



Briefing for Westminster Hall Debate on the independent review of the Modern Slavery Act, 19 June 2019

Improving the effectiveness of the supply chain reporting requirement in UK Modern Slavery Act 2015 and moving towards mandatory human rights due diligence

About us

CORE is the UK civil society coalition on corporate accountability. Many of our partner organisations supported, and advocated for, the introduction of section 54 (Transparency in Supply Chains, or “TISC”) Clause of the Modern Slavery Act (hereafter, “the Act”). We have published guidance for business on complying with the Act¹ and research and analysis of company reporting.² Some of us are members of the steering committee of the Modern Slavery Registry, which tracks business compliance with the Act.³ We previously submitted evidence to the Public Accounts Committee inquiry into the implementation of the Act and to the independent review of the Act (hereafter, “the review”).⁴

Summary and recommendations

While the Act was ground-breaking when it was introduced, research by civil society and reports by Parliamentary committees have exposed flaws in the legislation and its implementation.⁵ Low levels of compliance and poor-quality reporting in companies’ modern slavery and trafficking statements have been well documented. The recommendations contained in the review provide an important opportunity to improve the implementation of the TISC clause.⁶

We recommend that the Government

- **Take immediate steps to strengthen the regulation; specifically, by mandating companies to report on the six areas currently suggested in the Act, introducing meaningful sanctions for failure to report and extending the reporting requirement to the public sector.**
- **Implement a more comprehensive policy approach to tackling modern slavery in supply chains, including improved labour market inspection and enforcement.**
- **Begin the process of introducing mandatory human rights due diligence, in order for the UK to remain a leader on ensuring responsible business conduct.**

The independent review: recommendations on TISC

The review notes serious limitations in the implementation of the TISC clause. The legislation is “light on detail” on reporting, an estimated 40 per cent of eligible companies are not complying with the legislation at all, and there are no penalties for non-compliance. It proposes “putting teeth into this part of the Act” through a series of recommendations to improve the Act’s effectiveness. We highlight three areas that should be taken forward as a priority.

1. Mandating reporting on all six areas currently suggested in the Act

Our view is that the Act should be revised to make reporting on the six areas mandatory, as per recommendation 2.b of the review. These areas are: a company’s structures and supply chains, policies, due diligence processes, risk assessment and management, effective action taken and training, with regard to addressing modern slavery. Companies should not be permitted to report they have taken no steps to address modern slavery in their supply chains. As per recommendations 2.d and 2.f, companies’ statements should report not only how they have carried out due diligence in the previous year but also include tangible commitments for the upcoming year. Companies should be required to report on their

whole supply chains, to prevent them from limiting their responsibilities to the first tier. If they lack visibility, their statement should set out the steps they are taking to map their whole supply chain.

At present, information provided in TISC statements tends to be selective and generalised. Greater detail in the reporting requirement will bring helpful clarity for companies, strengthen the incentive for them to proactively identify and disclose risks, and encourage companies to take a longer-term approach to combatting modern slavery. Making the reporting criteria mandatory would also allow for collaboration among actors to address systemic problems common to multiple supply chains, as well as allow for better measurement of progress and accountability.

2. Introducing meaningful sanctions for failure to report

We are of the view that four years on from the introduction of the legislation, a more proactive approach must be taken to enforcing s.54. As per recommendation 2.b) of the review, Government should take steps to strengthen the approach to non-compliance by introducing appropriate and meaningful sanctions that include and go beyond fines, such as directors' disqualification. Consideration should be given to assigning the enforcement function to an existing independent regulator.

The current failure to address companies' non-compliance undermines the effectiveness of the legislation and risks entrenching a two-tier approach to tackling modern slavery. Government should immediately take up its responsibility to enforce the legislation. Robust and holistic monitoring and enforcement mechanisms are essential if other changes to the TISC clause – for instance, the recent welcome announcement by the Prime Minister of an online registry of modern slavery statements – are to be effective.

3. Extending the requirement to publish a statement to the public sector

We welcome the Prime Minister's recent announcement of the extension of the Act to cover the public sector. We recommend that the reporting requirement should cover all Government departments and public bodies, including local authorities with an annual budget exceeding a certain threshold. Consideration should be given to the appropriate level of this threshold. Companies in scope of s.54 who fail to comply with the reporting requirement should not be eligible for public contracts, as proposed in recommendation 6.b of the review.

We further urge that guidance should be provided to public procurement professionals, to enable them to take into account the quality of a company's statement when making decisions about awarding of contracts. This would help to improve the quality of statements as well as corporate compliance.

Public sector bodies are responsible for spending billions of pounds of taxpayer money and face the same modern slavery risks as the private sector, as well as having significant leverage to address the risks of modern slavery in corporate supply chains. Implementing these recommendations would ensure the public procurement process is used more holistically to combat labour rights abuses.

Ensuring policy coherence

A comprehensive policy approach is required to tackle the root causes of egregious human rights abuses in corporate operations and supply chains. Labour market inspection and enforcement should be properly resourced through the Labour Market Enforcement Agency (LMEA). The LMEA, Home Office and other Government departments should work cohesively to combat modern slavery.⁷

Moving from transparency to HRDD legislation

While the changes outlined above will help to reduce the number of companies that fail to report and have the potential to improve company disclosures, a more ambitious approach is required to drive effective action on modern slavery and other serious human rights abuses. The TISC clause was undoubtedly a world-leading measure to tackle modern slavery when the legislation was introduced. However, the

reporting model is inherently limited, since it does not require businesses to take effective action to prevent and rectify risks and impacts. Moreover, other countries have now gone further than the UK.

To remain in the top-tier, the UK Government must now look beyond reporting and introduce an additional legal requirement for companies to carry out human rights due diligence (HRDD)⁸ in their global operations, activities, products, services, investments and supply chains. This would ensure companies identify, prevent, mitigate and account for the negative impacts of their activities on people and the environment. Such a requirement should go beyond modern slavery to cover risks of all corporate human rights abuses across all industries and sectors. It should be enforceable and have meaningful sanctions attached.

Laws on mandatory HRDD are already in place, or under consideration, in several other European countries, including France, the Netherlands and Switzerland.⁹ The EU Commission is currently looking at options for regulatory intervention at the EU level. Businesses and investors have expressed support for HRDD legislation.¹⁰ By moving ahead with legislation on HRDD, the UK can retain its leadership in promoting responsible business conduct.

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¹ CORE Coalition, Anti-Slavery International, UNICEF and Business & Human Rights Resource Centre (BHHRC) (2017) *Beyond Compliance: Effective Reporting Under the Modern Slavery Act* http://corporate-responsibility.org/wp-content/uploads/2016/03/CSO_TISC_guidance_final_digitalversion_16.03.16.pdf

² See, for instance, CORE Coalition (2017) *Risk averse? Company reporting on raw material and sector-specific risks under the Transparency in Supply Chains clause in the UK Modern Slavery Act 2015* http://corporate-responsibility.org/wp-content/uploads/2017/10/171003_Risk-Averse-FINAL-1.pdf; Business and Human Rights Resource Centre (2018) *FTSE 100 & the UK Modern Slavery Act: From Disclosure to Action* <https://www.business-humanrights.org/sites/default/files/FTSE%20100%20Briefing%202018.pdf>; FLEX (2019) *Full Disclosure: Towards Better Modern Slavery Reporting* <https://www.labourexploitation.org/publications/full-disclosure-towards-better-modern-slavery-reporting>

³ Business and Human Rights Resource Centre (2018) *Modern Slavery Registry* <https://www.modernslaveryregistry.org/>

⁴ Amnesty International UK, Anti-Slavery International, Business and Human Rights Resource Centre, CORE Coalition, Fairtrade Foundation, Freedom United and ShareAction (2018) *Joint response to the Modern Slavery Act Independent Review* https://corporate-responsibility.org/wp-content/uploads/2018/10/181025_Joint-MSA-Indep-Review-submission_FINAL.pdf

⁵ National Audit Office (2018) *Reducing Modern Slavery* <https://www.nao.org.uk/report/reducing-modern-slavery/> and House of Commons Committee of Public Accounts (2018), *Reducing Modern Slavery* <https://publications.parliament.uk/pa/cm201719/cmselect/cmpubacc/886/886.pdf>

⁶ Independent Review of the Modern Slavery Act 2015, *Final Report* (2019) <https://www.gov.uk/government/publications/independent-review-of-the-modern-slavery-act-final-report>

⁷ For further information please see: FLEX (2018) *Seeing through transparency: making corporate accountability work for workers* <https://www.labourexploitation.org/publications/seeing-through-transparency-making-corporate-accountability-work-workers> and FLEX (2017) *Risky Business: Tackling Exploitation in the UK Labour Market* <https://www.labourexploitation.org/publications/risky-business-tackling-exploitation-uk-labour-market>

⁸ UN (2011) *Guiding Principles on Business and Human Rights* https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr_en.pdf

⁹ ECCJ (2019) *Evidence for mandatory HRDD legislation* <http://corporatejustice.org/eccj-publications/15144-evidence-for-mandatory-hrdd-legislation-updated-may-2019>

¹⁰ Business and Human Rights Resource Centre (2019) *List of large business associations that support human rights due diligence* <https://www.business-humanrights.org/en/list-of-large-businesses-associations-that-support-human-rights-due-diligence-regulation>