Council's terms and conditions of contract contain a clause prohibiting suppliers from preventing their staff from joining and participating in any trade union or association of their choice.
- 2.6.8 The Council's terms and conditions of contract contain clauses which require contractors to adopt and promote Merton's whistleblowing policy.
- 2.6.9 We regularly review contractual spending.
- 2.6.10 If identified, we will highlight for our suppliers any risks identified concerning modern slavery and refer them to the relevant agencies to be addressed
- 2.6.11 We will refer for investigation, via the National Crime Agency's national referral mechanism, any of our contractors identified as a cause for concern regarding modern slavery.

3 ALTERNATIVE OPTIONS

- 3.1. None for the purpose of this report

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. None for the purposes of this report.

5 TIMETABLE

- 5.1. None for the purposes of this report

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. None for the purposes of this report

7 LEGAL AND STATUTORY IMPLICATIONS

²

<https://mertonhub.merton.gov.uk/councilwide/policyproceduresandguidance/procurement/Pages/Modern-slavery.aspx>

7.1. Legal and statutory implications have been addressed in the main body of the report.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

8.1. The main purpose and rationale of adopting the Charter is to demonstrate further the Council's commitment and reinforce its approach to tackling modern day slavery. Groups that are protected by the Public-Sector Equality Duty are disproportionately likely to be subject to modern slavery and adopting the Charter is designed to promote equality and foster good relations.

9 CRIME AND DISORDER IMPLICATIONS

9.1. Prevention and identification of crime relating to modern day slavery.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. Ensuring that during the procurement process that suppliers are aware of Merton's commitment to the issue of preventing and identifying modern day slavery and ensuring compliance with the Council's duties under the Act.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

None

12 BACKGROUND PAPERS

12.1. None