

Government response to transparency in supply chains consultation published

The publication follows recent media coverage regarding allegations of exploitation in the garment industry - what changes are proposed?

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Introduction

On 22 September 2020, the government published its [response to its consultation on transparency in supply chains](#) (see our previous update on [the original consultation here](#)). The consultation (which drew 724 responses) sought views on proposed measures to strengthen the transparency in supply chain reporting provisions in section 54 of the Modern Slavery Act 2015 (MSA). It sought to future-proof the MSA's transparency legislation and included proposals on:

- the content of modern slavery statements;
- how the government could improve transparency and enforcement of non-compliance; and
- the extension of the modern slavery reporting requirements to the public sector.

The publication of the government's response follows hot on the heels of recent media coverage regarding allegations of exploitation in the garment industry in Leicester during the COVID-19 pandemic – and the impact of the pandemic on modern slavery risks is highlighted by the Home Secretary in her foreword to the response: “The challenges presented by COVID-19 have made 2020 an unprecedented year. Sadly, we have seen how quickly this abhorrent crime can evolve, as ruthless perpetrators adapt their approach to profit from changes in global demand. The crisis has brought home the hidden risks in the global and more local supply chains producing the goods that we use every day, from the impact of cancelled orders to the deeply concerning allegations of exploitation in Leicester’s garment industry.”

What changes are proposed?

Many of the proposals set out in the response will require legislative change and it is noted that these will be made ‘when Parliamentary time allows’. The main proposals made relate to the following (and are set out in Annex D to the government's response linked above):

- **Public sector reporting** – in a world first, the government will extend the reporting requirements under section 54 of the MSA to public bodies (including local authorities in England and Wales) with a budget threshold of £36 million or more. Going forward, such public bodies will be required to regularly report on the steps they have taken to prevent modern slavery in their supply chains. In the press release accompanying the publication of the government's response the government states that it “is committed to harnessing the spending power of the UK’s public sector, accounting for around £250 billion of spend, to ensure responsible practises in supply chains and bring it in line with businesses.”

The Home Office intends to publish guidance to help public bodies establish whether they would be captured by this requirement ahead of any required legislative changes. However, the government has stated that it will allow public bodies to publish ‘group statements’ - for example, a central government department may publish a group statement with their arm’s length bodies.

To align with the legal requirements currently applicable to commercial organisations, public sector modern slavery statements will need to be signed off by the accounting officer, chief executive or equivalent role and approved by the senior management body.

To lead the way for the public sector, in March 2020 the UK government has already published the world's first Government Modern Slavery Statement - setting out the steps taken to eradicate modern slavery from its supply chains on around £50 billion of its annual spending. In his foreword to the statement, the Prime Minister made the government's ambitions clear:

'It's not enough for government and businesses to simply say they don't tolerate modern slavery. As we take stock of both the challenges faced and achievements made, we must match our words with actions.'

The government has noted that all ministerial departments are now working towards publishing their individual modern slavery statements from 2021.

- **Content of statements published under section 54 of the MSA** – the government will make reporting against the 6 areas currently listed in section 54(5) of the MSA mandatory. If no steps have been taken by a reporting organisation in relation to a particular area, this must be stated clearly and reasons for this may be provided.

The Home Office intends to publish updated transparency in supply chains guidance to help organisations prepare for these changes – this guidance will encourage organisations to be open about their priority next steps for the coming year (although the government will not mandate organisations to report on this).

It is hoped that having mandatory areas of reporting will increase the comparability of statements and allow meaningful benchmarking, incentivising organisations to demonstrate progress in their annual reporting. However, there are also fears that this will increase the risk of encouraging a "tick-box" approach to compliance. The government is also planning to consider how the reporting areas can be further amended in future to incorporate some of the additional topics suggested during the consultation.

- **A new online government registry for section 54 statements** – in-scope organisations will be required to publish their modern slavery statements on a new government-run reporting service, which is currently being developed and expected to launch early next year. Once launched, organisations are encouraged to publish their statements onto this platform even prior to any legislative changes making this compulsory. The government hopes that this platform "will radically enhance transparency making it easier for consumers, investors and civil society to hold organisations to account for the steps they have taken to root out modern slavery."
- **Single reporting deadline** – the government proposes legislative changes to introduce a single reporting deadline against which all organisations must publish their statement each year (for example, as we currently see with gender pay gap reporting). The current regime requires reporting following the end of an organisation's financial year. In future, in-scope organisations will report on the same 12-month period (1 April to 31 March) and will then have six months to prepare their statement in time for a single reporting deadline of 30 September.
- **Approval and sign-off** – the government will clarify in legislation that organisations must demonstrate compliance by stating the date of board (or equivalent) approval and director (or equivalent) sign off, and by providing the names of entities covered in group modern slavery statements.
- **Enforcement measures** – the government will take forward options for civil penalties for non-compliance with the MSA in line with the development of the single enforcement body for employment rights led by the Department for Business, Energy and Industrial Strategy (see below).

Finally, the response also includes (at Annex E) a review of the turnover threshold (currently £36 million) which triggers the requirement to publish a statement under section 54 of the MSA - under the Modern Slavery Act 2015 (Transparency in Supply Chains) Regulations 2015 the Secretary of State is required to carry out a review of the Regulations every five years and publish the conclusions. The Government concludes that it will retain the threshold of £36 million and focus on improving compliance at this threshold. They believe this threshold "remains appropriate as the effectiveness and fairness of the requirement relies on capturing a significant number of organisations which nonetheless have sufficient resource to meet the spirit of this requirement and influence their supply chains."

Conclusion

Safeguarding Minister Victoria Atkins has recently said “sadly, we know that no sector is immune from the risks of modern slavery which can be hidden in the supply chains of the everyday goods and services we all buy and use” – and unfortunately these risks are likely to be heightened by the impact of the COVID-19 pandemic on supply chains and the conclusion of the Brexit transition period at the end of this year. We expect to hear more from the government on these issues over the coming months – particularly as it has also “committed to establishing a single enforcement body for employment rights, to better protect vulnerable workers and ensure a level playing field for the majority of employers complying with the law.”

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