

UPDATED MODERN SLAVERY ACT STATEMENT GUIDANCE

What has changed?

In early October 2017, the Government updated its practical guide to publishing a supply chain transparency statement as required by the Modern Slavery Act 2015. What has changed?

A new foreword, written by the current Home Secretary Amber Rudd, explains that the updated guidance intends to build on experience since 2015, and to include more explanation of what best practice looks like. The changes are as follows:

- ▶ **Smaller organisations:** a new section explains that smaller businesses may choose to publish a statement voluntarily, particularly if they bid for contracts to supply larger businesses who are above the threshold.
- ▶ **Six areas for comment:** the Act sets out a list of six issues on which business "may" wish to comment. The updated guidance removes comments that these are "not compulsory", instead advising businesses to "paint a detailed picture of all the steps taken". As a reminder, those six areas are: (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; and (f)the training about slavery and human trafficking available to its staff.
- ▶ **Clarity on director sign-off:** the guidance has been expanded to say that it is best practice for the director who signs the statement to also sit on the board that approved the statement. Further, it is best practice for the date of board approval to appear in the statement.
- ▶ **Publication every year:** the guidance clarifies the legal position, that an in-scope company is under a legal obligation to publish a statement every year.
- ▶ **Historic statements:** the guidance now suggests that businesses should keep historic statements from previous years online, in order for the public to better monitor the progress made by a business over time.
- ▶ **Businesses with a fluctuating turnover:** businesses whose turnover has fallen below £36m are now encouraged to continue to publish a statement even where they are no longer legally obliged to, with the aim of demonstrating transparency.
- ▶ **Definition of Child Labour:** the glossary of definitions in Annex A now includes information on how "child labour" is defined according to international standards.
- ▶ **Other available resources:** the guidance now includes updated information on Stronger Together as well as sources of further information.

AG comment: Companies are likely to welcome the clarification that the director who signs the statement should sit on the board that approved the statement. However, questions are likely to remain on issues such as which group companies should publish a statement, and how those statements should be properly approved and signed. Making historic statements available online will clearly promote transparency, although this may prove unpopular amongst businesses. It will be interesting to see how many choose to adopt this.

The Government could have gone further, and addressed more strongly some of the worst practice identified by some of the commentators in this area. It is becoming increasingly clear that there is an enormous difference between the very best statements and the very worst. The very best statements (Marks and Spencer is an excellent example) are successful on several levels; on the one hand, they are written in a way which complies with the letter and the spirit of the law. As well as addressing all six areas for comment, they seek to be clear and detailed (for example, by including precise information on numbers and locations). Perhaps more importantly, the best statements demonstrate that the business in question has genuinely attempted to identify the risks of slavery in its supply chain and is making changes to the way it operates to address those risks. The best performing businesses put values (including supply chain vigilance) at the heart of their operations.

Who to contact

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