

MAYOR AND CABINET		
Report Title	Human trafficking and modern day slavery	
Key Decision	Yes	Item No
Ward	All	
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Date	13 February 2019	

1. Summary

- 1.1 This report sets out the policy context, background and resource implications of adopting the Co-operative Party Charter against Modern Slavery, and the practical issues in so doing.
- 1.2 This report sets out the first draft annual Modern Slavery and Human Trafficking Statement for the Council.
- 1.3 Appended to this report is the draft Modern Slavery and Human Trafficking Statement for 2018/19 and the Lewisham Modern Slavery Protocol.

2. Structure of the Report

- 2.1 The report is structured as follows:

Section 3	sets out the recommendations
Section 4	policy context
Section 5	background
Section 6	Co-operative Party Charter against Modern Slavery
Section 7	Modern Day slavery and Trafficking Protocol
Section 8	draft statement
Section 9	provides the Financial Implications
Section 10	provides the Legal Implications
Section 11	provides Crime and Disorder Act Implications
Section 12	provides Equalities Implications
Section 13	provides Environmental Implications
Section 14	sets out the Conclusion
Section 15	appendices

3. Recommendations

- 3.1 It is recommended that Mayor and Cabinet:
 - i) Note the approval by full Council of a motion that Lewisham Council signs the Cooperative Party Charter against Modern Slavery (*Council meeting 3rd October 2018- see appendix A*);

- ii) Note the potential impact of adoption of the Charter, the Lewisham Modern Slavery Protocol, and the draft Human Trafficking and Modern Slavery Statement for 2018/19 on current and future arrangements including with partners as set out in this Report and appendices;
- iii) Agree that the Council adopts and signs up to the Co-operative Party Charter on Modern Slavery;
- iv) Approve the Lewisham Modern Slavery Protocol (developed jointly with partners);
- v) Approve the Council's draft Human Trafficking and Modern Slavery Statement for 2018/19.

4. Policy Context

4.1 This report will be responding to Lewisham's Sustainable Community Strategy 2008-2020 and the Council's Corporate Priorities:

- Priority 2, *Safer*, reducing gender based violence in all its forms and providing refuge accommodation for those who need to flee from abuse.
- Priority 10, *Inspiring efficiency, effectiveness and equity* through the Councils procurement practice.

4.2 The report is consistent with the seven priorities identified in the emergent Corporate Strategy which replaces the 2008 Community Strategy. These priorities are:-

1. Open Lewisham – Lewisham is a welcoming place of safety for all where we celebrate the diversity that strengthens us
2. Tackling the housing crisis – Everyone has a decent home that is secure and affordable
3. Giving children and young people the best start in life – Every child has access to an outstanding and inspiring education and is given the support they need to keep them safe, well and able to achieve their full potential
4. Building an inclusive local economy – Everyone can access high quality job opportunities, with decent pay and security in our thriving and inclusive local economy
5. Delivery and defending – Health, Social Care and Support – Ensuring everyone receives the health, mental health, social care and support services they need
6. Making Lewisham greener – Everyone enjoys our green spaces and benefits from a healthy environment as we work to protect and improve our local environment
7. Building safer communities – Every resident feels safe and secure living here as we work together towards a borough free from the fear of crime

5. Background

5.1 Although slavery was abolished in the UK in 1833, there are more slaves today than ever before in human history. Figures from the International Labour Organisation (ILO) suggest that there are more than 40 million people in modern slavery across the world, with nearly 25 million held in forced labour.

5.2 There were 3805 victims of modern slavery identified in the UK in 2016. A rising number but still well below the 10,000 and 13,000 potential victims estimated by the Home Office.

5.3 Modern Slavery is happening nationwide. Traffickers and slave masters use whatever means they have at their disposal to coerce, deceive and force individuals

into a life of abuse, servitude and inhumane treatment. This can include sexual and criminal exploitation.

- 5.4 The Council is committed to opposing modern day slavery and human trafficking, and sets out the role it plays as a public sector organisation, together with its partners, to drive the identification, recognition, raising of awareness and disruption of this abhorrent crime.
- 5.5 Lewisham Council is clear about its zero tolerance approach to modern day slavery and human trafficking in all its forms. The Council will use all avenues open to it using proportionate and appropriate measures through its statutory powers, its role as a procurer of supplies and services, its role as an employer, and its role as critical partner and influencer of other public sector bodies such as the Police, health, fire service and voluntary sector bodies.
- 5.6 These avenues include the use of policy, practice and statutory intervention, all of which have differing impacts on both the ability to disrupt and reduce this activity, but changes to policy and practice can have wider financial and legal implications. This report sets out the three key proposed instruments and the implications for adopting these.

6. Co-operative Party Charter against Modern Slavery

- 6.1 The Co-operative party has published a charter against modern slavery which many Councils and organisations are signing up to. This charter contains ten commitments as set out below:

[Lewisham] will:

- i) 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.
 - ii) 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.
 - iii) Challenge any abnormally low-cost tenders to ensure they do not rely upon the potential contractor practicing modern slavery.
 - iv) 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.
 - v) Publicise its whistle-blowing system for staff to blow the whistle on any suspected examples of modern slavery.
 - vi) 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.
 - vii) Review its contractual spending regularly to identify any potential issues with modern slavery.
 - viii) Highlight for its suppliers any risks identified concerning modern slavery and refer them to the relevant agencies to be addressed.
 - ix) 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.
 - x) Report publicly on the implementation of this policy annually.
- 6.2 Full Council committed to signing the Co-operative Party Charter on the 3 October 2018. The Charter requires a number of actions from the Council and these have been considered and addressed within the draft Modern Slavery statement for 2018/19. Some of the ten commitments are already being met, whilst to deliver others further action is required, the commitments will therefore be delivered in 2019/20.

7. Modern Day slavery and Trafficking Protocol

- 7.1 The protocol outlines what Human trafficking and Modern day slavery is and provides information about Lewisham's approach including specifically the role of the Council in relation to:
- ✓ Identification and referral of victims;
 - ✓ Supporting victims;
 - ✓ Community Safety services and disruption activities;
 - ✓ Ensuring that the supply chains councils procure from are free from modern slavery
 - ✓ The use of the National Referral Mechanism
 - ✓ Specific implications on regulatory services
- 7.2 This will be expanded to support the wider partnerships across the Borough supported through the Safer Lewisham Partnership, Safeguarding Adults Board and Safeguarding Children's Board.

8. Draft Statement

- 8.1 The statement is made pursuant of section 54 of the Modern Day Slavery Act 2015 and outlines the principles, policies, recruitment practice, procurement practice and actions to be taken to ensure there is no modern day slavery or human trafficking within the organisation.
- 8.2 The Act suggests that a slavery and human trafficking statement for a financial year is:
- statement of the steps the organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place:
 - in any of its supply chains, and
 - in any part of its own business
- 8.3 It further states that an organisation's slavery and human trafficking statement may include information about:
- the organisation's structure, its business and its supply chains;
 - its policies in relation to slavery and human trafficking;
 - its due diligence processes in relation to slavery and human trafficking in its business and supply chains;
 - the parts of its business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps it has taken to assess and manage that risk;
 - its effectiveness in ensuring that slavery and human trafficking is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate;
 - The training about slavery and human trafficking available to its staff.

8.4 The draft statement contains these elements but goes further in that it outlines the wider protocol, partnership working and support for victims, and as stated above will ensure that (if adopted) the Council also delivers on the 10 commitments of the Co-operative Party Charter.

9. Financial Implications

9.1 There are no specific financial implications at this stage. The work set out in the report will be carried out within existing budgets.

10. Legal implications

10.1 Mayor and Cabinet are considering adopting the Co-operative Party Charter against Modern Slavery, together with a draft annual Modern Slavery and Human Trafficking Statement 2018/19 for the Council and the Lewisham Modern Slavery Protocol. Various legal issues need to be taken into account.

10.2 The overall point is that the proposals in the Statement and Protocol have been designed so that they reflect both the legal obligation on certain contractors to comply with the obligations and principles of the Modern Slavery Act 2015; and the Council's strategic direction that those principles should be applied by contractors and others to whom the obligations of the Modern Slavery Act 2015 do not apply. Such an approach, taking into account specific issues relevant to the contract / contractor involved is less likely to be potentially unlawful or subject to challenge.

10.3 The legal issues to be taken into account in this decision are set out below.

- **Modern Slavery Act 2015:**
As set out in the Statement, the Council is itself not legally obliged to publish a statement on modern slavery and human trafficking under the Modern Slavery Act 2015. However, as a public sector body the Council is legally required to operate in ways that are compatible with the Human Rights Act 1998. The rights under this Act include the right for people to be free from slavery and forced labour. It is, of course, lawful to require contractors to comply with legislative requirements such as the Modern Slavery Act 2015 where those apply to the contractor. The Council also has a duty to notify the Home Office of any individual encountered in England and Wales who it is believed is a suspected victim of slavery or human trafficking. Publishing this statement – and taking the actions contained within it helps the Council to fulfil these duties. Where the Act does not apply to the contractor, wider issues such as those set out below may also need to be considered.
- **General powers and decision making:**
The Council has a general power of competence contained in the Localism Act 2011. General decision making principles require consideration of all relevant matters, including financial impacts and the Council's fiduciary duty to council tax payers.
- **Best value:**
The Council has a duty to obtain best value in the procurement of works, services and supplies and to secure continuous improvement in the way functions are carried out, having regard to a combination of economy, efficiency and effectiveness (Local Government Act 1999). This means that when procuring contracts the Council must, on a case by case basis, weigh up the costs of the contract against the benefits of the particular relevant issue.

- ‘Non-commercial’ matters:
Some matters are irrelevant considerations and may not be considered in a procurement or contract process. That applies to ‘political’ matters which are defined as ‘non-commercial’. Authorities are prohibited from having regard to these in the contractual process, which would include new procurements and changes to existing contracts (Local Government Act 1988).
- ‘Special’ considerations (which can include ‘economic, innovation-related, environmental, social or employment-related’ matters) can be taken into account when deciding on awarding a contract but only where they are ‘linked to the subject-matter of the contract’ (Public Contracts Regulations 2015 Regulation 70). Employment / workforce matters are not ‘non-commercial’ to the extent that they are relevant to the achievement of best value (Local Government Act 1999 s. 19), and requiring compliance by contractors with their legal obligations will also not be ‘non-commercial’ (such as requiring compliance with the Modern Slavery Act 2015, where it is applicable).

10.4 If the Council wishes to sign the Charter it should ensure that it is prepared to adhere to the commitments made in order to avoid a risk of Judicial Review. The Council should ensure that the terms of the adherence to the Charter do not involve any breach of the matters set out above, in order to avoid a risk of challenge by a contractor or service user.

10.5 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. In summary, the Council must, in the exercise of its functions, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- advance equality of opportunity between people who share a protected characteristic and those who do not.
- foster good relations between people who share a protected characteristic and those who do not.

10.6 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed above. The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.

10.7 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical

Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

11. Crime and disorder implications

11.1 There are no crime and disorder implications arising from this report.

12. Equalities implications

12.1 The Council's Comprehensive Equality Scheme provides an overarching framework and focus for the Council's work on equalities and help ensure compliance with the Equality Act 2010. The adoption of the statement, protocol and Co-operative party charter, and all activity taken subsequent to this, will be compatible with the requirements of the Equality Act 2010 and our duties within this to promote equality as a public body.

13. Environmental implications

13.1 There are no direct environmental implications to this report.

14. Conclusion

14.1 The report sets out the impact and implications of Mayor & Cabinet approving: i) the first draft Human Trafficking and Modern Slavery Statement for the Council, as well as ii) approving to sign the Co-operative Party Charter against Modern Slavery, and iii) the adoption of the wider Modern day slavery and human trafficking protocol which sets out how the Council will work with other agencies in the borough to eradicate and reduce modern day slavery and human trafficking.

15. Appendices

15.1 The table below outlines the appendices to this report:

Appendix A	Council motion to consider adopting the Co-operative Party's Charter against Modern Slavery to ensure our procurement practices don't support slavery.
Appendix B	Human Trafficking and Modern Slavery Statement (December 2018)
Appendix C	Modern Slavery and Human Trafficking Protocol