

**Manchester City Council
Report for Information**

Report to: Resources and Governance Scrutiny Committee – 10 January 2019

Subject: Progress report on Manchester City Council’s action on Modern Slavery

Report of: The City Treasurer

Summary

At full Council meeting on 11 July, the Council ratified the charter on modern slavery, noted that councils have an important role to play in ensuring their contracts and supplies do not contribute to modern day slavery and exploitation, and committed MCC to a series of actions. This paper sets out the current position in relation to each of these ten actions, and proposed next steps.

Recommendations

Members are asked to note and comment on this report.

Wards Affected: all

Alignment to the Our Manchester Strategy Outcomes (if applicable):

Manchester Strategy outcomes	Summary of how this report aligns to the OMS
A thriving and sustainable city: supporting a diverse and distinctive economy that creates jobs and opportunities	The modern slavery agenda supports all the Manchester Strategy outcomes, and in particular, towards a progressive and equitable city: making a positive contribution by unlocking the potential of our communities.
A highly skilled city: world class and home grown talent sustaining the city’s economic success	
A progressive and equitable city: making a positive contribution by unlocking the potential of our communities	
A liveable and low carbon city: a destination of choice to live, visit, work	
A connected city: world class infrastructure and connectivity to drive growth	

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Background documents (available for public inspection):

The following documents disclose important facts on which the report is based and have been relied upon in preparing the report. Copies of the background documents are available up to 4 years after the date of the meeting. If you would like a copy please contact one of the contact officers above.

Manchester City Council motion on Modern Slavery, July 2018

Manchester City Council Ethical Procurement Policy

Introduction

1. At full Council meeting on 11 July, the Council ratified the charter on modern slavery, noted that councils have an important role to play in ensuring their contracts and supplies do not contribute to modern day slavery and exploitation, and committed MCC to the following actions:
 - a. Ensure its corporate procurement team is trained to understand modern slavery through the Chartered Institute of Procurement and Supply's (CIPS) online course on Ethical Procurement and Supply.
 - b. 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.
 - c. Challenge any abnormally low-cost tenders to ensure they do not rely upon the potential contractor practising modern slavery
 - d. Highlight to its suppliers that contracted workers are free to join a trade union and are not be treated unfairly for belonging to one.
 - e. Publicise its whistle-blowing system for staff to blow the whistle on any suspected examples of modern slavery.
 - f. Require its tendered contractors to adopt a whistle-blowing policy which enables their staff to blow the whistle on any suspected examples of modern slavery.
 - g. Review its contractual spending regularly to identify any potential issues with modern slavery
 - h. Highlight for its suppliers any risks identified concerning modern slavery and refer them to the relevant agencies to be addressed.
 - i. 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.
 - j. Report publicly on the implementation of this policy annually.
2. See appendix A for the full motion. This paper sets out the current position in relation to each of these ten actions, and proposed next steps.

Current position on the actions from July Council:

3. These ten actions are wide-ranging and require engagement and implementation across the city Council. To illustrate, actions 1, 3, 4 and 6 are for the corporate procurement team; action 3 also needs to engage capital programmes and housing; actions 2, 7, 8 and 9 are for commissioners and contract officers across all directorates; item 6 will also be for Legal to put into standard Terms & Conditions; and the Integrated Commissioning team should pick up item 5 and support on communicating all the rest to contract officers. The breadth and depth of engagement required is challenging; the good news is that we are part-way there, with examples of good practice that can be shared across directorates.
4. Taking each of these in turn:

Action 1: Ensure the Council's corporate procurement team is trained to understand modern slavery through the Chartered Institute of

Procurement and Supply's (CIPS) online course on Ethical Procurement and Supply.

5. Officers in Corporate Procurement are reviewing the options, which include CIPS face to face training and e-learning, bearing in mind cost and quality. The plan is for all procurement staff to be trained by 31 March 2019, with the majority by the end of January 2019.

Action 2: Require the Council's contractors to comply fully with the Modern Slavery Act 2015, wherever it applies, with contract termination as a potential sanction for non-compliance.

6. The current position with MCC contracts is that tenderers must respond to a number of questions related to the Council's Ethical Policy. In summary:
 - a. All MCC tender documents will cite the Council's Ethical Policy which, following review in 2017, includes specific reference to slavery and human trafficking, viz:

"Modern Slavery Act 2015: As part of Local Government, the Council recognises that it has a responsibility to take a robust approach to slavery and human trafficking. In addition to the Council's responsibility as an employer, it also acknowledges its duty as a City Council to notify the Secretary of State of suspected victims of slavery or human trafficking as introduced by section 52 of the Modern Slavery Act 2015. The Council is absolutely committed to preventing slavery and human trafficking in its corporate activities and to ensuring that its supply chains are free from slavery and human trafficking. The Council requires that all direct suppliers, service providers and contractors to the Council are absolutely committed themselves to preventing Slavery within their own activities and through their supply chain which includes manufacturers, and producers."
 - b. By law, all commercial organisations that supply goods or services and have an annual turnover of £36 million or more must routinely prepare a slavery and human trafficking statement. All successful bidders for MCC contracts must share this with the Council. All bidders above the £36m threshold will be asked, as part of the procurement process, to provide evidence of their programme to assure that human trafficking and slavery do not exist in their operations and supply chain;
 - c. However, the Council's intention is that all direct suppliers, service providers and contractors to the Council (ie not just those turning over £36m), should be absolutely committed to preventing slavery within their own activities and through their supply chain. Therefore, in June 2018 additional requirements were added to the procurement process to test bidders' commitment to preventing slavery within their own organisation and their supply chain. These questions include:
 - i. Whether bidders pay employees the equivalent or higher of the Manchester Living Wage (MLW);
 - ii. Whether they operate Zero Hours Contracts, and if so why;

- iii. Whether they have a programme to assure that human trafficking and slavery do not exist in their operations and supply chain, and what that is;
 - iv. What processes are in place to check whether sub-contractors or suppliers of goods and services have been convicted or had a notice served upon them for infringement of The Modern Slavery Act 2015;
 - v. Whether they operate a whistle blowing process to report any breaches or suspected breaches of the Modern Slavery Act;
 - vi. What processes are in place to check whether sub-contractors operate a whistle blowing process in relation to Modern Slavery.
- d. Once a contract goes live, it will be the responsibility of the contract manager to check on that the safeguards tested in procurement process are in place, including through contract monitoring meetings, assurance of processes, and potentially, on site visits. Corporate Procurement are developing a standard set of questions for subcontractors, drawing on existing good practice in procurement and in capital programmes.
- e. Legal work is under way on including a standard clause in MCC contracts regarding compliance with the Modern Slavery Act.

Action 3: Challenge any abnormally low-cost tenders to ensure they do not rely upon the potential contractor practising modern slavery

7. This is normal practice for procurement officers as required under The Public Contract Regulations 2015, Regulation (69). Within Capital Programmes, suppliers must meet a series of robust criteria in order to be selected as part of frameworks held for both construction works and professional consultancy services. This includes confirmation of organisational adherence to ethical procurement covering living wage payment (both directly and through any subcontractors used) and the fair payment of the supply chain. Any non-framework procurement activity also requires assurances when awarding contracts.
8. An annual audit of framework contractors is also to be implemented which requires confirmation that ethical practices remain in place through the issuing of a policy statement for signature. This will be enhanced with direct contact with subcontractors to confirm the veracity of the statement. Compliance reports can be provided as required on an annual basis once implemented.

Action 4: Highlight to the Council's suppliers that contracted workers are free to join a trade union and are not be treated unfairly for belonging to one.

9. The Council's Ethical Procurement Policy states that *Freedom of association and the right to collective bargaining are respected*
- a. *Workers, without distinction, have the right to join or form trade unions of their own choosing and to bargain collectively;*
 - b. *The employer adopts an open attitude towards the activities of independent trades union or other workers' association and their organisational activities;*

- c. *Workers representatives are not discriminated against and have access to carry out their representative functions in the workplace.*
10. The Evaluation of the recent North West Construction Hub tender High Value Framework for Construction Works included site visits of all tenderers. As part of the site visit one of the questions that was asked of employees was:
- a. *Would you be allowed by your employer to be a member of a recognised Trade Union if you wanted to join?*

Action 5: Publicise the Council's whistle-blowing system for staff to blow the whistle on any suspected examples of modern slavery

11. The Council has a whistle blowing policy which can be found on the following link - [MCC Whistleblowing policy](#).

Action 6: Require the Council's tendered contractors to adopt a whistle-blowing policy which enables their staff to blow the whistle on any suspected examples of modern slavery

12. The Council's Ethical Procurement Policy includes the Council's Whistleblowing policy. Corporate Procurement are currently discussing with Unions further wording on Trade Unions for inclusion in the Council's Ethical Procurement Policy.
13. As noted above (para 7c), Council Tenders also require contractors to confirm when tendering whether they operate a whistle blowing process which is actively promoted within the organisation and suppliers (where applicable) to report any incidents of breaches or suspected breaches of the Modern Slavery Act 2015, and that if they use sub-contractors, whether they have processes in place to check whether any of these organisations operate a whistle blowing process.
14. The Evaluation of the recent North West Construction Hub tender High Value Framework for Construction Works included site visits of all tenderers. As part of the site visit one of the questions that was asked of employees was: *Are you aware of your company's Whistleblowing policy? Please show us a copy of your Whistleblowing policy.*
15. To help raise awareness further, Integrated Commissioning and Internal Audit have added guidance to the council's Contract Management Handbook, which links to the Whistleblowing policy. It is also being incorporated into a new e-learning package on contract management, which is current in development.

Action 7: Review the Council's contractual spending regularly to identify any potential issues with modern slavery

16. This is a new requirement for Council commissioners and contract managers and will have resource impact. It will be for contract managers, as the experts in their sector and in the contract, to follow through in supplier and contract management discussions. We recommend that the Integrated Commissioning team, working with a willing contract manager, produce a model example of

how to review contractual spending with an eye to spotting modern slavery - for sharing with colleagues.

Action 8: Highlight for the Council's suppliers any risks identified concerning modern slavery and refer them to the relevant agencies to be addressed

17. This is a new requirement for Council commissioners and contract managers and will have resource impact. As the experts in their sector and in the contract, they should use their sectoral knowledge to know where to look - eg of how modern slavery might occur in their supply chain, which will differ from industry to industry - and to flag this at commissioning / procurement stage, and in day to day contract management.
18. We also recommend that the Council draw upon external sources for intelligence on the typologies of modern slavery that exist, with a view to sharing these with suppliers. There will be a resource impact.

Action 9: 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

19. This is normal practice for council officers.

Action 10: Report publicly on the implementation of this policy annually

20. Commercial organisations with a turnover of £36m or more a year are required by law to produce a **Modern Slavery Statement** annually. Local Authorities are not required to produce a Human Trafficking and Modern Slavery statement, although a number of authorities have issued a voluntary statement.
21. In view of the increased focus on Modern Slavery, it is recommended that the Council issues a voluntary statement by July 2019 detailing the actions the Council has taken during the financial year 2018-19 to ensure that slavery and human trafficking is not taking place either in its supply chain or its own organisation.

Wider issues

22. Some industries are perceived to be more at risk of Modern Slavery, and it would be helpful to identify which sectors and practices are priority for additional scrutiny from procurement officers, commissioners and contract managers. The Home Office guidance recently issued through the Government Commercial Network highlights at a high level the sectors most at risk. The depth of supply chain will be a key consideration too. For example, in the care sector, there may be relatively few layers in the supply chain. However, in ICT, there could be several layers and some of the riskiest areas - e.g. electronics manufacture - are a relatively long way upstream, which is a challenge.
23. The City Treasurer has asked for consideration of how we urgently consider tightening the sign off processes for procurement and contract award to include this. Corporate Procurement will release new documents, tender templates

and a contract report template early next year to tie in with contract management communication plan.

24. Where a framework or contract has been tendered through MCC, then questions regarding Human Trafficking and Slavery will have been asked as part of the Standard procurement questionnaire. Where a non-MCC framework is in place, the MCC contract owner should check with the tendering body if Modern Slavery was included in the tender evaluation. If this was not included or not to MCC requirements, then the MCC contract lead should ensure they include this in their assessment and evaluation of suppliers in the mini-competition under the framework, noting that this should be in accordance with the rules of the framework.
25. We recommend a joint approach with MHCC and the LCO to promote an integrated approach to combating modern slavery in the health and care sectors, where safeguarding is of critical importance. Officers are working with MHCC and LCO colleagues on this. Whilst there is no NHS England requirement to do so, MHCC will put in a quality standard in all contracts in relation to Modern Day Slavery.

Next steps

26. The next steps are as follows:
 - a. All Corporate Procurement staff to be trained in combating modern slavery by 31 March 2019;
 - b. Corporate Procurement to finalise and communicate a standard set of questions for subcontractors, drawing on existing good practice in procurement and in capital programmes;
 - c. Corporate Procurement to communicate latest and new sign off arrangements for procurement and contract award, once finalised;
 - d. Legal to explore the possibilities of a standard clause in MCC contracts that non-compliance with Modern Slavery provisions constitutes breach and is reason for contract termination. Any breach would have to be material. MCC actions must be proportionate, and reasonable and we should afford the contractor the ability to remedy the breach.
 - e. Integrated Commissioning to identify resource to obtain typologies and sectoral analysis of modern slavery, and communicate within the Council, making connections with the Modern Slavery sub group of the Children's Safeguarding Board;
 - f. Integrated Commissioning team, working with a willing contract manager, produce a model example of how to review contractual spending with an eye to spotting modern slavery - for sharing with colleagues;
 - g. Procurement and Integrated Commissioning to share good practice among commissioners and contract managers;
 - h. Council commissioners and contract managers to ensure their procurement and management of contracts robustly tests suppliers and supply chains for modern slavery;
 - i. If agreed by the committee, officers to develop a Modern Slavery statement for publication in July 2019.