



Joint civil society response to UK Government's Modern Slavery Statement

CORE Coalition, Amnesty International UK, Anti-Slavery International, Business and Human Rights Resource Centre, Christian Aid, Environmental Justice Foundation, FLEX, Traidcraft Exchange, Walk Free (an initiative of the Minderoo Foundation) and UNISON.

We commend the publication of the Government's Modern Slavery statement, a welcome step to harness the potential of responsible public procurement to address risks of modern slavery in corporate supply chains. The Government has rightly recognised that steps must be taken to ensure that taxpayers' money does not inadvertently fund modern slavery.

We particularly welcome:

1. Details of areas where risks are highest, such as construction, cleaning and catering;
2. Recognition of the impact of irresponsible purchasing practices on modern slavery;
3. Work with Electronics Watch to address factory-level issues in ICT hardware supply chains.

Now, more than ever, we are seeing that workers in precarious jobs bear the worst impacts of a crisis and are more vulnerable to more extreme forms of exploitation. Government must now follow through with action to protect the lives of exploited workers and those at risk of exploitation. The highest international labour standards should be upheld both during and post- the COVID-19 crisis.

We recommend that the Government builds on its approach by taking the following steps:

1. Document specific instances where risks or impacts have been addressed in public sector supply chains;
2. Take steps to ensure that all public sector bodies exclude bidders non-compliant with the TISC requirement of the Modern Slavery Act from the tender process;
3. Recognise and act on the need to put trade unions, freedom of association and collective bargaining at the forefront of anti-slavery efforts;
4. Ensure a truly cohesive cross-departmental approach, including enhanced labour market inspection and enforcement.

This should be followed by a revision of the Modern Slavery Act as soon as practically possible, to require local authorities and other public bodies to publish modern slavery statements, as well as to enforce the production of meaningful modern slavery statements from companies.¹

As part of the effort to strengthen governance systems post COVID-19 crisis, the Government should now go beyond reporting requirements. We recommend the creation of a legal requirement for commercial organisations and public sector bodies to conduct human rights and environmental due diligence, with additional liability provisions for companies.² This would

¹ As recommended by the independent reviewers of the Act and by civil society groups: https://corporate-responsibility.org/wp-content/uploads/2019/09/TISC-Consultation-Response_FINAL_160919.pdf

² A number of countries are taking steps to introduce such legislation. See: <https://corporate-responsibility.org/issue-whose-time-come/>

to help meet the UK's ambition to be a world leader on shaping responsible business behaviour and its commitment to implement the UN Guiding Principles on Business and Human Rights.

Below, we highlight some particularly commendable elements of the statement and some recommendations for strengthening the Government's approach, as detailed in its statement.

1. Improving due diligence processes, including mapping supply chains, assessing risks and taking action

We welcome the recognition that while over 90% of tier one suppliers are registered in the UK, many of their operations and supply chains are global; and the commitment for departments to **map highest risk supply chains**, starting with tier two. It is important that particular efforts are made to map risks of modern slavery beyond tier one and tier two suppliers.

The statement details the Government's work to help suppliers assess risks through the Modern Slavery Assessment Tool (MSAT). We believe that **making these assessments publicly available** would enhance transparency and public scrutiny of taxpayer funded Government suppliers. Making information public may provide more information than currently provided in companies' modern slavery reports, many of which have been found to be inadequate.³

As well as mapping supply chains and assessing risks, future statements by Government departments should **detail specific instances** where there is a risk of slavery and human trafficking taking place or where violations have taken place; the actions taken to address these risks and provide remediation in cases where instances of slavery and trafficking have been identified (including consultation with trade unions or where relevant, representative migrant workers' organisations); and the effectiveness of the actions. While remediation is mentioned in the statement, there should be more detail about what this means in practice. These are essential components of a due diligence approach.

The Government has noted areas where **risks of exploitation are most severe, salient and strategic**, such as construction and service staff (e.g. cleaning and catering), in line with the UNGPs, which we commend. Importantly, risks in Malaysian rubber supply chains, particularly pertinent during the current pandemic (due to increased demand for medical gloves), are recognised. Government should also consider limiting supply chain tiers in high-risk sectors, since the length and complexity of these chains makes due diligence more difficult, making anti-slavery aims more onerous to realise.⁴

It is also encouraging to see the Government addressing the importance of **responsible purchasing practices**, recognising that aggressive pricing, short lead times and late payments can lead suppliers to cut corners on social and environmental standards. The current overriding procurement policy requirement is value for money.⁵ Government must ensure that this requirement does not constrain public sector organisations' efforts to introduce and maintain responsible purchasing practices. We look forward to more details on how the government approaches "social value procurement arrangements" as described in the statement.

³ See BHHRC's 2018 analysis of reporting by FTSE 100 companies: <https://www.business-humanrights.org/sites/default/files/FTSE%20100%20Briefing%202018.pdf>

⁴ See steps taken by Norway, as detailed by FLEX (2017): <https://labourexploitation.org/news/public-procurement-government%E2%80%99s-opportunity-leadworkers%E2%80%99-rights>

⁵ Defined as "the best mix of quality and effectiveness for the least outlay [lowest cost] over the period of use of the goods or services bought": <https://www.gov.uk/guidance/public-sector-procurement-policy>

2. Exclusion of non-compliant companies from public contracts

The statement mentions the exclusion of bidders for public contracts who have been convicted of certain modern slavery offences under the Act. We also urge the Government to ensure that all public sector bodies **exclude bidders noncompliant with the TISC requirement of the Act** from the tender process. Currently, the Public Contracts Regulations 2015 allow for the exclusion of tenderers for “grave professional misconduct,” but this is not clearly defined and is open to interpretation. Relevant decisions are often left to the discretion of contracting authorities, who are constrained by a number of considerations (including price) and may lack the necessary degree of understanding to be able to interpret such terms to the fullest extent.

Excluding bidders non-compliant with the TISC clause will ensure a higher standard of conduct across the public sector. Guidance should also be provided to public procurement professionals, to enable them to take into account a company’s level of compliance and the quality of a company’s statement when making decisions about awarding contracts.

In its update to the statement, and in future departmental statements, Government and individual departments should also report on **how they have engaged with companies** to raise the standards of reporting under the TISC requirement, including how they selected the companies with which they have engaged.

3. Work with trade unions and civil society

The statement says that *“we aim to introduce a worker-centred approach to due diligence.”* This is a positive aspiration, in which trade unions should be fully involved. However, there is no explicit mention of the potential benefits of working closely with trade unions. We recommend that the Government put **trade unions, collective bargaining and freedom of association** at the forefront of efforts to tackle exploitative working practises. Government should disclose how it will engage meaningfully with trade unions and relevant migrant worker organisations (where appropriate) and uphold the highest labour standards equal cooperation with both workers’ and employers’ representative groups.

We are pleased that the Government has consulted with a wide range of partners to develop its approach. We particularly **applaud and encourage Government’s work with Electronics Watch**, to address factory-level issues in ICT hardware supply chains. Government should continue to roll out similar work with other civil society groups, piloting and testing approaches, and allowing for civil society’s capacity to contribute to grow gradually over time.

4. Ensuring a cohesive cross-departmental approach

The Government has rightly recognised that a cross-departmental response is essential. We urge the Government to implement a cohesive policy approach to addressing modern slavery across all departments, including development assistance, foreign policy, trade policy, labour market policy and enforcement and migration policy; with particular regard to the following.

Firstly, Government should be cognisant of **abusive labour practices that contribute to more extreme forms of exploitation**, such as underpayment of wages and reluctance of companies to recognise freedom of association. Modern slavery occurs at the sharp end of a continuum of exploitation, and the COVID-19 pandemic will likely increase many workers’ vulnerability to

worsening conditions, including offences that fall under the Act.⁶ A fully comprehensive, tripartite policy approach and improved labour market enforcement is therefore essential.

Secondly, Government should **ensure cohesiveness between departments** such as DFID and the FCO in tackling modern slavery in supply chains, and to specify examples of how different departments are working together on this issue, in its update to the statement.

Thirdly, given that the workforce in the sectors identified by Government as “high risk” is largely made up of migrant workers with varying legal status, we strongly emphasise that **modern slavery risks should not be exacerbated by immigration policy and enforcement**. Poorly designed immigration policy creates vulnerability in workers. Labour inspection and police work conducted in conjunction with immigration enforcement can lead to action against migrant workers, curtailing their ability to seek support for abuse or exploitation.⁷

For more information, please contact Louise Eldridge: louise@corporate-responsibility.org.

⁶ For detail on the continuum of exploitation, see Skrivankova, K (2010): <https://www.jrf.org.uk/report/between-decent-work-and-forced-labour-examining-continuum-exploitation>

⁷ For further detail, see reports by FLEX (2018, 2019): <https://labourexploitation.org/publications/risks-exploitation-temporary-migration-programmes-flex-response-2018-immigration-white>; <https://labourexploitation.org/news/time-firewall-ensuring-safe-reporting-victims-exploitation>