



# Modern Slavery Bill: Strengthening Transparency in Supply Chains (TISC)

The forthcoming Modern Slavery Bill, announced in the 2022 Queen's Speech, presents a significant opportunity for the UK Government to implement its outstanding commitments in relation to strengthening Transparency in Supply Chains (TISC) provisions; commitments it has made in response to recent governmental and parliamentary inquiries. These key outstanding commitments include:

- **Extending Section 54 of the Modern Slavery Act 2015 to the public sector**
- **Removing Section 54(4)(b) of the Modern Slavery Act 2015, which allows organisations to report that they have taken 'no steps' to tackle modern slavery in their supply chains**
- **Mandating the areas that TISC statements should cover**
- **Establishing a single enforcement body with the powers to impose financial penalties against non-compliant organisations**
- **Introducing civil penalties for organisations which fail to meet their statutory obligations under Section 54**
- **Introducing a single reporting deadline for TISC statements**

In May 2022, the UK Government announced its intention to introduce a Modern Slavery Bill. The main purpose of the Bill, as stipulated in the background briefing notes to the Queen's Speech<sup>i</sup>, is to '*Strengthen the protection and support for victims of human trafficking and modern slavery and increase the accountability of companies and other organisations to drive out modern slavery from their supply chains*'. The main elements of the Bill, in relation to strengthening Transparency in Supply Chains (TISC) provisions, were noted to be:

- Strengthening the requirements on businesses with a turnover of £36 million or more to publish an annual modern slavery statement to set out steps taken to prevent modern slavery in their operations and supply chains
- Mandating the reporting areas to be covered in modern slavery statements
- Requiring organisations to publish their statements on a government-run registry
- Extending these requirements to public bodies
- Introducing civil penalties for organisations that do not comply with the requirements

This forthcoming Modern Slavery Bill presents an opportunity to implement outstanding government commitments in relation to strengthening TISC provisions; commitments the UK Government made in response to the 2018 Independent Review of the Modern Slavery Act<sup>ii</sup>, the 2019 Transparency in supply chains (TISC) consultation<sup>iii</sup> and the 2021 Department for Business, Energy and Industrial Strategy's (BEIS) consultation on 'Establishing a new single enforcement body for employment rights'.<sup>iv</sup>

This briefing details these outstanding commitments, outlines the progress with their implementation to date, and identifies the opportunities presented by the Modern Slavery Bill.



	Recommendation	UK Government response to recommendation	Progress to date in implementing recommendation
1	<p><b>Section 54 should be extended to the public sector.</b> Government departments should publish a statement at the end of the financial year, approved by the Department's board and signed by the Permanent Secretary as Accounting Officer. Local government, agencies and other public authorities should publish a statement if their annual budget exceeds £36 million.</p> <p>- See Recommendation 32, <i>Independent Review of the Modern Slavery Act</i></p>	<p>'We will extend section 54 'Transparency in Supply Chains' of the Modern Slavery Act 2015 to public bodies with a budget threshold of £36 million or more.'</p> <p>- See p.41, <a href="#">Government response to the TISC Consultation</a>'</p>	<p>In 2020, the UK Government published its first modern slavery statement.<sup>vi</sup> From September 2021, individual ministerial government departments have published their own annual statements.<sup>vii</sup></p> <p>Progressive legislative measures to tackle modern slavery in public sector supply chains have been included in the Health and Care Act 2022.<sup>viii</sup> Section 81 of the Act, on '<i>Eradicating slavery and human trafficking in supply chains</i>', states that the Secretary of State must introduce regulations to eradicate goods and services used by the health service in England that are tainted by modern slavery.</p> <p>Baroness Stroud introduced a probing amendment<sup>ix</sup> to the Procurement Bill in July 2022, reflecting the language found in Clause 81 of the Health and Care Act. This amendment, if included in the Procurement Bill would require all public bodies to take steps to eradicate modern slavery in their supply chains.</p>
2	<p><b>In section 54(5) [of the Modern Slavery Act] 'may' should be changed to 'must' or 'shall', with the effect that the six areas set out as areas that an organisation's statement may cover will become mandatory.</b> If a company determines that one of the headings is not applicable to their business, it should be required to explain why.</p> <p>- See Recommendation 18, <i>Independent Review of the Modern Slavery Act</i></p>	<p>'We will mandate the areas that modern slavery statements shall cover. If organisations have taken no steps within an area, they must state this clearly. If they wish, they may provide a reason why. These areas will encompass the areas proposed in the consultation.'</p> <p>- See p.40, <a href="#">Government response to the TISC Consultation</a></p>	<p>In the background briefing to the Queen's Speech the government has noted its positive intention to 'mandate the reporting areas to be covered in modern slavery statements'.</p> <p>However, Section 54(4)(b) of the Modern Slavery Act still allows for organisations to publish a statement which merely reports that the company 'has taken no such steps' to ensure that no slavery and human trafficking is taking place in its supply chains.</p> <p>In addition to mandating the areas that statements must cover, in order for this measure to be effective, Section 54(4)(b) must also be removed from the Modern Slavery Act 2015.</p>
3	<p>Government should bring forward proposals to <b>set up or assign an enforcement body to impose sanctions on non-compliant companies.</b> Fines levied</p>	<p>'The government will create a new single enforcement body as set out in the 2019 Manifesto... the single enforcement body will have powers to impose financial penalties against non-compliant</p>	<p>As noted in the government's response to the BEIS consultation, a 'single enforcement body is a real opportunity to review and strengthen the impact of our approach to compliance and enforcement of employment rights' and 'protect vulnerable workers'.</p>



	<p>for non-compliance could be used to fund the enforcement body.</p> <p>- See <i>Recommendation 32, Independent Review of the Modern Slavery Act</i></p>	<p>organisations (under Section 54 of the Modern Slavery Act)</p> <p>- See the <a href="#">Government response to BEIS consultation on 'Establishing a new single enforcement body'</a>, p.10</p>	<p>No mention has yet been made of establishing a Single Enforcement Body through the Modern Slavery Bill, albeit that the Bill presents an ideal opportunity for this commitment to be met.</p>
4	<p><b>Government should make the necessary legislative provisions to strengthen its approach to tackling non-compliance [with section 54 of the Act],</b> adopting a gradual approach: initial warnings, fines (as a percentage of turnover), court summons and directors' disqualification. Sanctions should be introduced gradually over the next few years so as to give companies time to adapt to changes in the legislative requirements.</p> <p>See <i>Recommendation 30, Independent Review of the Modern Slavery Act</i></p>	<p>'The Home Office is already working to tackle non-compliance...[including by] 'carrying out an audit of compliance; further to this audit, non-compliant organisations risk being publicly named'.</p> <p>- See <a href="#">Government response to the Independent Review of the Modern Slavery Act at p.11</a></p> <p>'The Home Office will introduce financial penalties for organisations which fail to meet their statutory obligations under Section 54 of the Modern Slavery Act 2015. While the Home Office will maintain and monitor the government-run register of modern slavery statements, and use this to identify organisations who have not met the reporting requirements, the single enforcement body will have powers to impose financial penalties against non-compliant organisations.'</p> <p>- See <a href="#">Government response to BEIS consultation on the single enforcement body</a>, p.14</p>	<p>In 2019, the Home Office conducted an audit of modern slavery statements and shared the high-level findings with the Independent Anti-Slavery Commissioner<sup>x</sup>, however did not also publish a list of non-compliant companies. No further audits have been completed since 2019.</p> <p>Statutory guidance<sup>xi</sup> states that 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...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.' (See <a href="#">guidance at para. 2.6</a>). To date, no injunctions have been sought.</p> <p>Whilst the government has noted its intention to introduce civil penalties through the Modern Slavery Bill, there is no mention of introducing a single enforcement body with the powers to impose these civil penalties, which would be necessary for their success.</p>
5	<p>'63% of respondents agreed that a single reporting deadline would clarify the reporting process and 75% of respondents agreed it would make it easier for external parties to monitor whether statements are up to date.'</p> <p>- See <a href="#">Government response to TISC consultation</a>, p.11</p>	<p>'We will introduce a single reporting deadline...We will give organisations six months to prepare their statement on activity undertaken during this period, by setting a single reporting deadline of 30 September.'</p> <p>- See <a href="#">Government response to TISC consultation</a>, p.14</p>	<p>As noted in the government's response to the 2019 TISC consultation, 'Legislative change will be required to mandate that organisations publish their statements according to the new deadline' (p. 40). The Modern Slavery Bill presents an opportunity for such a deadline to be introduced.</p>



In addition to the above, Recommendation 23 of the Independent Review of the Modern Slavery Act stated that **'The Companies Act 2006 should be amended to include a requirement for companies to refer in their annual reports to their modern slavery statement.'** In its response to the Review, the UK Government did not accept this recommendation - *"We do not intend to mandate modern slavery reporting in companies' annual reports... as we have concerns that this might lead to an overly compliance driven approach and encourage statements which are high-level with limited disclosure about instances of or risks of modern slavery identified."* (See paragraph 34).

Whilst the government did not agree with this recommendation, made in 2019, [subsequent research published in 2022](#), to analyse the modern slavery statements and annual reports of 100 major companies, found a concerning disconnection between these two reporting activities - only 14% of annual reports provided a direct link to the corresponding modern slavery statement. The research<sup>xii</sup>, commissioned by the Financial Reporting Council (in collaboration with the UK Independent Anti-Slavery Commissioner, and carried out by Lancaster University), suggests that modern slavery considerations are still not a mainstream concern for many boardrooms nor deemed to be a principle source of risk for many businesses. This lack of appropriate cross-referencing not only reduces visibility and transparency on modern slavery issues but also undermines efforts to address the risks.

## Further reading: Regulatory approaches beyond TISC

The UK Government's approach to tackling modern slavery in supply chains to date has focused on legislative measures to increase transparency in the most profitable companies through disclosure and reporting laws. However, other countries and businesses have adopted different approaches, instead favouring, for instance, mandatory human rights and environmental due diligence (mHREDD) legislation. A selection of recently published reports on these differing various approaches and their effectiveness include:

- [EU law. Global impact. A report considering the potential impact of human rights due diligence laws on labour exploitation and forced labour.](#) Rights Lab & Anti-Slavery International, June 2021.
- ['Supply Chains Transparency and Due Diligence Legislation to Prevent Child and Forced Labour - A Guide for Policy Makers and Legislators'](#), International Centre for Criminal Law Reform and Criminal Justice Policy, January 2022.
- [Modern Slavery in Global Supply Chains: The state of evidence for key government and private approaches.](#) Justice & Care, July 2022.
- [Policy Briefing: Effectiveness of mandatory human rights and environmental due diligence.](#) Modern Slavery & Human Rights Policy & Evidence Centre, May 2022.

<sup>i</sup> Queen's Speech 2022, Background briefing note - <https://www.gov.uk/government/publications/queens-speech-2022-background-briefing-notes>

<sup>ii</sup> Independent Review of the Modern Slavery Act, 2018 - <https://www.gov.uk/government/publications/independent-review-of-the-modern-slavery-act-final-report>

<sup>iii</sup> UK Government, Transparency in Supply Chains consultation - <https://www.gov.uk/government/consultations/transparency-in-supply-chains>

<sup>iv</sup> Department for Business, Energy & Industrial Strategy. Establishing a new single enforcement body for employment rights: Government response, June 2021. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/991751/single-enforcement-body-consultation-govt-response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/991751/single-enforcement-body-consultation-govt-response.pdf) Accessed 24th August 2022.

<sup>v</sup> UK Government response to TISC Consultation, published on 22 September 2020 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/919937/Government\\_response\\_to\\_transparency\\_in\\_supply\\_chains\\_consultation\\_21\\_09\\_20.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/919937/Government_response_to_transparency_in_supply_chains_consultation_21_09_20.pdf) Accessed 24th August 2022

<sup>vi</sup> UK Government Modern Slavery Statement, 2020 [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/875800/UK\\_Government\\_Modern\\_Slavery\\_Statement.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/875800/UK_Government_Modern_Slavery_Statement.pdf)

<sup>vii</sup> For instance, see Foreign, Commonwealth & Development Office modern slavery statement 2020-2021

<https://www.gov.uk/government/publications/fcdo-modern-slavery-statement-2020-to-2021>

<sup>viii</sup> <https://www.legislation.gov.uk/ukpga/2022/31/section/81/enacted>

<sup>ix</sup> [https://hansard.parliament.uk/Lords/2022-07-18/debates/C5E37E28-3D4C-4B62-87DE-F8748B3527C0/ProcurementBill\(HL\)#contribution-51F4EA91-2B93-4A3F-9D57-C5030D163381](https://hansard.parliament.uk/Lords/2022-07-18/debates/C5E37E28-3D4C-4B62-87DE-F8748B3527C0/ProcurementBill(HL)#contribution-51F4EA91-2B93-4A3F-9D57-C5030D163381)

<sup>x</sup> See Independent Anti-Slavery Commissioner's Annual Report 2019-2020, at para. 3.2.5 and Appendix E, at p.71.

<sup>xi</sup> Statutory guidance, Transparency in supply chains: a practical guide, updated 13<sup>th</sup> December 2021

<https://www.gov.uk/government/publications/transparency-in-supply-chains-a-practical-guide/transparency-in-supply-chains-a-practical-guide> Accessed 24th August 2022.

<sup>xii</sup> Financial Reporting Council, Modern Slavery Reporting practices in the UK: Evidence from Modern Slavery and Annual Reports, April 2022 <https://www.frc.org.uk/getattachment/77c053d9-fe30-42c6-8236-d9821c8a1e2b/FRC-Modern-Slavery-Reporting-Practices-in-the-UK-2022.pdf>