

Circular Details	23-17 / 21 December 2023 / A884602
Previous Circular	22-09 Councils' obligations under the Modern Slavery Act 2018
Who should read this	Councillors / General Managers / Council governance and procurement staff members
Contact	Office of the Anti-slavery Commissioner/ GRS@dcj.nsw.gov.au
Action required	Council to Implement

Update on councils' obligations under the *Modern Slavery Act 2018* (NSW)

What's new or changing

- The *Modern Slavery Act 2018* (NSW) (the MSA) created new obligations for councils under the *Local Government Act 1993* (the LGA) relating to modern slavery.
- Local councils are required to take reasonable steps to ensure that the goods and services they procure are not the product of modern slavery, and to report on those steps.
- The sector and other covered entities identified there was limited formal, authoritative guidance available to manage their modern slavery risk management efforts.
- As a result, the NSW Anti-slavery Commissioner (the Commissioner) has issued guidance on reasonable steps to manage modern slavery risks in operations and supply chains (the Guidance on Reasonable Steps) which is available [here](#).
- The Guidance on Reasonable Steps will become operative on **1 January 2024**.

What this will mean for your council

- Commencing from the 2022/23 financial year, each council is required to publish in their annual reports:
 - a statement of the action taken by the council in relation to any issue raised by the Commissioner during the year concerning the operations of the council and identified by the Commissioner as being a significant issue, and
 - a statement of steps taken to ensure that goods and services procured by and for the council during the year were not the product of modern slavery within the meaning of the MSA.
- The Commissioner acknowledges that annual reporting occurring prior to 31 December 2023 will deal with activity undertaken before the Guidance on Reasonable Steps was operative.
- The Commissioner encourages councils to use the Guidance on Reasonable Steps, including the annual reporting template offered in Appendix K, to guide their reporting.
- The Commissioner however will be cognisant of the fact that the Guidance on Reasonable Steps was not yet available or operative.

- For annual reporting between 1 January 2024 and 31 December 2024, the Guidance on Reasonable Steps will be in effect and councils are expected to report in accordance with it.
- **From 1 January 2024**, councils should report annually in two places:
 - by including relevant information in their agency's formal annual report; and
 - using the online GRS Annual Reporting Form.
- In addition to annual reporting, the Guidance on Reasonable Steps provides for transactional reporting of certain procurements.
- **From 1 July 2024**, councils must file an online report with the Office of the Anti-slavery Commissioner within 45 days of the entry into force of any contract:
 - arising from a 'heightened' modern slavery due diligence procurement process; and
 - with a value of AUD \$150,000 (including GST) or more.
- The Commissioner will monitor compliance by the local government sector and will keep a register that may identify any entity failing to comply, as well as any other information the Commissioner thinks appropriate.

Key points

- The Guidance on Reasonable Steps is the central plank of the Shared Implementation Framework developed by the Commissioner in consultation with the NSW Procurement Board and covered entities.
- The Guidance on Reasonable Steps provides detailed guidance for councils on managing modern slavery risks in their operations and supply chains.
- It is anticipated that the Guidance on Reasonable Steps will be integrated with existing procurement policy frameworks through incorporation by reference into the Office of Local Government's Procurement Guidelines (the Procurement Guidelines).
- The Procurement Guidelines will be issued under section 23A of the LGA which requires councils to consider them when exercising their functions.

Where to go for further information

- The Guidance on Reasonable Steps is available [here](#).
- Additional resources breaking down key concepts and processes in the Guidance on Reasonable Steps are available [here](#).
- Information on modern slavery is available [here](#).
- The MSA is available [here](#).
- For more information on these requirements contact the Office of the Anti-slavery Commissioner by email at GRS@dcj.nsw.gov.au.

Brett Whitworth
Deputy Secretary, Local Government