



Modern Slavery and Supply Chains Consultation

Submission to the Home Office

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CORE is the leading UK civil society network on corporate accountability. We bring together experience and expertise on international development, the environment and human rights from NGOs, academics, trade unions and legal experts.

CORE's aim is to reduce business-related human rights and environmental abuses by ensuring companies can be held to account for their impacts both at home and abroad, and to guarantee access to justice for people adversely affected by corporate activity.

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Consultation on transparency in supply chains provision of the Modern Slavery Act

Q1 What level of turnover threshold do you think would be the most appropriate threshold for requiring a business to make a slavery and human trafficking statement?

£36 million.

Turnover threshold alone will not determine which companies are covered under this provision of the Act. There is a lack of clarity with regard to the 'supplies goods or services' requirement, and the reporting requirements themselves, which appear to relate to individual companies only. For example, a UK holding company that does not provide goods or services might not be required to produce a statement even if their group would meet the given turnover threshold. This is an anomaly that needs to be addressed in the Statutory Guidance (see our response to Q15 below).

Q2 Please explain your answer.

The level of threshold is key to setting a level playing field for companies. We support a threshold of £36m as the only credible option set out in the consultation paper likely to give effect to the provision. It is counter-intuitive to suppose that companies above the threshold conducting business in the UK would feel compelled to publish a substantive and meaningful statement if the vast majority of companies doing business in the UK are not required to publish any statement at all.

There is insufficient evidence to support the assumption that if this measure were applicable only to large businesses, it would nevertheless have an effect on other businesses in their supply chain because 'large businesses are more likely to have the necessary purchasing power and influence to create effective change within a supply chain.' The inclusion of companies within the scope of the provision is more likely to lead to behaviour change. The twin pressures of being covered by the provision and being in the supply chains of other companies is likely to have more effect than if just one of these conditions applies.

The assertion that fair competition and a level-playing field can be created 'by requiring all businesses of a similar size to declare what they are doing', ignores the issue of larger businesses being undercut by smaller companies that can get away with being less transparent because they are not covered by the Act. The emphasis should be on creating the critical mass of supply chain vigilance that will make a difference with regard to norms of behaviour.

Q3 To what extent do you agree that there should be a higher turnover threshold set initially to focus on larger businesses and reduce the threshold to cover more businesses, over time?

Strongly disagree.

Q4 Please explain your answer

We are concerned that such an approach sends the wrong signal to companies and would reduce the impact of the clause. There is no rationale for doing this with regard to achieving the objectives

of this provision and it is not usual for laws applicable to some businesses to be extended over time to cover more businesses.

Q5 For each of the following headings to what extent do you agree that the activities we think should be included in a statement are the right ones?

Strongly agree in each case.

Q6 For each of the headings above please explain your responses, and set out a) what information you think companies should disclose about their activities in these areas and b) what would represent good practice in each of these areas?

In each case the information is intended for other parties to form a view of the processes and activities that businesses are undertaking to eradicate slavery from their supply chains, and the effectiveness of these. All these headings can contribute to a better understanding of how businesses are performing in this regard, in so far as the information is accurate, relevant, clear, concise and accessible.

6i) Information about an organisation's structure, business and supply chains

The complexity of contemporary corporate structures, business operations and supply chains can in itself contribute to the presence of slave labour, while at the same time making it very difficult to identify responsibility within the company. Transparency about organisational structure, business and supply chains will enable a better understanding of the various linkages and relationships, identify where these pose particular risks and set out lines of responsibility for addressing the issues.

For those companies that are required to report under the Modern Slavery Act, the statement they produce should include the steps taken by their subsidiaries. This is not sufficiently clear in the wording of the Act and should be clarified in the Guidance.

6ii) Information about an organisation's policies on modern slavery

Sound policies are an indicator of, and precursor to good practice. The absence of such policies makes it difficult for a business to take effective action to eradicate slavery. Policies also serve as a statement of intent and commitment, both within the company and externally, that the company can be held to. By publishing its policies on modern slavery, an organisation reveals to stakeholders its level of understanding of the issues and its approach to addressing them. Without information on policies, it is virtually impossible for shareholders and other stakeholders to hold a company accountable.

6iii) Information about an organisation's due diligence processes in relation to modern slavery in its business and supply chains

This is an essential element of good practice and the nub of a company's processes to eradicate slavery. According to the UN Guiding Principles on Business and Human Rights, business enterprises should carry out human rights due diligence 'in order to identify, prevent, mitigate and account for

how they address their adverse human rights impacts'. It is important that the information included should reflect the key elements of due diligence that are necessary to address modern slavery.

6iv) Information about the parts of an organisation's business and its supply chains where there is a risk of modern slavery taking place, and the steps it has taken to assess and manage that risk

Such specific information is essential for an understanding of the process that the business has used to identify the key risks in its business relationships and operations, and the actions it is taking to address these risks. This information will empower investors, consumers and campaigners to probe those areas and it will help expose unscrupulous businesses that attempt to conceal their most vulnerable points. Companies have a tendency to report on the positive aspects of their activities and to under-report the areas where they are performing badly. This needs to be countered.

6v) Information about an organisation's effectiveness in ensuring that modern slavery is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate.

All the other information that is included in the slavery and human rights trafficking statement will be of limited value if it is not accompanied by measures of effectiveness; information on policies alone is meaningless without such an assessment. The performance indicators need to be relevant to the context of the company's operations and to the level of risk. As far as possible they need to be meaningful and verifiable both internally and to other parties wanting to take a view of the effectiveness of the company's policies and actions.

6vi) Information about the training on modern slavery available to its staff

This information provides a useful indication of how well embedded the company's policies are across the organisation, with particular regard to which functions receive training, the scope and frequency of the training, and accountability for ensuring the training takes place and is carried out to an appropriate standard.

Q7 Are there any other areas of activity that you think a slavery and human rights trafficking statement should cover?

Country- and context-specific information should be provided in situations where modern slavery is endemic. For example, any companies doing business in the Gulf States should provide details of the following:

- Their contractual relationships with recruitment agencies and how they ensure these agencies don't contribute to slavery.
- How they ensure workers identification and travel documents are not withheld or passed onto the authorities which makes them 'captive' to their employer and unable to leave the country, no matter how bad their working conditions.

Companies should provide information about access to remedy and support for victims in situations where instances of modern slavery are uncovered in their supply chains. Care must be taken to ensure that company actions do not leave workers in an even more vulnerable position.

Q8 – Q10 No further comments.

Q11 To what extent do you agree or disagree that any guidance the Government publishes should include the following aspects in relation to making a slavery and human trafficking statement?

Strongly agree. The guidance should include all the listed elements provided such guidance is sound, rights compatible and in keeping with the UN Guiding Principles, particularly with regard to 'Advice on what to do if you suspect or identify slavery in your supply chain'. Such advice should be based on expert opinion and on the need to prioritise victim protection rather than the interests of the company.

Q12 What would good practice look like in relation to publishing a statement online?

Good practice would relate to: the substance of the information provided; the accuracy and currency of that information; the extent to which the clarity of presentation makes it clear, comprehensible, and accessible to relevant audiences; and how well sign-posted it is on the business's home page. Good practice would set out a process for enabling readers to ask, and for providing answers to questions about issues raised in the statement or omissions from the statement.

Q13 What would good practice look like in relation to the timing of publishing a statement?

As well as covering all the key elements outlined above, statements should be presented in a way that allows stakeholders to make comparisons from year to year.

The homepage of the company's website and the homepages of any other major websites that it operates should include a clear link to the statement. The investor relations and sustainability sections of the company's website should also referred to in the statement.

The statement should be as current as possible with regard to the issues, policies and practices that it reflects. It should specify the time period to which it applies, and the date of publication. Ideally it should be published in the run-up to the company's AGM to enable questions arising from the statement to be asked at the AGM by those minded to do so.

Q14 What would good practice look like in relation to the signing of a slavery and trafficking statement by the business or organisation?

The statement should be signed by the Chair of the Board, specifying the date of the board meeting at which it was agreed.

Q15 Do you have any further comments on what the statutory guidance should include?

The statutory guidance should clarify the scope of the Act, where there is lack of clarity or ambiguity in the wording of the Act.

For example, it is not sufficiently clear whether companies required to report under the Modern Slavery Act should include the steps taken by their subsidiaries. The reference in Clause 4(a)(ii) to ‘in any part of its own business’ is open to interpretation. In our view it is essential that subsidiaries should be included, and that companies should not use this lack of clarity as an excuse not to provide information.

In addition to the guidance, and in light of the questions in regard to the Act’s coverage of different types of companies, the creation of a single, online repository of reports combined with effective monitoring is vital, in order to know how the law is working, which companies and types of companies are reporting and which are not.

Q17 CORE is a coalition of campaign groups and others.

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