

Agenda



Delegated Decisions - Cabinet Member for Community and Resources

Date: Monday, 10 February 2020

To: Councillor D Mayer

Item		Wards Affected
1	<u>Ethical Employment Policy</u> (Pages 3 - 14)	All Wards

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Report

Cabinet Member for Community and Resources

Part 1

Date: 10 February 2020

Subject **Ethical Employment Policy**

Purpose To seek Cabinet Member approval for the publishing of the Ethical Employment Policy

Author Connected Communities Manager; Strategic Procurement and Payments Manager; HR&OD Manager

Ward All

Summary A Code of Practice has been established by the Welsh Government to support the development of more ethical supply chains to deliver contracts for the Welsh public sector and third sector organisations in receipt of public funds. Evidence illustrates that unethical employment practices are taking place in supply chains throughout Wales and beyond. The Code of Practice is designed to ensure that workers in public sector supply chains are employed ethically and in compliance with UK, EU, and international laws. Local Authorities in Wales are expected by the Welsh Government to adopt the Code of Practice and embed its twelve commitments in a meaningful and proportionate manner.

Cabinet approved Newport City Council's adoption of the Code of Practice in February 2019, and an action plan was developed to support the organisation with its implementation. A key action was to develop and publish a corporate Policy of Ethical Employment which this report seeks approval for.

Proposal To approve publishing of the Ethical Employment Policy

Action by Head of People and Business Change
Head of Finance

Timetable Immediate

This report was prepared after consultation with:

- Chief Executive
- Strategic Directors
- Head of Law and Regulation
- Head of Finance
- Employee Partnership Forum (EPF)

Signed

Background

The Welsh public sector spends around £6bn every year on goods, services and works involving international supply chains. It is vital that, at every stage, there are good employment practices for all employees involved in the delivery of these services, and for the Council’s own employees.

Good employment practices, which empower and reward workers, help to improve the quality of life for people in Wales and further afield and, in turn, result in better quality goods and services. Poor and unethical practices can lead to poor morale, high staff turnover and, in some cases, can be dangerous and exploitative, resulting in practices that include modern day slavery.

Cabinet approved Newport City Council’s adoption of the Welsh Government Code of Practice for Ethical Supply Chains in February 2019, and an action plan was developed to support the organisation with its implementation. A key action was to develop and publish a corporate Policy of Ethical Employment, which is attached as an Appendix to this report.

Policy

The Code of Practice sets out 12 commitments that public sector organisations must implement in order to comply with the Code. The first of these is to:

‘Produce a written policy on ethical employment within our own organisation and our supply chain. Once produced, we will communicate the policy throughout our organisation and we will review it annually and monitor its effectiveness’.

A policy has been jointly drafted by the HR Manager and Service Manager for Procurement and Payments (attached). The policy demonstrates our commitment to the Code of Practice and outlines Newport City Council’s expectations around both internal and external supplier employment practices. The policy deals with the following areas of employment:

- Modern Slavery
- Blacklisting
- False self-employment
- Unfair use of umbrella schemes and zero-hours contracts
- Paying the Living Wage

The policy will be communicated throughout the organisation in order to ensure managers and staff are aware of their rights and responsibilities, and will be embedded within relevant modern day slavery and management training.

Financial Summary

At present there are no financial considerations as a result of this policy. Resources needed to implement the full Code will be allocated as needed, and it is anticipated that activity will form part of business as usual. As the policy sets out our commitment to screen and review the practices of our suppliers, it follows that there may be changes to those suppliers, resulting in financial impact. This will be monitored on an ongoing bases, and reported on as necessary within an annual statement on our compliance with the Code of Practice. The statement is also a commitment within the Code, and will be published as part of our annual Strategic Equality Plan report.

	Year 1 (Current) £	Year 2 £	Year 3 £	Ongoing £	Notes including budgets heads affected
Costs (Income)					
Net Costs (Savings)					
Net Impact on Budget					

Risks

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Failure to publish the Ethical Employment Policy	M	L	Policy will be published on approval of Cabinet Member	Head of People and Business Change

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

The Code of Practice and associated policy are closely linked to a number of council policies and priorities and the authority's Corporate Plan. In particular, Well-being Objective 4 within the plan commits the authority to developing 'cohesive and sustainable communities by working towards 'a globally responsible Wales'.

Other relevant Council policies include:

- Guidance on engaging workers, service providers and individuals (IR35 guidance)
- Use of Agency Workers guidance
- Whistleblowing Policy

Options Available and considered

Option 1: The policy is not approved and published, meaning that the council does not meet its commitment under the Code of Practice

Option 2: The policy is approved and published

Preferred Option and Why

The preferred option is to publish the policy. Adopting the policy and embedding the 12 commitments of the Code into our working practices will assist in safeguarding both employees working for the organisation and suppliers that provide goods, works or services to the Council.

Comments of Chief Financial Officer

Publishing the Ethical Employment Policy will not have any adverse financial impact in itself and implementation of the Code will be delivered using existing resource and budget. The policy may result in changes to suppliers which will need to be managed by service areas within existing budget levels.

Comments of Monitoring Officer

The Cabinet has already adopted the Welsh Government Code of Practice on Ethical Employment in supply chains. One of the 12 commitments within the Code of Practice is for the Council to develop and implement a written policy on Ethical Employment for use within the local authority and its supply chains. For the most part, the principles set out in this Ethical Employment policy are already embedded within the Council's internal employment procedures and terms and conditions of employment. However, it does reinforce ethical standards in relation to areas such as modern slavery and employment practices such as black-listing, umbrella schemes, zero-hours contracts and paying the Living Wage which, although not unlawful, are considered to be unethical. All contractors supplying goods and services to the Council will also be required to comply with this Ethical Employment policy as part of the procurement process. Under Section 17 of the Local Government Act 1988, it was originally unlawful for local authorities to have regard to "non-commercial" matters when procuring goods and services and entering into supply contracts. Any non-commercial considerations were prohibited, both in relation to the selection of tenders and the terms and conditions of local authority contracts. However, the Local Government Best Value (Exclusion of Non-commercial Considerations) (Wales) Order 2002 repealed

those parts of section 17 that related to the terms and conditions of employment of supply contractors. The Council is also able to have regard to “social value” considerations, and not just commercial factors, when contracting for supplies and services. Therefore, the Council is now able to lawfully impose these employment requirements on external contractors supplying goods and services. The adoption of the Ethical Employment policy and its oversight by the Cabinet Member for Community and Resources will formalise this process and provide a more robust and transparent arrangement for monitoring implementation and compliance, in accordance with the commitments given in the Code.

Comments of Head of People and Business Change

This Welsh Government-established Code of Practice has been designed to support the development of more ethical supply chains across the public sector in Wales. As such the adoption of the Code of Practice represents an important step in the further entrenchment of the 7 Well-being Goals set out in the Well-being of Future Generations Act, with clear positive contributions towards making Newport and Wales a more equal and globally responsible place. Beyond the Well-being Plan for Newport, this Code of Practice also makes positive contributions towards delivering on the authority’s general equality duty as laid out under the Equality Act. The publishing of a corporate policy is the first of 12 formal commitments required by the Code, and presents an opportunity to embed our approach to meeting these.

The Council recognises its responsibility towards the employed workforce and sets appropriate terms and conditions of employment to attract and retain skilled workers to deliver high quality services to our communities. We also recognise our wider responsibility to ensure that workers engaged other than on an employment contract are treated fairly and responsibly by their employers. The Ethical Employment Policy sets out our expectations in this regard and suppliers will be required to have due regard to these expectations.

Comments of Cabinet Member Community and Resources (equalities)

The risks of human slavery and trafficking have become increasingly apparent, both nationally and within the city of Newport. It is essential therefore that our local authority adopts and maintains effective, ethical employment practices. This policy represents an important step towards implementation of the Welsh Government’s Code of Practice. It reflects the Council’s commitment to safeguarding the most vulnerable in our communities and ensures a workplace that protects and supports our employees.

Comments of Chair of Cabinet (procurement policy)

The Policy is a welcome addition to our other HR policies as this supports our commitment to fairer and more ethical employment, supporting employees both within the Council and our wider supply chains, and is fundamental in delivering against the recently endorsed Code of Practice – Ethical Employment in Supply Chains.

Local issues

N/A

Scrutiny Committees

Not applicable

Equalities Impact Assessment and the Equalities Act 2010

Adopting the Code of Practice and its associated commitments supports the authority to fulfil its obligations under the Equality Act. They make a positive contribution to the authority’s general equality duty to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations. No negative impact on our ability to meet our equality duties or on any particular protected characteristic has been identified in relation to the policy, or the Code of Practice itself. The policy has the potential to impact positively on groups that share protected characteristics which may make them more vulnerable to types of exploitation such as modern day slavery (for example, ethnicity, disability). Progress on meeting the commitments will be reported on as part of the Council’s Annual Strategic Equality Plan Report in order to maintain effective links between the implementation of the Code and work to support our equality duties.

Children and Families (Wales) Measure

No consultation was required for this report.

Wellbeing of Future Generations (Wales) Act 2015

Improving the employment practices and opportunities for employees in our supply chain has the potential to have a positive effect on households with regards to tackling poverty and helping generate a more prosperous and healthier Wales. Ethical employment practices throughout the supply chain should improve opportunities in terms of working life for adults, by eradicating poor employment practices, reducing zero hour contracts, improving employer/trade union relationships, eliminating blacklisting practices and providing safeguards against modern slavery. Improving ethical practices in our supply chains may also result in Welsh employers being more attractive to potential employment candidates therefore contributing to a more resilient and equal Wales. Applying the Code can improve working conditions for employees of suppliers that deliver goods and services to the Council, as well as Council employees. This in turn can promote better health and wellbeing for those employees who enjoy fair working practices, and contributes to a more globally responsible Wales.

Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. Implementation of the Code of Practice and associated policy contributes to the reduction of the risk of criminal activity including forms of exploitation such as modern day slavery.

Consultation

The Employment Partnership Forum were consulted on the draft report and policy.

The unions were supportive of the policy development and specific comments have been taken into account in the final draft attached.

Background Papers

[Cabinet Report February 2019](#): Signing up to the Welsh Government Code of Practice, Ethical Supply Chains

Welsh Government Guidance: [Code of Practice](#)

Dated: 10th November 2019

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Ethical Employment Policy

Introduction

Newport City Council is committed to ensuring workers are treated fairly and with respect. Good employment practices, which empower and reward workers, help to improve the quality of life of people here in Wales and further afield and, in turn, result in better quality goods and services. Poor – and even unethical – practices, such as the unfair use of zero-hours contracts, can lead to poor morale, high staff turnover and, in some cases, can be dangerous and exploitative. The Council does not tolerate such practices within its directly employed workforce, nor its supply chains. 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. In February 2019 the Council signed up to the Welsh Government’s Code of Practice – Ethical Employment in Supply Chains to show our commitment to ensuring we have ethical employment practices both internally and within our supply chains.

Aims of the Policy

To demonstrate our commitment to the Welsh Government’s Code of Practice on Ethical Employment in Supply Chains through outlining Newport City Council’s expectations on both internal and external supplier employment practices.

Scope

All employees under direct control of the Council
All contractors delivering services on behalf of the Council

School Based Employees

All employees under the control of a Governing Body

To be read in conjunction with:

Welsh Government Code of Practice – Ethical Employment in Supply Chains
Guidance on engaging workers, service providers and Individuals (IR35 guidance)
Use of Agency Workers guidance
Whistleblowing Policy

PRINCIPLES

The principles of the Ethical Trading Initiative (www.ethicaltrade.org) form the foundation for our approach to ethical employment:

- Employment is freely chosen
- Freedom of association and the right to collective bargaining are respected
- Working conditions are safe and hygienic
- Child labour shall not be used
- Living wages are paid

Ethical Employment Policy

- Working hours are not excessive
- No discrimination is practiced
- Regular employment is provided
- No harsh or inhumane treatment is allowed

POLICY

Newport City Council is committed to ensuring workers are treated fairly and with respect. Where unfair employment practices exist, workers often feel they have little choice but to accept the situation or risk not getting or losing their jobs. The Council does not tolerate such practices within its directly employed workforce, nor its supply chains. 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 Cabinet Member with responsibility for Equalities has been appointed as our Ethical Employment Champion and will monitor this policy through the member and officer Strategic Equalities Group where necessary.

One of our three corporate values resonates with the intent of this policy; we strive to be **Responsible** in our deeds and actions, whether this is in relation to our relationships with suppliers, our treatment of workers, or our impact on communities.

This policy deals with the following areas of employment:

- Modern Slavery
- Blacklisting
- False self-employment
- Unfair use of umbrella schemes and zero-hours contracts
- Paying the Living Wage

Modern Slavery

Modern Slavery involves one person denying another person his or her freedom, and can take a number of forms, including:

- the buying and selling of people;
- holding people in captivity;
- human trafficking – the recruiting, transporting, transferring, harbouring or receiving of a coerced person for exploitation, or deceiving a person into travelling;
- child labour; and
- other forms of exploitation where people are forced to work against their will, held in debt bondage or controlled by violence. These can include:
 - withholding of an individual’s passport or identity documents
 - excessive recruitment fees and/or loans which workers are required to pay back before they can leave
 - withholding of wages
 - withholding/delaying of work permits
 - threat of reporting an individual’s immigration status to the authorities

Modern Slavery is a crime in the UK and if you suspect this is occurring you should report it immediately. In an emergency call the Police on 999. If you want to speak in confidence to a trained adviser in order to receive help,

Ethical Employment Policy

advice or guidance on any modern slavery issue call:

- Modern Slavery Helpline 0800 0121 700
- Police 101
- Gangmasters and Labour Abuse Authority 0800 432 0804
- Crimestoppers 0800 555111

Newport City Council commits to training our staff in issues relating to modern day slavery, ensuring that we have the necessary protocols in place to allow for effective information sharing and reports of concerns.

Blacklisting

Blacklisting, or use of prohibited lists, is the unlawful practice of compiling information on employees on their Trade Union membership and related activities, in order to discriminate against them. Blacklists can also potentially contain further details on individuals who have reported concerns, for example, regarding health and safety and/or environmental matters. We welcome social partnership with our recognised trade unions and we provide direct signposting to new employees to our local trade union branches without risk of discrimination.

False self-employment

False self-employment is a term used to describe the disguising employment of workers as being self-employed. It is usually to evade paying income tax and national insurance contributions. Not only this, but by being seen as self-employed the worker has reduced rights and entitlements compared to those that an employed member of staff would receive. This includes holiday pay, sick pay, redundancy and contributions to pensions. Our guidance to managers on the IR35 regulations provides a safeguard against false self-employment.

Unfair use of umbrella schemes and zero-hours contracts

Whilst umbrella schemes have their place, and are not illegal, some schemes are unfair in how they operate, impacting negatively upon the worker. These practices also result in a loss of revenue to the Exchequer, as the correct amount of income tax and NICs may not be paid. Examples of unethical practice through the use of unfair umbrella payment schemes include reduced pay where employer NI contributions and various administration fees and equipment fees are deducted from the worker's pay.

Zero-hours contracts are used to set out casual agreements between an employer and an individual. Generally, under a zero-hours contract employers do not guarantee to provide any work and pay only for work undertaken. The worker/employee is not obliged to accept any work offered by the employer. Where used appropriately non-guaranteed-hours arrangements can be of benefit to both the employer and employee. However, they can be used inappropriately for example if the employer uses them to:

- pay lower rates of pay and evade employer obligations such as payment of sick pay, holiday pay, workplace pension
- penalise individuals who reject offers of work and/or favour those who readily accept work
- give insufficient notice of upcoming work and/or give little notice of the cancellation of work

The Council is committed to providing employment to workers that does not include the use of zero-hours contracts.

Foundation Living Wage

The Living Wage is a voluntary hourly rate that is set by the Living Wage Foundation (www.livingwage.org.uk) based on the cost of living. The Living Wage is calculated by research that includes consultation with members of the public about what is needed by households to have the minimum acceptable quality of living. The Council's minimum salary

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point is equal to the Foundation Living Wage and we will review each April in line with the annual NJC pay review, applying a supplement where necessary. Further information is available in the Council's Pay and Reward Policy.

Child Labour

In situations where children (defined by the UN Convention on the Rights of the Child as a person below the age of 18) are employed, the action to be taken and the potential consequences need to be carefully considered. In any situation where child labour is discovered, the appropriate local authorities should be notified and further guidance and support from local child protection and child rights experts should be sought. It is important that the action is taken quickly and appropriately to ensure the safety of the child.

Procurement & Supply Chain Processes

In line with the principles of the Code of Practice we will ensure our procurement practices seek to ensure our supply chains, both within the UK and overseas embrace the ethos of fair working practices and ensure their employees are treated and paid fairly. Our procurement processes will seek out information from suppliers through a robust supplier qualification document, capturing information on how employees are treated and instances of bad practice and non-compliance with relevant legislation and any resulting prosecutions. Suppliers that are found to be operating unethically or illegally will be challenged and if necessary disqualified from tendering. Any existing suppliers who are found to be non-compliant with our Policy will be challenged and ultimately withdrawn from our supply chain.

We will work with Welsh Government and other Councils to actively identify high risk areas within our supply chains and existing contracts, and to seek the necessary assurances of compliance, and we will include a copy of this policy in all our tenders to inform our supply chain.

We will ensure our contract specifications and our service requirements do not place undue cost and pressure within supply chains and our expectations are not unrealistic or unreasonable.

We will promote the Code of Practice within our tender documentation and request and encourage our suppliers to give due consideration to signing up in their own right.

We continue to observe the Code of Practice on Workforce Matters to ensure suppliers and service providers implement its obligations.

Communicating this policy

We will communicate this policy throughout the organisation and review the content on an annual basis, monitoring its effectiveness. Our whistleblowing policy empowers staff to raise suspicions of unlawful and unethical employment practices, and places a responsibility on staff to report criminal activity taking place within our own organisation and our supply chains. This policy is also regularly reviewed and promoted to ensure that staff feel able to raise legitimate concerns in a safe environment.

Those managers involved in buying/procurement and the recruitment and deployment of workers will receive training on modern slavery and ethical employment practices, and we will keep a record of who has been trained.

In compliance with Government's Construction Industry Scheme (CIS) we will take account of our subcontractors tax status as determined by HMRC, and where required make the necessary tax deduction for payment to HMRC.

Ethical Employment Policy

'Na' i gaethwasiaeth yng Nghymru

Os gwelwch chi rywbeth, rhannwch ef!

Mewn argyfwng: **999**

Heb fod mewn argyfwng: **101**

Crimestoppers: **0800 555111**

Llinell gymorth caethwasiaeth

Modern: **08000 121 700**

cymru.gov.uk/gwrthgaethwasiaeth



Say no to slavery in Wales

If you see it, report it!

In an emergency: **999**

Routine: **101**

Crimestoppers: **0800 555111**

Modern Slavery Helpline:

08000 121 700

wales.gov.uk/anti-slavery

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