

## Response to the public consultation on “Transparency in supply chains”

*A public consultation on proposed changes to the Modern Slavery Act 2015,  
following the independent review of the Modern Slavery Act*

Submitted on: 17 July 2019

By RightsDD

**1a) Are you an organisation which currently publishes a statement? If so, which of the following areas do you currently report on: A. Your organisation’s structure, its business and its supply chains; B. Your organisation’s policies in relation to slavery and human trafficking; C. Your due diligence processes in relation to slavery and human trafficking in your business and supply chains; D. The parts of your business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps taken to assess and manage that risk; E. Your effectiveness in ensuring that slavery and human trafficking is not taking place in your business or supply chains, measured against any performance indicators as considered appropriate; F. Training and capacity building about slavery and human trafficking available to your staff.**

N/A

**1b) How many individuals, for how many days, were involved in collecting the information included on your statement?**

N/A

**1c) If you were to report on all of the 6 areas set out above, how many individuals do you think would be needed over how many days to collect the information required for the statement?**

N/A



**2) Would mandating the areas that statements must cover encourage organisations to take effective action? Please explain your answer and include details of any alternative proposals to encourage further action.**

Yes, it would. Mandatory fields would help focus senior leadership attention on the actual process of due diligence required to identify and address slavery in supply chains, as opposed to the status quo where the focus is on merely publishing a statement. Indeed, many companies are in favour of mandatory requirements as it reduces ambiguities and clearly sets out the compliance requirements. It is also important in order to encourage and facilitate a 'race to the top' among businesses.

Mandatory fields would make it easier for civil society and journalists to scrutinise statements. This in turn would encourage reporting organisations to take effective action.

**3a) If the legislation was amended to mandate the areas that statements must cover, which of the six areas currently set out in Home Office guidance should be required?**

- a. Your organisation's structure, its business and its supply chains;**
- b. Your organisation's policies in relation to slavery and human trafficking;**
- c. Your due diligence processes in relation to slavery and human trafficking in your business and supply chains;**
- d. The parts of your business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps taken to assess and manage that risk;**
- e. Your effectiveness in ensuring that slavery and human trafficking is not taking place in your business or supply chains, measured against any performance indicators as considered appropriate;**
- f. Training and capacity building about slavery and human trafficking available to your staff.**



**3b) Are there any further areas not mentioned above that should be required? If yes, please state which.**

A requirement to report on the appropriate action the reporting organisation has taken to address incidents of modern slavery in its supply chains should be added to the mandatory fields. The official Guidance for Business should be updated to reference UN Guiding Principle 19, which provides authoritative advice on appropriate action for business related human rights impacts as well as Principle 22, setting out the requirement for implementing remediation processes in cases where abuses have been identified.

**3c) Should any of the six suggested areas (and any additional areas suggested) be combined? Please explain your answer.**

No

**4) Should organisations be able to choose not to report on one or more of the required areas if they provide an explanation for omitting this area? Please explain your answer.**

No, the option to opt out would significantly weaken the UK Modern Slaver Act. The Australian Modern Slavery Act serves as a good example for how to include mandatory criteria. Additionally, it is important to note that the Modern Slavery Statement is not meant to be an instrument for companies to prove that their supply chains are free of modern slavery, rather companies have to provide proof of their efforts and commitment to mitigate risks. This already provides companies with a lot of freedom.

**5) Would organisations face any challenges if it became mandatory to report on specific areas? If so, what would you consider these to be?**

Reporting on specific areas is not challenging and should not impose an undue burden. The limited effort required is entirely proportionate to the scale of the problem being addressed (16 million slaves in supply chains).

**6) Would there be any challenges associating with requiring organisations (including businesses) in scope of the Act to publish their modern slavery statement on the Government registry? Please explain your answer.**

No, there should not be any significant challenges. 9,800+ organisations have already registered their statements on the voluntary modernslaveryregistry.org website, which evidences how easy it is to publish on a third-party website. There are two civil society registers at present and this situation is potentially confusing for companies; the creation of a single government register would provide clarity.



## 7) In addition to the ability to publish and view modern slavery statements, which features should a central registry should include?

- a. Modern slavery statements are accessible automatically through an application programme interface (for example to support analysis by third parties)**

Yes, this will allow businesses and civil society to build tools which help consumers, investors and employees make better decisions about their purchase, investment and employment decisions.

- b. Organisations who have reported are available as a downloadable list**

Yes

- c. Guidance to help organisations to prepare more effective modern slavery statements**

Yes (this should reference the human rights due diligence process defined in the United Nations Guiding Principles as the standard for modern slavery due diligence).

- d. Guidance to help consumers better understand modern slavery statements**

Yes

- e. Functions to enable easier comparison of modern slavery statements**

Yes

- f. Any other features - please specify**

The platform should, at a minimum, highlight if statements do not meet the mandatory minimum criteria prescribed in the revised Modern Slavery Act.

## 8a) Would establishing a single reporting deadline make the reporting process clearer for organisations captured by the legislation?

Yes, a single reporting deadline would create an event which would focus media attention, and therefore consumer and investor attention, on reporting. This in turn would drive attention at the board level in organisations.



**8b) If you are an organisation required to publish a statement, what would be the challenges of publishing on a single reporting deadline, including any additional resource or cost implication? Please explain your answer.**

N/A

**8c) Would single reporting deadline make it easier for external parties to scrutinise whether an organisation has published an up to date statement? Please explain your answer.**

N/A

**9) If a single reporting deadline is introduced, which annual date should be used?**

- a. 30 September (six months most UK-registered companies' financial year end)**

This would ensure consistency with the Australian Modern Slavery Act, which requires reporting organisations to publish a statement within six months of the reporting organisations' financial year end. The 30 September deadline would allow UK registered reporting organisations to publish Australian and UK statements simultaneously.

**10a) Should any variable penalty for failing to publish a modern slavery statement or failing to publish a fully compliant statement be capped at a maximum prescribed amount? Please explain your answer.**

No, there should not be a cap. Caps can advantage larger organisations to the disadvantage of smaller ones by imposing effectively larger fines, as a proportion of turnover, on smaller organisations. New regulations addressing other business & human rights issues (namely the GDPR/ Data Protection Act 2018 and The Equalities Act 2010 (Gender Pay Gap Information) Regulations 2017) do not cap variable penalties for transgressions.

In determining the percentage of turnover that a non-compliant reporting organisation can be fined, the Government should be mindful of similar regulations including:



- The Equalities Act 2010 (Gender Pay Gap Information) Regulations, which allows the Equality and Human Rights Commission to impose an unlimited fine; and
- The Dutch Child Labour Due Diligence Law 2019, which allows regulators to impose a fine of up to 10 o/ of turnover

It would be inconsistent for the UK Government to set a turnover percentage below that of the new Dutch Child Labour Due Diligence Law.

**10b) If yes, what do you think the maximum sum should be? Please explain your answer.**

No maximum.

**11) If the reporting requirements are extended to the public sector, should a civil penalty scheme also apply to public sector organisations? Please support your view.**

Yes, it should. It is important to ensure and demonstrate that there is a level playing field and that public bodies are as accountable as private sector ones. The failure of the Government to hold itself accountable manifest in Section 54 of the Modern Slavery Act 2015 has led to claims of unfairness that have weakened its credibility.

Penalty schemes established in new regulations addressing other business & human rights issues (namely the GDPR/ Data Protection Act 2018 and The Equalities Act 2010 (Gender Pay Gap Information) Regulations 2017) apply equally to public and private sector organisations. Failure to establish a penalty scheme that applies equally to public and private sector organisations would send the signal that modern slavery is a less important issue than privacy or pay equality.

Imposing fines on public sector bodies will come at a net zero cost to the taxpayer as fines will presumably be returned to the public purse or funnelled to activities, such as support for victims, that are in the public interest.

**11a) Should the requirement to publish a modern slavery statement be extended to large public sector organisations that are not currently captured by the legislation?**

Yes.



## **11b) What would the benefits of extending the reporting requirements to large public sector organisations not currently captured by the legislation be?**

Modern slavery in supply chains is a systemic problem that requires systemic change; modern slavery due diligence must be adopted on-mass and become a normal component of procurement. This mainstreaming cannot happen while the public sector, which represents 38% of the UK economy is not subject to reporting. The commitment of UK Government to publish a central modern

slavery statement is a welcome development. However, a single statement will not result in sufficient change in such a large and dispersed organisation as the public sector.

The failure of government to hold itself accountable manifest in Section 54 of the Modern Slavery Act 2015 has led to claims of unfairness that have weakened its credibility. It is important to ensure, and demonstrate, that there is a level playing field and that public bodies are as accountable as private sector ones.

## **11c) What challenges could public sector organisations face in producing a modern slavery statement?**

The production of a modern slavery statement is a simple process that any organisation should be able to master. The implementation of effective modern slavery due diligence, which is key to ending slavery in supply chains, is however more challenging and public sector organisations should be given support to achieve this.

## **12a) Should budget be used to determine the threshold for which large public-sector organisations should be required to publish a modern slavery statement?**

Yes.

## **12b) If yes, should the budget threshold should be £36 million? Please explain your answer.**

Yes. This would ensure consistency with the private sector and avoid confusion (as a handful of public sector organisations are already subject to section 54 of the Modern Slavery Act 2015).

## **12c) If no, what alternative metric should be used to determine the threshold for reporting?**

N/A



**13) Should public sector organisations be able to publish a ‘group statement’? Please explain your answer and if you are a public sector organisation please include any relevant examples of the group structure which you might report under.**

Yes

**14) Should public sector modern slavery statements be approved by the most senior managing body and signed off by the accounting officer, Chief Executive or equivalent role? Please explain your answer.**

Yes. The requirement for modern slavery statements to be reviewed by the board of directors, or equivalent, and signed by a director, or equivalent in a private sector has helped focus senior leadership attention on modern slavery. We believe that compelling executive leaders to approve and sign their respective public sector organisations’ modern slavery statement will have a similar effect in the private sector.

**The public consultation is available at:**

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/816348/Transparency\\_in\\_supply\\_chains\\_consultation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/816348/Transparency_in_supply_chains_consultation.pdf)

