

Transparency in Supply Chains etc.

A practical guide



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Home Secretary Foreword



Modern slavery is a heinous crime and tackling it is a top priority for this Government and for me personally as Home Secretary.

Businesses have a vital role to play. Modern slavery is a brutal way of maximising profits, by producing goods and services at ever lower costs with scant regard for the terrible impact this has on individuals. But my message is clear. Businesses must not be knowingly or unknowingly complicit in this horrendous and sickening crime.

This updated guidance, which explains how businesses should comply with the Modern Slavery Act, builds on our experience since the landmark Act was introduced in 2015. The Act requires all large businesses to produce an annual statement setting out the steps they have taken to prevent modern slavery in their business and supply chains. This refreshed guidance lays out our expectations for these statements, including more explanation of what best practice looks like.

Of course, these transparency statements on their own are not enough. The challenge for businesses is to take serious and effective steps to identify and root out contemporary slavery which can exist in any supply chain, in any industry. All businesses must be vigilant and aim to continuously improve.

The Prime Minister has described modern slavery as the great human rights issue of our time. It is simply not acceptable that anyone should be profiting, however indirectly, from this appalling abuse and exploitation. All businesses must take sustained and concerted action to ensure this is not the case.

We are committed to supporting businesses in this work and will keep this guidance under review. I would like to thank all of the organisations, businesses and trade bodies who have provided input to this guidance, as well as those businesses who are already leading the fight.

Together we will spot the signs of abuse, together we will help those who cannot help themselves and together, we will lead the way in defeating modern slavery.

Rt Hon Amber Rudd MP

Home Secretary

1. Introduction

The Transparency in Supply Chains provision in the Modern Slavery Act seeks to address the role of businesses in preventing modern slavery from occurring in their supply chains and organisations.

1.1 Modern slavery is a crime resulting in an abhorrent abuse of human rights. It is constituted in the Modern Slavery Act 2015 by the offences of ‘slavery, servitude and forced or compulsory labour’ and ‘human trafficking’. A full definition of modern slavery is included at Annex A.

1.2 Many organisations are already taking action to promote ethical business practices and policies that protect workers from being abused and exploited in their own organisation and global supply chains.

1.3 However, there are still far too many people in the world being treated as commodities. There are also far too many organisations ignoring such abuses or who are knowingly responsible for policies and practices that result in workers being subjected to modern slavery in their operations.



1.4 The Government has introduced a provision in the Modern Slavery Act 2015 which requires certain businesses to produce a statement setting out the steps they have taken to ensure there is no modern slavery in their own business and their supply chains. If an organisation has taken no steps to do this, their statement should say so. The measure is designed to create a level playing field between those businesses, whose turnover is over a certain threshold, which act responsibly and those that need to change their policies and practices. However, the Government wants to encourage businesses to do more, not just because they are legally obliged to, but also because they recognise it is the right thing to do.

1.5 One key purpose of this measure is to prevent modern slavery in organisations and their supply chains. A means to achieve this is to increase transparency by ensuring the public, consumers, employees and investors know what steps an organisation is taking to tackle modern slavery. Those organisations already taking action can quickly and simply articulate the work already underway and planned. Organisations will need to build on what they are doing year on year. Their first statements may show how they are starting to act on the issue and their planned actions to investigate or collaborate with others to effect change.

1.6 This document sets out the basic requirements of the legislation, as well as advice on what can be included in a statement to give assurance to those scrutinising the statements.

This document provides guidance on how the Government expects organisations to develop a credible and accurate slavery and human trafficking statement each year and sets out what must be included in a statement.

1.7 A focus on tackling modern slavery not only protects vulnerable workers and helps prevent and remedy severe human rights violations, it can bring a number of business benefits too. These include:

- protecting and enhancing an organisation's reputation and brand;
- protecting and growing the organisation's customer base as more consumers seek out businesses with higher ethical standards;
- improved investor confidence;
- greater staff retention and loyalty based on values and respect; and
- developing more responsive, stable and innovative supply chains.

1.8 It is important for large organisations to be transparent and accountable, not just to investors but to other groups including employees, consumers and the public whose lives are affected by their business activity. Due diligence processes and reporting are essential management tools that improve risk identification and long-term social, environmental as well as financial performance.

1.9 Reporting requirements can drive better strategic understanding of the risks and impacts of an organisation's core activities in relation to the environment and human rights. The disclosure of these management tools allows investors to move capital towards more sustainable, responsible organisations and strengthen the long-term ethical sustainability of the financial system.

2. The Modern Slavery Act 2015

Every organisation carrying on a business in the UK with a total annual turnover of £36m or more will be required to produce a slavery and human trafficking statement for each financial year of the organisation.

2.1 Section 54 of the Modern Slavery Act 2015 gives the Secretary of State the power to issue guidance. Section 54 is contained in Annex A.

2.2 The provision in the Act requires that any commercial organisation in any sector, which supplies goods or services, and carries on a business or part of a business in the UK, and is above a specified total turnover, must produce a slavery and human trafficking statement for each financial year of the organisation. For the purposes of this requirement, 'supply chain' has its everyday meaning. Regulations have set the total turnover threshold at £36m. The statement must set out what steps they have taken during the financial year to ensure that modern slavery is not occurring in their supply chains and in their own organisation. Further information on calculating the turnover of an organisation is contained in Chapter 3.

2.3 The Act specifically states that the statement must include 'the steps the organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place in any of its supply chains, and in any part of its own business'. When the Act refers to ensuring that slavery and human trafficking is not taking part in any part of its supply chain, this does not mean that the organisation in question must guarantee that the entire supply chain is slavery free. Instead, it means an organisation must set out the steps it has taken in relation to any part of the supply chain (that is, it should capture all the actions it has taken).

2.4 The provision requires an organisation to be transparent about what is happening within its business. This means that if an organisation has taken no steps to ensure slavery and human trafficking is not taking place they must still publish a statement stating this to be the case.

2.5 The Government encourages all businesses to develop an appropriate and effective response to modern slavery. Businesses may choose to take further action over and above what is prescribed by the Act but this will be a decision for individual businesses themselves. The provision seeks to create a race to the top by encouraging businesses to be transparent about what they are doing, thus increasing competition to drive up standards.

Failure to comply

2.6 If a business fails to produce a slavery and human trafficking statement for a particular financial year the Secretary of State may seek an injunction through the High Court (or, in Scotland civil proceedings for specific performance of a statutory duty under section 45 of the Court of Session Act 1988) requiring the organisation to comply. If the organisation fails to comply with the injunction, they will be in contempt of a court order, which is punishable by an unlimited fine.

2.7 In practice failure to comply with the provision will mean the organisation has not produced a statement, published it on their website (where they have one) or has not set out the steps taken by the organisation in the relevant financial year. This can include setting out that it has taken no such steps, or is just beginning investigations. Whilst we would encourage clear, detailed and informative statements legal compliance does not turn on how well the statement is written or presented (provided that it sets out the steps taken or that no steps have in fact been taken).

2.8 We expect organisations to build on their statements year on year and for the statements to evolve and improve over time. However, a failure to comply with the provision, or a statement that an organisation has taken no steps, may damage the reputation of the business. It will be for consumers, investors and Non-Governmental Organisations to engage and/or apply pressure where they believe a business has not taken sufficient steps.

3. Who is required to comply?

3.1 Any organisation in any part of a group structure will be required to comply with the provision and produce a statement if they:

- are a body corporate or a partnership (described as an “organisation” in this document), wherever incorporated;
- carry on a business, or part of a business, in the UK;
- supply goods or services; and
- have an annual turnover of £36m or more.

3.2 Total turnover is calculated as:

- a. the turnover of that organisation; and
- b. the turnover of any of its subsidiary undertakings (including those operating wholly outside the UK).

3.3 “Turnover” means the amount derived from the provision of goods and services falling within the ordinary activities of the commercial organisation or subsidiary undertaking, after deduction of—

- a. trade discounts;
- b. value added tax; and
- c. any other taxes based on the amounts so derived.

3.4 If any organisation in any part of a group structure meets these requirements, it is legally required to produce a statement. Where a parent and one or more subsidiaries in the same group are required to produce a statement, the parent may produce one statement that subsidiaries can use to meet this requirement (provided that the statement fully covers the steps that each of the organisations required to produce a statement have taken in the relevant financial year).

3.5 A ‘commercial organisation’ is defined at section 54(12) as a body corporate or partnership which carries on a business, or part of a business, in the UK wherever that organisation was incorporated or formed. The key concept here is that of an organisation which ‘carries on a business’. The courts will be the final arbiter as to whether an organisation ‘carries on a business’ in the UK taking into account the particular facts in individual cases. However, the following paragraphs set out the Government’s intention as to how this should work.

3.6 There are many ways in which a body corporate or a partnership in the UK can pursue business objectives. The Government expects that whether such a body or partnership can be said to be carrying on a business will be answered by applying a common sense approach. So long as the organisation in question is incorporated (by whatever means) or is a partnership, it does not matter if it pursues primarily charitable or educational aims or purely public functions. The organisation will be caught if it engages in commercial activities and has a total turnover of £36m - irrespective of the purpose for which profits are made.

3.7 As regards bodies incorporated, or partnerships formed, outside the United Kingdom, whether such bodies can properly be regarded as carrying on a business or part of a business 'in any part of the United Kingdom' will again be answered by applying a common sense approach.

3.8 However, we anticipate that applying a common sense approach will mean that organisations that do not have a demonstrable business presence in the United Kingdom will not be caught by the provision. Likewise, having a UK subsidiary will not, in itself, mean that a parent company is carrying on a business in the UK, since a subsidiary may act completely independently of its parent or other group companies.

Franchise models

3.9 Some organisations operate under a franchise model. Where the turnover of a franchiser is above the £36m threshold they will be required to produce a slavery and human trafficking statement. In determining the total turnover of a business operating a franchise model, only the turnover of the franchiser will be considered. The turnover of any franchisee using the franchiser's trademark and distributing goods or providing services will not be used in calculating the franchiser's turnover. However, franchisers who meet the turnover threshold may wish to consider the impact on their brand of the activities of franchisees in relation to modern slavery, and in so doing report on the steps taken to ensure the franchise as a whole is free from modern slavery.

3.10 Where the turnover of a franchisee is above the £36m threshold they will be required to produce a slavery and human trafficking statement in their own right.

Parent and Subsidiary organisations

3.11 Each parent and subsidiary organisation (whether it is UK based or not) that meets the requirements set out in 3.1 above must produce a statement of the steps they have taken during the financial year to ensure slavery and human trafficking is not taking place in any part of its own business and in any of its supply chains. If a foreign subsidiary is part of the parent company's supply chain or own business, the parent company's statement should cover any actions taken in relation to that subsidiary to prevent modern slavery. Where a foreign parent is carrying on a business or part of a business in the UK, it will be required to produce a statement.

3.12 There is nothing to prevent a foreign subsidiary or parent from producing a statement, even if they are not legally obliged to do so. This provision is all about improving transparency to prevent slavery and forced labour occurring.

3.13 If a parent company is seen to be ignoring the behaviour of its non-UK subsidiaries, this may still reflect badly on the parent company. As such, seeking to cover non-UK subsidiaries in a parent company statement, or asking those non-UK subsidiaries to produce a statement themselves (if they are not legally required to do so already), would represent good practice and would demonstrate that the company is committed to preventing modern slavery. This is highly recommended, especially in cases where the non-UK subsidiary is in a high-risk industry or location.

Smaller Organisations

3.14 Organisations which do not meet the requirements in the Act, for example by having a turnover below £36m, can still choose to voluntarily produce a 'slavery and human trafficking statement'. Smaller organisations may be asked by those they are supplying goods or services to if they have a statement or policy setting out their approach to tackling modern slavery, especially if they are bidding for contracts with larger businesses above the threshold. Therefore, smaller organisations may find it helpful to voluntarily produce a statement as a means of managing these requests and providing a level of assurance to their customers. Even if the legislation does not apply, we would encourage all businesses to be open and transparent about their recruitment practices, policies and procedures in relation to modern slavery and to take steps that are consistent and proportionate with their sector, size and operational reach.

4. Writing a slavery and human trafficking statement

4.1 The slavery and human trafficking statement will be a public-facing document. To aid transparency the statement should be written in simple language that is easily understood (the Plain English Campaign is well placed to assist with this - <http://www.plainenglish.co.uk/>). The statement can be succinct but cover all the relevant points and provide appropriate links to relevant publications, documents or policies for the organisation.

4.2 The Government has not been prescriptive about the layout or specific content of a slavery and human trafficking statement. It is up to organisations how they present information in the statement and how much detail they provide. However, organisations must include in the statement all the steps they have taken. The information presented in the statement will be determined by the organisation's sector, the complexity of its structure and supply chains, or the particular sectors and nations its suppliers are working in.

Top Tips

Keep the statement succinct but cover all the relevant points – if you can provide appropriate links to relevant publications, documents or policies for your organisation, do so.

Writing the statement in simple language will ensure that it is easily accessible to everyone.

The statement should be in English but may also be provided in other languages, relevant to the organisation's business and supply chains.

Specifying actions by specific country will help readers to understand the context of any actions or steps taken to minimise risks.

4.3 An organisation may already be undertaking procedures or have specific policies (such as CSR or Ethical Trade activities) that go some way to addressing the issue of modern slavery and may already be disclosing this in some form (for example, via a strategic statement as required under Chapter 4A of the Companies Act 2006). Therefore, it is not necessary for an organisation to start from scratch. Any relevant material used in other related reports may be used in an organisation's slavery and human trafficking statement. Statements should be true and refer to actual steps undertaken or begun.

4.4 It is not necessary for businesses to replicate the wording of an organisation's policies on every issue directly in the statement. Instead, a business may choose to support the narrative in the statement by providing relevant links to a particular document or policy that is publicly available and already published on the organisation's website.

Case study

ITP (the International Tourism Partnership), part of Business in the Community, is a non-profit member organisation which brings the hotel sector together to collaborate on social and environmental issues. Since 2010, the organisation has run a human trafficking working group to raise awareness, share best practice and develop practical solutions to tackle the risk of human trafficking and modern day slavery in the hotel industry. Children and adults may be trafficked via hotels for sexual exploitation and the volume of lower-skilled jobs in the industry can provide an opportunity for unscrupulous individuals and agencies to put people into forced or bonded labour. ITP also provides an interface for dialogue with specialist organisations working in this area. Outputs to date include a Position Statement, Know How Guide and Guidelines for Checking Recruitment Agencies. Fran Hughes, ITP Director, says; “Collaboration on this issue has accelerated learning and action on this key issue and helped the hotel industry work together to develop resources and responses. I would urge other sectors to come together to see how they may work together and with their stakeholders to advance activity to address trafficking and slavery risk.”

To access ITP’s resources, see:

<http://tourismpartnership.org/human-trafficking/>

5. The Structure of a Statement

A statement must contain the steps an organisation has taken to prevent modern slavery in its supply chains and own business.

5.1 The Modern Slavery Act, does not dictate in precise detail what a statement must include or how it should be structured. It does, however, provide a non-exhaustive list of information that may be included.

5.2 A statement should aim to include information about:

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

5.3 The organisation should paint a detailed picture of all the steps it has taken to address and remedy modern slavery, and the effectiveness of all such steps.

5.4 **Annex E** provides information on the type of activity that could be included under each heading and why such information would be useful in a statement.

5.5 Organisations should be aware that their statement will be assessed by the public, investors, the media and other external parties. They will expect to see year-on-year improvements outlining practical progress on how they are tackling the risks and incidence of modern slavery in their operations and supply chains. Organisations are encouraged to be as open and transparent as possible, as this is likely to drive more honesty and collaboration between organisations in the knowledge that no single business can tackle the problem alone.

6. Approving a statement

The statement must be approved and signed by a director, member or partner of the organisation.

6.1 The Modern Slavery Act requires a slavery and human trafficking statement to be approved and signed by an appropriate senior person in the business. This ensures senior level accountability, leadership and responsibility for modern slavery and gives it the serious attention it deserves. An organisation's top management will be best placed to foster a culture in which modern slavery is not tolerated in any form. They need to lead and drive the measures required to address this problem throughout the business.

6.2 To effectively combat modern slavery, senior managers will need to ensure everyone in an organisation is alive to the risks of modern slavery. This is to ensure informed decisions are made in a timely way which mitigate and manage these risks, and to monitor the implementation of relevant policies. They will need to ensure credible evidence is used in identifying and reporting on human rights risks in supply chains, as well as to remedy workers and rectify problems where appropriate.

6.3 The person who is required to sign the statement depends on the type of organisation. For a body corporate (other than a limited liability partnership), the statement must be approved by the board of directors and signed by a director (or equivalent). Where this is the case, it is best practice for the director who signs the statement to also sit on the board that approved the statement. Where the organisation is a limited liability partnership it must be approved by the members and signed by a designated member. It is best practice for the statement to include the date on which the board or members approved the statement. For a limited partnership, registered under the Limited Partnerships Act 1907, a general partner must sign it and if the organisation is any other kind of partnership, a partner must sign it.

7. Publishing a statement

The statement must be published on an organisation's website with a link in a prominent place on the homepage.

7.1 The Act requires each organisation to publish a slavery and human trafficking statement on their website and include a link in a prominent place on its homepage. The purpose of this measure is to increase transparency and it is vital that the statement can be easily accessible by anyone who wants to see it – the public, consumers, employees, NGOs or investors. For organisations with no website, a copy of the statement is to be provided to anyone who requests one in writing. The copy must be provided to the requestor within 30 days of the receipt of the request, where a statement has been produced and is available.

7.2 In some instances, where there is a complex organisational structure, an organisation may have more than one outward-facing website. For organisations where there is more than one website we recommend placing the statement on the most appropriate website relating to the organisation's business in the UK. Where there is more than one relevant website we recommend placing a copy of the statement or a link to the statement on each relevant website. This will increase transparency and ensure recognition for the efforts the business is making.

7.3 The Act is clear that the link must be in a prominent place on the home page itself. A prominent place may mean a modern slavery link that is directly visible on the home page or part of an obvious drop-down menu on that page. The link should be clearly marked so that the contents are apparent. We recommend a link such as 'Modern Slavery Act Transparency Statement'.

7.4 Organisations are legally required to publish a statement for each financial year of their organisation. Organisations should publish their statement as soon as possible after their financial year end. We expect this to be, at most, within six months of the organisation's financial year end. Organisations may wish to publish these statements at the same time as they publish other annual accounts.

7.5 Organisations should look to keep historic statements from previous years available online even when new statements are published. This will allow the public to compare statements between years and monitor the progress of the organisation over time.

7.6 Legally an organisation is required to complete a statement for each financial year (of that organisation) in which their turnover exceeds the specified threshold. However, we strongly recommend that businesses who produce a slavery and human trafficking statement in one financial year should continue to produce a statement in future years even if their turnover has fallen below the £36m threshold. Producing a regular annual statement will ensure organisations can build upon earlier statements and demonstrate to the public, consumers and investors that they are being transparent, not because they are required to do so but because they consider it important.

8. Responding to an incident of modern slavery

Any incident of modern slavery should be dealt with appropriately and relevant remedies made available to potential victims.

8.1 Modern slavery is extremely prevalent across the globe. The ILO estimates that there are 21 million people in forced labour in the world today. It is important that businesses do not deny or try to ignore the problem. The Modern Slavery Act provisions are designed to encourage businesses to tackle slavery head on.

8.2 If a specific case of modern slavery is identified here in the UK, it should be reported to the police immediately on 101. If potential victims are in immediate danger the standard 999 emergency number should be used.

8.3 In the UK, mechanisms are in place to assist victims of slavery and human trafficking. If you identify a potential victim they can be referred to the National Referral Mechanism to be formally identified as a victim of modern slavery and offered Government-funded support. Referral for potential adult victims is by consent. Government-funded support is provided through a range of specialist providers across the UK. A list of the relevant organisations is provided at Annex F.

8.4 When training employees in the UK to identify the signs of modern slavery and to flag up potential issues, you should inform them about the Modern Slavery Helpline on 0800 0121 700. This will allow anyone who thinks they may have come across an instance of modern slavery, or indeed who may be a victim themselves, to call for more information and guidance on what to do next.

8.5 If modern slavery is identified or suspected abroad, then the response should be tailored to the local circumstances. In some cases the most appropriate response will be to engage with local NGOs, industry bodies, trade unions or other support organisations to attempt to remedy the situation. In other cases, it will be more appropriate to contact local Government and law enforcement bodies. Organisations must always consider which approach would produce the safest outcome for the potential victims but should always remember the economic influence and control which the organisation holds over those who may be committing these crimes.

8.6 If the local response seems inadequate and the local company seems unable to address coercion, threat, abuse and exploitation of workers, then the organisation should seek to give that company more support, guidance and incentives to tackle the issue. This could include working with at-risk suppliers to provide training, messages and business incentives or guidance to implement anti-slavery policies.

8.6 If, after receiving support, the supplier is not taking the issue seriously, the organisation ultimately could reconsider their commercial relationship with that supplier. These actions could then be included in the next statement produced.

8.7 Organisations can benefit from working collaboratively with others – such as industry bodies and multi-stakeholder organisations – to improve industry-wide labour standards and to advocate for

improved laws and policies in sourcing countries, where appropriate. This could be more likely to achieve long-term change than working alone.

8.8 The Organisation for Economic Co-operation and Development (OECD) has produced detailed guidance for Multi-National Enterprises (MNEs) on responsible business conduct. Whilst not specifically focused on modern slavery, they provide principles and standards for responsible business conduct in areas such as employment and industrial relations and human rights which may help organisations when seeking to respond to or prevent modern slavery. The full guidelines can be accessed online here: <http://mneguidelines.oecd.org/text/>. There are other useful guides, such as Walk Free Business Guide <https://business.walkfree.org> and Verite, 2011 'Fair Trade Hiring Kit' www.verite.org/helpwanted/toolkit.

8.9 The Ethical Trading Initiative provides advice, support and training on these issues. [The ETI Base Code](http://www.ethicaltrade.org) is a globally recognised benchmark for businesses on ethical trade. www.ethicaltrade.org

Annex A

Modern Slavery Definition

Modern Slavery is a term used to encapsulate both offences in the Modern Slavery Act: slavery, servitude and forced or compulsory labour; and human trafficking. The offences are set out in section 1 and section 2 of the Act, which can be found at:

<http://www.legislation.gov.uk/ukpga/2015/30/section/1/enacted>

<http://www.legislation.gov.uk/ukpga/2015/30/section/2/enacted>

Definition of Slavery and Servitude

Slavery, in accordance with the 1926 Slavery Convention, is the status or condition of a person over whom all or any of the powers attaching to the right of ownership are exercised. Since legal 'ownership' of a person is not possible, the key element of slavery is the behaviour on the part of the offender as if he/she did own the person, which deprives the victim of their freedom.

Servitude is the obligation to provide services that is imposed by the use of coercion and includes the obligation for a 'serf' to live on another person's property and the impossibility of changing his or her condition.

Definition of Forced or Compulsory Labour

Forced or compulsory labour is defined in international law by the ILO's Forced Labour Convention 29 and Protocol. It involves coercion, either direct threats of violence or more subtle forms of compulsion. The key elements are that work or service is exacted from any person under the menace of any penalty and for which the person has not offered him/her self voluntarily.

Definition of Human Trafficking

An offence of human trafficking requires that a person arranges or facilitates the travel of another person with a view to that person being exploited. The offence can be committed even where the victim consents to the travel. This reflects the fact that a victim may be deceived by the promise of a better life or job or may be a child who is influenced to travel by an adult. In addition, the exploitation of the potential victim does not need to have taken place for the offence to be committed. It means that the arranging or facilitating of the movement of the individual was with a view to exploiting them for sexual exploitation or non-sexual exploitation. The meaning of exploitation is set out here: <http://www.legislation.gov.uk/ukpga/2015/30/section/3/enacted>.

Definition of Child Labour

Child labour is defined by international standards as children below 12 years working in any economic activities, those aged 12 - 14 engaged in more than light work, and all children engaged in the worst forms of child labour (ILO).

The term “child labour” is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. Whether or not particular forms of “work” can be called “child labour” depends on the child’s age, the type and hours of work performed, the conditions under which it is performed and the objectives pursued by individual countries.

Children can be particularly vulnerable to exploitation, but child labour will not always constitute modern slavery. It will still be necessary to determine whether, based on the facts of the case, the children in question are being exploited in such a way as to constitute slavery, servitude and forced or compulsory labour or human trafficking. For example, it is possible for children to undertake some ‘light work’ which would not necessarily constitute modern slavery. ‘Light work’ is defined by article 7 of ILO Convention No. 138.

Children do have particular vulnerabilities which should be considered when determining whether modern slavery is taking place. The Modern Slavery Act 2015 specifically recognises that it is not necessary for a child to have been forced, threatened or deceived into their situation for it to be defined as exploitation.

The Worst Forms of Child Labour

The worst forms of child labour are very likely to constitute modern slavery.

The worst forms of child labour are defined by article 3 of ILO Convention No. 182 as:

- a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Behaviour constituting modern slavery

Identifying potential victims of modern slavery can be a challenge because the crime can manifest itself in many different ways. There is a spectrum of abuse and it is not always clear at what point, for example, poor working practices and lack of health and safety awareness seep into instances of human trafficking, slavery or forced labour in a work environment. However, businesses have a responsibility to ensure that workers are not being exploited, that they are safe and that relevant employment (include wage and work hour), health and safety and human rights laws and international standards are adhered to, including freedom of movement and communications.

There will be cases of exploitation that, whilst being poor labour conditions, nevertheless do not meet the threshold for modern slavery – for example, someone may choose to work for less than the national minimum wage, or in undesirable or unsafe conditions, perhaps for long work hours, without being forced or deceived. Such practices may not amount to modern slavery if the employee can leave freely and

easily without threat to themselves or their family. Organisations do still nevertheless have a legal duty to drive out poor labour practices in their business, and a moral duty to influence and incentivise continuous improvements in supply chains.

Annex B

Section 54 - Transparency in supply chains etc

(1) A commercial organisation within subsection (2) must prepare a slavery and human trafficking statement for each financial year of the organisation.

(2) A commercial organisation is within this subsection if it—

(a) supplies goods or services, and

(b) has a total turnover of not less than an amount prescribed by regulations made by the Secretary of State.

(3) For the purposes of subsection (2)(b), an organisation's total turnover is to be determined in accordance with regulations made by the Secretary of State.

(4) A slavery and human trafficking statement for a financial year is—

(a) a statement of the steps the organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place—

(i) in any of its supply chains, and

(ii) in any part of its own business, or

(b) a statement that the organisation has taken no such steps.

(5) An organisation's slavery and human trafficking statement may include information about—

(a) the organisation's structure, its business and its supply chains;

(b) its policies in relation to slavery and human trafficking;

(c) its due diligence processes in relation to slavery and human trafficking in its business and supply chains;

(d) the parts of its business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps it has taken to assess and manage that risk;

(e) its effectiveness in ensuring that slavery and human trafficking is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate;

(f) the training about slavery and human trafficking available to its staff.

(6) A slavery and human trafficking statement—

(a) if the organisation is a body corporate other than a limited liability partnership, must be approved by the board of directors (or equivalent management body) and signed by a director (or equivalent);

(b) if the organisation is a limited liability partnership, must be approved by the members and signed by a designated member;

(c) if the organisation is a limited partnership registered under the Limited Partnerships Act 1907, must be signed by a general partner;

(d) if the organisation is any other kind of partnership, must be signed by a partner.

(7) If the organisation has a website, it must—

(a) publish the slavery and human trafficking statement on that website, and

(b) include a link to the slavery and human trafficking statement in a prominent place on that website's homepage.

(8) If the organisation does not have a website, it must provide a copy of the slavery and human trafficking statement to anyone who makes a written request for one, and must do so before the end of the period of 30 days beginning with the day on which the request is received.

(9) The Secretary of State—

(a) may issue guidance about the duties imposed on commercial organisations by this section;

(b) must publish any such guidance in a way the Secretary of State considers appropriate.

(10) The guidance may in particular include further provision about the kind of information which may be included in a slavery and human trafficking statement.

(11) The duties imposed on commercial organisations by this section are enforceable by the Secretary of State bringing civil proceedings in the High Court for an injunction or, in Scotland, for specific performance of a statutory duty under section 45 of the Court of Session Act 1988.

(12) For the purposes of this section—

“commercial organisation” means—

(a) a body corporate (wherever incorporated) which carries on a business, or part of a business, in any part of the United Kingdom, or

(b) a partnership (wherever formed) which carries on a business, or part of a business, in any part of the United Kingdom,

and for this purpose “business” includes a trade or profession;

“partnership” means—

(a) a partnership within the Partnership Act 1890,

(b) a limited partnership registered under the Limited Partnerships Act 1907, or

(c) a firm, or an entity of a similar character, formed under the law of a country outside the United Kingdom;
“slavery and human trafficking” means—

(a) conduct which constitutes an offence under any of the following—

(i) section 1, 2 or 4 of this Act,

(ii) section 1, 2 or 4 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act

(Northern Ireland) 2015 (c. 2 (N.I.)) (equivalent offences in Northern Ireland),

(iii) section 22 of the Criminal Justice (Scotland) Act 2003 (asp 7) (traffic in prostitution etc),

(iv) section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking for exploitation),

(v) section 47 of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13) (slavery, servitude and forced or compulsory labour), or

(b) conduct which would constitute an offence in a part of the United Kingdom under any of those provisions if the conduct took place in that part of the United Kingdom.

Annex C

Example of a group structure with a subsidiary based abroad

As set out in paragraph 3.1 an organisation must comply with section 54 of the Modern Slavery Act 2015 if they:

- are a body corporate (wherever incorporated) or a partnership;
- carry on a business, or part of a business, in the UK;
- supply goods or services; and
- have an annual turnover of £36m or more.

For simplicity, these are referred to below as the ‘tests in the Act’. An organisation that meets all of the tests in the Act must publish a slavery and human trafficking statement.

An organisation’s turnover is to be calculated as including the turnover of any of its subsidiaries, regardless of where those subsidiaries are based or carry on their business.

Whether a parent organisation’s statement must include the steps taken in relation to its subsidiaries needs to be determined on a case-by-case basis.

A slavery and human trafficking statement is a statement of the steps the organisation has taken during the financial year to ensure slavery and human trafficking is not taking place

in any of its supply chains, and

in any part of its own business, or

a statement that the organisation has taken no such steps.

Therefore, a parent organisation which meets all the tests in the Act will have to include the steps taken in relation to its subsidiaries in its statement if, depending on the particular facts, the activities of the subsidiary in fact form part of the supply chain or business of the parent.

This will be the case even if the subsidiary in question does not meet all the tests in the Act (for example, if its turnover is below £36m). Of course, if the subsidiary meets all the tests in the Act in its own right, then it is required to produce a statement in its own right.

It will be for individual parent organisations to determine whether their subsidiaries in fact form a part of their own business or supply chain. The example below is given just for illustrative purposes to help explain the principles set out above.

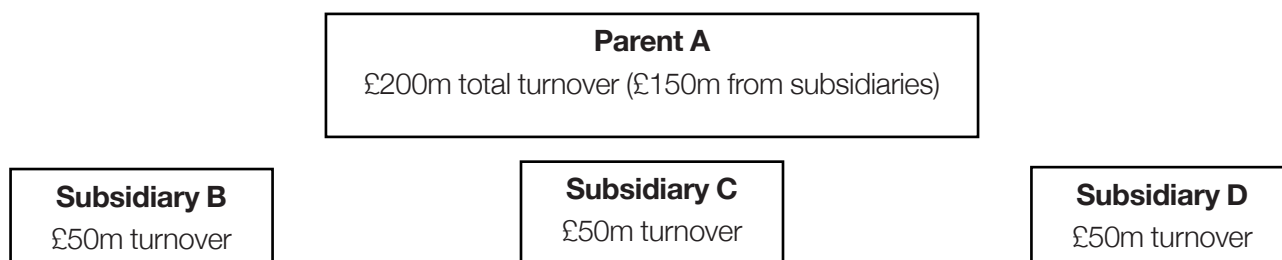
EXAMPLE SCENARIO

Parent A Meets all the tests in the act and is required to produce a statement

Subsidiary B Meets all the tests in the act and is required to produce a statement

Subsidiary C Meets all the tests in the act and is required to produce a statement

Subsidiary D Does **not** meet all the tests in the act. It is a body corporate or partnership, it does supply goods or services, it does have a turnover above £36m, but it **does not** carry on a business or part of a business in the UK. It is based abroad and entirely operates abroad.



In this scenario parent A must produce a slavery and human trafficking statement setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in its supply chains or own business. So must subsidiary B and subsidiary C. The three organisations can agree to produce a single statement that sets out that steps that each has taken. If not, parent A, subsidiary B and subsidiary C must produce separate slavery and human trafficking statements (although parent A's statement will need in any event to cover steps taken in relation to its subsidiaries in its statement if, depending on the particular facts, the activities of those subsidiaries in fact form part of the supply chain or business of the parent).

In relation to subsidiary D, there is no requirement for subsidiary D to prepare its own statement. However if, on the particular facts, the activities of subsidiary D form part of the supply chain or business of the parent, the parent's statement should include all steps taken in relation to subsidiary D).

If parent A determined that subsidiary D was neither a part of its own business nor a part of its supply chain, it could choose not to include steps taken in relation to subsidiary D in its statement. However, as set out in paragraph 3.13, including these steps would still represent good practice and would demonstrate that parent A is committed to preventing modern slavery. This is highly recommended, especially in cases where the non-UK subsidiary is in a high-risk industry or location.

Annex D

The Act in the context of other reporting requirements

Many businesses are already required to undertake non-financial reporting on human rights.

The Government has set out a clear expectation in the National Action Plan on Implementing the UN Guiding Principles on Business and Human Rights. UK organisations should respect internationally recognised human rights wherever they operate and treat the risk of causing or contributing to gross human rights abuses as a legal compliance issue.¹

The UN Guiding Principles (UNGPs) reporting framework is voluntary but sets out the ways in which businesses can meet their responsibilities with regard to human rights. The UNGPs are centred on three pillars: the duty of States to protect human rights; the responsibility of business to respect human rights; and the need for those affected by abuses to have access to effective remedy. In the UK, these rights are largely enforced by law and a law-abiding business is likely to be compliant with the responsibility to respect human rights within its own operations. However, the UNGPs are clear that the responsibility for businesses extends beyond their own staff and customers to include direct and indirect suppliers, wherever they are located.

Companies Act 2006 (Strategic Report and Directors' Report) Regulations 2013 also require UK quoted companies to report within its Strategic Report on human rights issues 'where necessary for an understanding of the development, performance or position of the company's business'. This includes any policies a business has in relation to these matters and the effectiveness of those policies. The wording in the Companies Act 2006 does not explicitly mention supply chains or modern slavery. It is left to the individual business to determine what policies are relevant and the level of detail required. However, the right to be free from forced labour, slavery and servitude is a fundamental human right under international law, including the European Convention on Human Rights and so may be a consideration in this reporting requirement.

The Financial Reporting Council has issued guidance on how to prepare the Strategic Report, including how to consider human rights related matters in the process of preparing the Strategic Report as a whole. Quoted companies obliged to prepare a Strategic Report, according to the Companies Act, who are also required to prepare a Slavery and Human Trafficking statement should ensure that it meets both requirements. Whilst a joint statement may be possible, it is envisioned most companies will opt for two separate statements.

In October 2014, the European Union adopted a Directive (2014/95/EU) which amended the EU Accounting Directive (2013/34/EU). This amending Directive requires large undertakings that are public interest entities (defined in the Accounting Directive, the definition including credit institutions, insurance

¹ The full National Action Plan is available online at <https://www.gov.uk/government/publications/bhr-action-plan>

undertakings and undertakings whose securities are traded on a regulated market in the EU) with an average number of 500 employees to prepare a 'non-financial statement' as part of their management report. The Directive was transposed into UK law on 19th December 2016 and applies to financial years commencing on, or after, 1st January 2017. The non-financial statement must provide information "to the extent necessary for an understanding of the undertaking's development, performance, position and impact of its activity, relating to, as a minimum, environmental, social and employee matters, respect for human rights, anti-corruption and bribery matters, including:

- a. a brief description of the undertaking's business model;
- b. a description of the policies pursued by the undertaking in relation to those matters, including due diligence processes implemented;
- c. the outcome of those policies;
- d. the principal risks related to those matters linked to the undertaking's operations including, where relevant and proportionate, its business relationships, products or services which are likely to cause adverse impacts in those areas, and how the undertaking manages those risks;
- e. non-financial key performance indicators relevant to the particular business."

Public interest entities that are parent undertakings of a large group exceeding on their balance sheet dates, on a consolidated basis, the criterion of the average number of 500 employees will be required to include in their consolidated management reports a consolidated non-financial statement containing this information.

Whilst there are differences, these new obligations are similar to the requirements for the Strategic Report contained in Chapter 4A of Part 15 of the Companies Act 2006.

Notably, there are similarities between the requirements of the Directive (set out at a) to e) above) and those areas we have set out in the Modern Slavery Act which businesses may include in a statement. This consistency across reporting requirements will ensure that businesses are well placed to comply with the transparency in supply chains measure and the wider non-financial requirements, once they are introduced.

It is likely that many businesses required to undertake non-financial reporting are already reporting on activities related to modern slavery. Businesses may demonstrate the activities and action they are taking in their slavery and human trafficking statement by drawing on existing relevant programmes of activity rather than creating new ones where that is appropriate.

Businesses may also be asked to respond to complaints received against them under the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises (MNEs). Whilst not specifically focused on modern slavery, the OECD Guidelines provide principles and standards for responsible business conduct in related areas such as employment and industrial relations and human rights. National Contact Points (NCPs) are set up by each country that adheres to the Guidelines and provide a platform for discussion and assistance to stakeholders to help find a resolution for issues arising from complaints of alleged non-observance of the Guidelines. NCPs focus on problem solving, offering good offices and facilitating access to consensual and non-adversarial procedures (e.g. conciliation or mediation). The UK Government expects businesses based or operating in the UK to engage with the UK NCP where complaints are made against them. The UK NCP is not a judicial body, however, and cannot deal with legal cases, e.g. contravention of the Act's modern slavery provisions. Such legal cases should be reported to the relevant authorities, see also Section 9 of these guidelines.

Annex E

Information in a slavery and human trafficking statement

Organisational structure and supply chains

For businesses to produce an effective statement they will need to have a good understanding of their own supply chains in order to define the boundaries of the report and to support the identification of risk. Consumers, investors, campaigners and the public also need information about the business.

Information to disclose could include:

- the sector(s) the business operates in and whether any of its work is seasonal
- the organisational structure and group relationships
- the countries it sources its goods or services from including high risk countries where modern forms of slavery are prevalent.
- the make-up and complexity of the supply chains
- the businesses operating model
- relationships with suppliers and others, including trade unions and other bodies representing workers

Such information will allow people to consider the statement more effectively. A greater level of detail and explanation of efforts is likely to be more helpful, and perhaps prevent potential stakeholder misunderstanding. However, a huge amount of technical or legal information about a company structure may make the statement more inaccessible to many readers, so there is a balance to be struck here.

Organisational Policies

The establishment of effective policies and incentives shape the environment and set the tone of an organisation in assessing, preventing and mitigating the risk of and working to influence and remedy modern slavery in their supply chains and organisation. Clear organisational policies demonstrate an organisation's commitment to this issue and ensures that appropriate and coordinated action is taken throughout the business.

Tackling modern slavery does not necessarily require a standalone policy. It could simply be adapting, and/or clarifying how existing policies and practices, programmes and management systems already work to prevent modern slavery. These policies and approaches may need upgrading as the years pass, and as understanding of the issue and approaches to address it improve.

Case Study

A leading supermarket is collaborating with the Wilberforce Institute for the Study of Slavery and Emancipation (WISE) at Hull University. WISE is initially working with the supermarket through its fresh produce and horticulture supply chain to conduct a modern slavery risk assessment. This will involve in-depth supplier research and will draw on the Global Slavery Index at Hull University - the first comprehensive index of its kind estimating the number of people living in slavery or slavery like conditions in 162 countries.

The risk assessment will include:

- a review of current ethical sourcing management systems, company policies and existing risk management tools;
- research into the challenges faced by suppliers at industry and country level for fresh produce and horticulture; and
- recommendations on areas for improvement in addressing modern slavery hotspots and risks with suppliers.

The research goes beyond an audit based approach and will involve meetings with suppliers operating in high risk areas, suppliers developing good practice, local NGOs, relevant industry bodies and local authorities. The supermarket aims to understand existing challenges faced by suppliers locally and identify current initiatives to improve labour practices. This will provide them with information on the tools, policies and practices that are needed to support suppliers' sites to improve labour management systems and reduce the risk of modern slavery in the long term.

Policies supported by the board of directors and senior management that have the right incentives are likely to influence positive behaviour within the organisation. This may also externally influence suppliers and subcontractors particularly when assessment of risk in their operations is undertaken comprehensively.

If policies and practices are to have the desired effect they must be supported through effective communications and, where appropriate, training, resourcing and collaboration of effort by appropriately skilled personnel. Policies should be established and clearly communicated so that anti-slavery activity within a company and its supply chains becomes embedded as standard practice, which all staff are aware of and incentivised to partner on and support. It is up to each business how detailed they want to make their policy on modern slavery. However, some of the questions that an organisation might want to consider when drawing up a modern slavery policy could be:

- What minimum labour standards are expected of the business, its subsidiaries and suppliers, and how do these align to industry standards?

- Who in the business is responsible for a) ensuring efforts are made to investigate and remediate the risk of modern slavery in the business and/or supply chains, and b) ensuring that basic labour standards are met, and how are such leaders financially incentivised and resourced to do so?
- How does the business factor legal and fair full labour costs into production and sourcing costs to avoid the need for seemingly cheaper slave or bonded labour in operations or the supply chain?
- What is the company's policy where a supplier is found to have been involved in modern slavery?
- When entering into a contract with a new supplier or renewing contracts with existing suppliers what checks, assurances, investigations will the company conduct or accept?
- What support or guidance is available to business operations or suppliers willing to remediate situations of slavery or forced labour found?
- What due diligence will the company commit to conducting regarding its supply chains (see section below on due diligence)?
- What is the company policy to support whistle-blowing? What procedures are in place to facilitate reporting, including reporting by workers through helplines?
- What is the company's policy and approach to remediation for workers if and where cases of modern slavery and forced labour are found; and what measures are taken to protect them from further victimisation or vulnerability?

If an organisation is able to provide a clear policy on modern slavery, with clear rules in place about how the company will handle these sorts of issues, then the company should be able to take a consistent, sustainable and continuous improvement approach to tackling modern slavery. Clear policies should mean that all employees in the organisation and the organisation's suppliers know how to, and are resourced to prevent or identify exploitation. They should provide information about the first steps when modern slavery is identified and broadly how and with whom to partner (in and/or outside the business) in influencing remedy for workers (or ceasing of that business relationship in the worst cases).

Information to disclose could include:

- The process for policy development
- Policies that concern business relationships , for example, a Supplier Code of Conduct
- Recruitment policy
- Procurement policy and incentives to combat modern slavery
- Employee code of conduct
- Policies concerning access to remedy, compensation and justice for victims of modern slavery
- Policies that relate to staff training and increasing awareness of modern slavery

Over time, consistent training for all staff, with increasingly clear policies and approaches (backed by past industry case studies or what has worked previously), should help to ensure that modern slavery is targeted more effectively and persistently, regardless of staff turnover or changes in the supply chain.

Some policies and practices may be specific to an organisation's business model or the sector they are working in. For example, some sectors may make particularly frequent use of temporary workers sourced through an intermediary or employment agency. In this situation, they will not have a direct employment relationship with some of their workers, and so they may have specific policies in place to ensure that these particular relationships are managed in a way that mitigates any potential risk of modern slavery.

For example, organisations may have specific policies that require the business to only use specified reputable employment agencies to source labour or that they always seek specific information from the agency before accepting employees from that agency. It is important to note that the Modern Slavery Act requirements do not require any organisation to amend existing policies or to introduce new policies. If the organisation has any relevant policies they can be either referenced in the statement or copied directly into the statement itself.

Good practice

Examine internal business procedures to avoid making demands of suppliers or subcontractors that might lead them to violate human rights, including children's rights. These types of demands include insufficient or late payments, and late orders or high-pressure deadlines resulting from poor demand forecasting.

Ensure that zero tolerance for modern slavery and respect for human rights, including children's rights, are built into contracts and represented in dialogue, self-assessment, audits, training and capacity-building opportunities for suppliers, subcontractors, customers, and other business partners.

In some cases it may be beneficial to foster long-term relationships with suppliers, contractors and subcontractors.

Case Study

A prominent retailer's Ethical Trading Policy includes a detailed Ethical Trading Code of Conduct that contains, amongst other requirements, conditions whereby factories producing their goods must ensure: employment is freely chosen, child labour shall not be used, and no harsh or inhumane treatment will occur. The Ethical Trading Policy also includes a Foreign Contract Worker Policy, specifically intended to protect workers who may be potentially vulnerable to the exploitation regrettably existent in certain flows of international contract labour. This Policy refers to international human rights norms and, in particular, factories are required to ensure all workers retain passports, ID Cards, bankcards and similar documents to facilitate their unhindered freedom of movement.

For all factories in all regions involved in the manufacture of products for or on behalf of the retailer, compliance with the Ethical Trading Policy, including the Ethical Trading Code of Conduct and the Foreign Contract Worker Policy, as well as all other local laws and relevant international standards, is a requirement of doing business with the retailer. Before the retailer places an order for production in a finished goods factory a social compliance audit (often unannounced) is carried out to assess the factory's compliance with the above Policies. It is only once the Ethical Trading Team is satisfied that the factory is committed to these standards for worker rights, that the factory can be approved.

To drive compliance further, a diverse programme of announced and unannounced follow-up audits, continuous improvement programmes, training programmes, and a confidential worker hotline services (in place especially in countries where there is high percentage of migrant workers) is overseen by the Ethical Trading team in respect of all factories involved in the production of the retailer's goods.

For suppliers that produce component parts of the goods such as fabric mills, dye houses, sundries and packaging factories, the retailer has commenced a programme of social and environmental audits, through an industry collaboration working group, where independent third parties are accredited to perform such audits. All audits (whether initial approval audits or on-going compliance audits) are conducted either by externally trained internal team members or by third party independent auditors, including NGO auditors. An integral part of the auditing process includes confidential interviewing of workers (in a manner protecting worker safety), which helps to understand any potential risks of bonded labour or other forced labour or slavery. By empowering workers and providing mechanisms for them to whistle blow through independent NGO worker hotlines, workers are able to contribute to the dialogue about the risks they face, communicate their priorities, and learn about their rights.

Due Diligence

The Modern Slavery Act also states that in producing a slavery and human trafficking statement a business may consider including information about its due diligence processes.

Many human rights breaches, including modern slavery, are not immediately apparent. In fact, some suppliers may even go to great lengths to hide the fact that they are using slave labour.

For example, some or all of their workers may be in forced or bonded labour (including coaching and pressuring workers to lie to auditors about their conditions being better than they are, and presenting fake records).



Human rights due diligence is also a key concept in the UN Guiding Principles on Business and Human Rights (UNGPs) The UNGPs specify that due diligence processes should ‘include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.’²

For more detailed guidance on good practice with regards to due diligence organisations should refer directly to the UNGPs which are available online:

http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

The UNGPs have also been incorporated into the OECD Guidelines for Multinational Enterprises and the OECD is developing sector-based guidance as part of its “proactive agenda” to help businesses identify and respond to risks associated with particular products, regions, sectors or industries. For more information see <http://mneguidelines.oecd.org/>.

Human rights due diligence is related to corporate good governance. For many businesses due diligence, in relation to modern slavery, is likely to form part of a wider framework around ethical trade, corporate social responsibility and human rights and should form part of a wider human rights due diligence process where possible.

Human rights due diligence also requires consultation with stakeholders that are potentially or actually affected by a company’s operations and supply chain, particularly vulnerable groups, such as children. This means bringing the voices of those vulnerable groups into this process so that a company can understand how the organisation affects their lives.

Due diligence procedures should be:

- proportionate to the identified modern slavery risk,
- the severity of the risk, and
- level of influence a business may have.
- informed by any broader risk assessments that have been conducted (see Risk Assessment section below).

Procedures may vary depending on the complexity of the relationships within an organisation and in their supply chains. For example:

1. A business may have greater knowledge about their first-tier suppliers, and its stakeholders may expect it to make greater efforts at its first tier. However, they should also engage their lower tier suppliers where possible.

² UNGPs, p.17 [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf]

2. Due-diligence includes on-going assessment of modern-slavery risks, and meeting changing expectations on industries to use their influence to encourage change where conditions of slavery may be persistent.
3. Due-diligence includes the expectation that businesses will ensure integrity of their investigations. Some suppliers may go to great lengths to hide the fact that they are in some way involved in using forced labour. Audits and compliance-driven approaches are unlikely to identify or uncover hidden cases of slavery or trafficking. As such it is advisable that businesses seek to investigate working conditions with support from expert independent, third parties and civil society stakeholders, and hear from workers themselves about their working conditions.

Case Study

With the increased interest in retailer supply chains and the new Modern Slavery Act, one high street retailer took the decision to make their Social, Ethical & Environmental audit more robust. With advice from a third party who were administering their supplier assessment programme the retailer amended some of the existing questions in their audit questionnaire and added others. They have just completed testing of the new questionnaire and auditors have given very positive feedback, agreeing that it is a more robust audit.

Factories have been encouraged to improve accommodation where failings have been found, and issues with health & safety have been addressed. Instances have been found where conditions of employment have been unacceptable and factories have been asked to make changes and introduce better systems. Where factories have been unwilling or unable to make improvements they have been exited from the business. The main aim is to encourage continuous improvement in factories rather than simply 'failing' them and walking away. The retailer will be fully implementing the new questionnaire across all the sites for use shortly.

Due diligence in assessing modern slavery or human rights risk in operations or supply chains is not a legal requirement of the transparency provisions, however, it is good business practice and risk management and will enable both more effective reporting and, more importantly, more effective action to address modern slavery. A business already undertaking relevant due diligence to ensure that the products they purchase are of good sustainable quality and ethically sourced will be able to point to the work already underway in their slavery and human trafficking statement.

Information to consider as part of due diligence could include:

- Actions taken to understand the businesses operating context
- Details of risk management processes, including monitoring and evaluation measures
- Impact assessments undertaken
- Action plans to address and risk/actual instances of modern slavery and how actions have been prioritised
- Evidence of stakeholder engagement
- Business-level grievance mechanisms in place to address modern slavery
- Actions taken to embed respect for human rights and zero tolerance of modern slavery throughout the organisation

Assessing and Managing Risk

If an organisation has properly assessed the nature and extent of its exposure to the risk of modern slavery, it will be more able to take targeted action to find it, to remedy it, and to prevent it occurring in the future.

Modern slavery risk assessments should be seen as part of an organisation's wider approach to risk management and could form part of more general risk assessments that are carried out for a variety of reasons.

It is important for businesses to adopt risk assessment policies and procedures that are proportionate to the organisation's size, structure, location of activities and supply chain(s), and nature of business(es).

Businesses firstly need to research and identify risks where they have operations or supply chain(s) and then prioritise those risks. Oversight of risk assessment or risk management frameworks is, in best practise, led by Directors or Partners so that issues found can be dealt with at the appropriate level.



Appropriate resources are needed to ensure that risk assessment strategies can be effective. This means that the assessments should be able to identify the risks and issues, properly assess their level of importance, and ensure that appropriate remedies are in place.

Identifying relevant information from internal and external sources will help businesses to undertake effective risk assessments and appropriate review of those risks. Particular business risks to consider in assessing and managing risks to workers include:

Country risks – exposure may be greater in global supply chains in countries where protection against breaches of human rights are limited, particularly with regard to rights of foreign contract workers to retain their own ID and papers, and/or where work arrangement by agents is common, etc.

Sector risks – there are different risks and levels of risk in different sectors. For example, the risks and arrangements which generate bonded labour situations for workers in the extractives sector may differ to those causes in manufacturing.

Transaction risks – banks or financial institutions may be involved in facilitating financing from or supporting cases of modern slavery and bonded labour in operations or supply chains or through money laundering.

Business partnership risks – Different supplier relationships and business partnerships will all carry different levels of risks. In some cases, existing long-term partnerships will involve less risk because the organisation will have a better knowledge of their partner's operations and policies. However, a new partnership or business relationship may be equally low risk as long as proper due diligence is conducted.

Organisations should then decide how identified risks can be investigated, and where issues are found, how they can best be remediated or mitigated through activities such as industry collaboration or improved purchasing practises internally. Training the Board, organisation's leadership, and employees to develop the skills and knowledge to understand and support risk prevention and remediation can greatly assist.

To ensure effectiveness, it is best practise to foster a culture that rewards the identification of risks and the effective mitigation and remedy of cases found. To be effective this should be part of a clear organisational

ethos and performance management system which is promoted by senior management and company policy.

Businesses must be alive to the continuously changing nature of modern slavery. Whilst industry, NGOs, law enforcement and government may alone or together stop exploitation or workers in one area, without robust monitoring, communications, and incentives it can potentially arise in another part of operations or the supply chain, so constantly assessing and reviewing these risks is important.

Sharing risks with trusted partners such as representative bodies, industry associations and working groups to deepen understanding of macro issues and supporting improved government legislation where appropriate may also help sectors as a whole to prevent modern slavery, where it is possible to share this kind of information.

Case Study

Following negative media reports into the Thai fishing industry, in 2014, there was significant interest from the seafood industry and other stakeholders to collaborate on a way forward and so a number of stakeholders formed the Seafood Ethics Common Language Group.

The Seafood Ethics CLG is an example model of an integrated, interdisciplinary and collaborative approach to address ethical and social issues relating to responsible seafood production. The group convenes seafood stakeholders including major supermarket chains, smaller retailers, processors and suppliers throughout the whole supply chain, with government, NGOs, development organisations and charities in a 'safe' environment. The aim is to reach mutual consensus on issues which impact on the responsible sourcing of seafood – to facilitate a coherent and credible sector-wide response.



Performance Indicators

Performance indicators are important in driving the performance of a business and shaping the way it operates. They can also affect how exposed the business is to the risk of modern slavery.

The direction and focus of particular performance incentives (such as that Sourcing Directors should buy the lowest cost products, that can be shipped in the fastest time) may influence and create a modern slavery risk if not managed carefully. This should be considered when improving internal management performance indicators and should be linked to the organisation's risk assessment.

Focusing on KPIs to increase production or shipment "turn-around" time speed, for example, may unintentionally increase pressure on those who are producing the goods on production lines. This could create environments where modern slavery (particularly in the shape of bonded labour) may become a way a supplier or production site tries to deal with unrealistic short time pressure and related expectations on their operations or supplying partnership.

KPIs could be used in a modern slavery statement in two ways. Firstly, businesses could choose to provide information on their existing KPIs and set out whether they have considered whether they make their business and supply chain vulnerable to modern slavery.

Secondly, this section of the statement could outline any additional KPIs which the company has introduced to measure the performance of any anti-slavery actions undertaken. If an initial risk assessment highlighted issues in a company's operations or supply chain, a KPI could be introduced to measure progress against reducing that risk, i.e. improving conditions for those people.

For example, a business could set targets for:

- training and capacity building of staff about modern slavery issues, measuring changes in awareness of risk; appropriate decision-making and swift action, as appropriate.;
- grievance procedures and whistle-blowing procedures for workers and employees if cases are suspected or found;
- visibility, leverage and oversight of suppliers in relevant goods and services supply chains

Whilst there is no requirement to introduce new KPIs, those companies that do will choose their own based on what is most effective and efficient for them.

Carefully designed KPIs could help a business to demonstrate as clearly as possible if they are making progress over time in preventing modern slavery in their business or supply chains.

Case Study

A sportswear manufacturer has taken a range of actions in relation to its supply chain which could be included in a slavery and human trafficking statement:

Supply chain verification – The company's policy is to evaluate potential contracted factories before they enter the supply chain to assess compliance with standards including country-related risk for issues including force labour, human trafficking and slavery. They use both internal and external third-party audits.

Direct suppliers' certification of materials – The company is working on mapping and understanding impacts further up the supply chain, to develop standards for upstream suppliers of contracted manufacturers.

Standards for compliance - If a contracted factory is found to violate laws or the manufacturer's standards, it is responsible for improving performance against a master action plan. If the factory fails to make progress against that plan, they are subject to review and sanctions, including potential termination.

Training

Training is a fundamental way of raising awareness and ensuring that people understand the importance of a particular issue. It also helps people to understand what they need to do, and how to work together internally or externally if they encounter something that raises concerns. Training may be targeted at different groups of employees within a business, including leadership, or at different businesses within a supply chain, and the training itself could take a range of different forms. It may range from detailed training courses to broader awareness-raising programmes.

Training and development provide both the company as a whole and the individual employees with benefits that can make the cost and time a worthwhile investment. Such expense can be minimised where relevant training is undertaken alongside wider training, on similar issues. For modern slavery, this could be a module in a wider training programme for supply chain managers or for human resources managers dealing with recruitment and ongoing training. This may reference how all parts of the business influence purchasing practices which influence company or supply chain conditions, i.e. by merchandising and others demanding new products at unrealistically low prices (not taking into account proper wage rates) or shipped too fast.

Human rights can only be realised through an informed and continued demand by people for their protection. Human rights education promotes values, beliefs and attitudes that encourage all individuals to uphold their own rights and those of others, and can support employee pride in the ethical standards their employer strives for. It develops an understanding of everyone's common responsibility to make human rights a reality in each community.

Organisations should think about where training should be targeted to have the most effect. If those employees who might encounter victims directly are more aware of the indicators of modern slavery and of how to report suspected cases, and what actions they can expect the company to take, then they can raise flags, and help to root it out in a particular business or supply chain. Similarly, if a supply chain manager, procurement or product quality professional is trained and incentivised then they may be able to do a lot to prevent new modern slavery occurring in the supply chains they manage, and to assist its remediation for victims where it does exist. However, the training needs of these groups is likely to be very different so businesses will need to determine the most effective and efficient way to reach the most relevant groups in their business and supply chains.

Annex F

UK Modern Slavery Adult Victim support providers

England and Wales

The Salvation Army 0300 303 8151

Scotland

Trafficking Awareness Raising Alliance (TARA) 0141 276 7724

Migrant Helpline 07837 937737 or 07789 791 110

Northern Ireland

Migrant Help 013 0420 3977 or 07766 668 781 (for male potential victims of human trafficking)

Women's Aid 028 9024 9041 (for female potential victims of human trafficking)

Modern Slavery Helpline

The NGO Unseen operates a UK-wide 24/7 Modern Slavery Helpline that victims, employers and members of the public who may encounter modern slavery can call for expert support and advice on 08000 121 700.

Case Study

stronger together

tackling modern slavery in supply chains

Launched in October 2013, Stronger Together is a business led multi-stakeholder collaborative initiative to equip employers and recruiters with the practical knowledge and resources to tackle modern slavery in their business and supply chains.

Stronger together run two core workshops on 'Tackling Modern Slavery in UK Businesses' and 'Tackling Modern Slavery in Global Supply Chains' which are supplemented by a range of [online e-learning](#) training modules for UK and global businesses. Since its launch:

- Free good practice toolkits and resources for business have been downloaded from www.stronger2gether.org by over 6000 industry representatives.
- Almost 3000 individuals from 1500 organisations have attended workshops and are taking the tackling slavery message back to around 800,000 workers.
- In a 2017 impact assessment: 96% of business respondents said that Stronger Together had increased their understanding of what modern slavery is; 87% that it has helped them to prepare how to manage potential situations of forced labour and 72% said that through engagement with Stronger Together, their senior management had made a commitment to tackle modern slavery in their business and supply chain.
- In partnership with the Chartered Institute of Building (CIOB) and international construction companies, a new [construction industry programme](#) was launched in 2017.
- In 2017, funded by the UK Home Office Modern Slavery Innovation Fund, in partnership with the Wine and Agricultural Ethical Trading Association (WIETA), a Stronger Together programme commenced to support businesses to tackle forced labour in the wine and fruit growing industries in South Africa.

Stronger Together continues to develop its support for UK businesses, to deliver bespoke training solutions for international household brands and to expand globally by working collaboratively with local partners to introduce the programme into other countries and sectors.



Annex G

Useful Information and Resources

UK Government Modern Slavery Webpage
www.gov.uk/government/collections/modern-slavery

Modern Slavery Act 2015
www.legislation.gov.uk/ukpga/2015/30/contents/enacted

The Modern Slavery Act 2015 (Transparency in Supply Chains) Regulations 2015
www.legislation.gov.uk/ukdsi/2015/9780111138847

Transparency in Supply Chains Consultation Document and Government Response
www.gov.uk/government/consultations/modern-slavery-and-supply-chains

Anti-Slavery Commissioner
www.antislaverycommissioner.co.uk/

Alliance 8.7
www.alliance87.org/

International Guidelines and Conventions

UN Guiding Principles on Business and Human Rights (UNGPs)
www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

UN Guiding Principles Reporting Framework
www.ungpreporting.org/

Good Business: Implementing the UN Guiding Principles on Business and Human Rights (September 2013) and update (May 2016)
www.gov.uk/government/publications/bhr-action-plan

Shift, Mapping the Provisions of the Modern Slavery Act against the Expectations of the UN Guiding Principles on Business and Human Rights
www.shiftproject.org/resources/publications/mapping-modern-slavery-act-un-guiding-principles/

OECD, Guidelines for Multinational Enterprises
<http://mneguidelines.oecd.org/guidelines/>

UN Global Compact
www.unglobalcompact.org/

ILO Resources on Forced Labour, Human Trafficking and Slavery
www.ilo.org/global/topics/forced-labour/lang--en/index.htm

ILO Resources on Child Labour

www.ilo.org/global/topics/child-labour/lang--en/index.htm

The United Nations Convention on the Rights of the Child (UNCRC)

www.ohchr.org/en/professionalinterest/pages/crc.aspx

UNICEF, The UN Global Compact and Save the Children, Children's Rights and Business Principles

www.unicef.org/csr/12.htm

Tools, Guidance and Resources

Walk Free Global Slavery Index

www.globalslaveryindex.org/

U.S. Department of Labor: List of Goods Produced by Child Labor or Forced Labor

www.dol.gov/ilab/reports/child-labor/list-of-goods/

CORE Coalition, Practical Guides

<http://corporate-responsibility.org/publications/practical-guides/>

ETI Base Code Guidance: Modern Slavery

www.ethicaltrade.org/resources/base-code-guidance-modern-slavery

ETI Base Code Guidance: Child Labour

www.ethicaltrade.org/resources/base-code-guidance-child-labour

ETI Human Rights Due Diligence Framework

www.ethicaltrade.org/resources/human-rights-due-diligence-framework

Verité eLearning on Supply Chain Accountability

www.verite.org/research/elearning

Labour Exploitation Accountability Hub

<http://accountabilityhub.org/>

Ergon Associates, Modern Slavery Statements – One Year On

<http://ergonassociates.net/publication/modern-slavery-statements-what-are-companies-reporting/>

ETI and Hult International Business School, Corporate Leadership on Modern Slavery

www.ashridge.org.uk/faculty-research/research/current-research/research-projects/corporate-leadership-on-modern-slavery/

Stronger Together

<http://stronger2gether.org/>

International Tourism Partnership

<http://tourismpartnership.org/human-rights/>

Repositories of Slavery and Human Trafficking Statements

Modern Slavery Registry

<https://www.modernslaveryregistry.org/>

TISC Report

<https://tiscreport.org/>

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Amnesty International

Anti-Slavery International

Association of British Travel Agents

British Hospitality Association

British Retail Consortium

Burberry

Business in the Community

CAFOD

Children's Society

Confederation of British Industry

CORE coalition

ECPAT UK

Engineering Employers' Federation

Ethical Trading Initiative

Food and Drink Federation

FLEX

International Chamber of Commerce

International Tourism Partnership

KPMG

PWC

Rathbone Greenbank Investments

Shift Project

Stop the Traffik

Stronger Together / Alliance HR

The Society of Motor Manufacturers and Traders Limited

Unseen

Waitrose

Wilko