

LGA Submission to the Home Office Transparency in Supply Chains Consultation

17 September 2019



1. About the Local Government Association

- 1.1 The Local Government Association (LGA) is the national voice of local government. We are a politically-led, cross-party membership organisation, representing councils from England and Wales.
- 1.2 Our role is to support, promote and improve local government, and raise national awareness of the work of councils. Our ultimate ambition is to support councils to deliver local solutions to national problems.

2. Summary

- 2.1. The LGA is supportive of the recommendation in the Independent Review of the Modern Slavery Act 2015 (MSA) for large public sector organisations with budgets over the £36m threshold to be included within the scope of the Act's requirements on transparency in supply chains (TISC).
- 2.2. While the MSA does not currently oblige councils to take action on modern slavery in their supply chains, over 100 councils have voluntarily embraced 'ethical procurement' alongside social value by producing their own modern slavery statements. This sits alongside councils' wider work to disrupt modern slavery in their areas and provide support to victims.
- 2.3. Local government has the opportunity to use its extensive buying power to help mitigate the risks of modern slavery occurring in its supply chains by adopting new processes and procedures, in both procurement and supplier/contract management, and it is right that councils - and other public authorities - should do so.
- 2.4. We already work closely with the TISC Report registry and have our own local government council transparency statement portal on our website.¹
- 2.5. The LGA is in favour of specifying the areas to include within modern slavery statements, which would provide clarity on the information required and help set out what roles and procedures organisations should be undertaking.
- 2.6. However, carrying out the policies and practices outlined in the proposed six reporting areas will place a significant burden on the time and resources of already over-stretched councils and must therefore be subject to new burden funding. Sufficient training and guidance should be provided, for free, to councils and the public sector if changes are made to include them within scope of section 54 of the MSA.

¹<https://www.local.gov.uk/topics/community-safety/modern-slavery/transparency-statements>

Submission

3. Content of statements

Are you an organisation which currently publishes a statement? If so, which of the following areas do you currently report on?:

- A. Your organisation's structure, its business and its supply chains;**
- B. Your organisation's policies in relation to slavery and human trafficking;**
- C. Your due diligence processes in relation to slavery and human trafficking in your business and supply chains;**
- D. The parts of your business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps taken to assess and manage that risk;**
- E. Your effectiveness in ensuring that slavery and human trafficking is not taking place in your business or supply chains, measured against any performance indicators as considered appropriate;**
- F. Training and capacity building about slavery and human trafficking available to your staff.**

3.1. The LGA has published a Modern Slavery Transparency Statement (<https://www.local.gov.uk/about/lga-transparency-statement-modern-slavery-and-human-trafficking>) and reported on all six of the areas above.

3.2. As a member organisation representing local authorities in England and Wales we have primarily focused on supporting our member councils on this agenda, producing guidance on dealing with and mitigating the risk of modern slavery in the supply chain. The LGA also hosts a portal for council transparency statements which has over 100 voluntarily published statements: <https://www.local.gov.uk/topics/community-safety/modern-slavery/transparency-statements>

3.3. We also have a resources hub for councils and other public sector organisations to use as a one-stop-shop for links to useful information, guidance and training.

How many individuals, for how many days, were involved in collecting the information included on your statement?

3.4. The LGA carried out a small piece of research which found that councils, required around 35-37.5 hours, spread over a period of time, to research, meet and discuss, collect and compile the information needed to complete the statement.

3.5. A considerable amount of additional time and resource should be factored in to the approval phases and committee stages that councils will need to go through to formally approve and publish their statements.

3.6. Our research showed that it usually took about six months for the process to be completed from start to finish, with some councils taking up to 10 months to get their statements drafted and then approved before being published on their websites.

3.7. With the LGA's own statement, the process of initiating, scoping, meetings, drafting, and approval before publishing took around six months to

complete; we note that central government has set an ambitious target of six months to produce its first statement.

3.8. The research also looked at how many teams and how many individuals were involved in developing a statement – councils reported up to as many as seven teams being involved including, from a mix of the following services;

- Safeguarding Team/Community Safety
- Children’s and Adults Social Care
- Housing and Homeless Team
- Community Participation
- Procurement
- Legal
- Business Support
- Comms
- Communities and Business
- Human Resources (Personnel/Organisational Development)
- Policy, Performance & Reform
- Trading Standards

3.9. The LGA’s statement included input from members of the Business Support Team, Procurement, Human Resources, Finance and Policy teams before being signed off by the Senior Management Team and then subsequently the LGA Leadership Board.

If you were to report on all of the 6 areas set out above, how many individuals do you think would be needed over how many days to collect the information required for the statement?

3.10. The LGA’s research suggested that councils, if they were carrying out all of the due diligence and supplier risk assessment requirements set out in areas C, D & E would require about two days’ time (15 hours) per month. This does not include the time set aside to train staff.

Would mandating the areas that statements must cover encourage organisations to take effective action? Please explain your answer and include details of any alternative proposals to encourage further action.

3.11. The LGA is in favour of mandating prescribed areas, subject to councils being funded to undertake the work set out in each area. Specifying clear requirements provide clarity on the information needed and sets out what roles and procedures (due diligence, supply chain mapping, supplier assessment etc.) organisations should be undertaking. This would remove any ambiguity whilst also making it easier and more straightforward for organisations to check statements during the due diligence process by procurement teams. By standardising the requirements it also allows much easier comparative analysis on the quality of statements and enables the progress and improvement organisations are supposed to be making each year to be scrutinised.

If the legislation was amended to mandate the areas that statements must cover, which of the six areas currently set out in Home Office guidance should be required? (see list A-F above)

- 3.12. The LGA feels the six areas currently set out in the Home Office guidance are satisfactory and should remain the required fields to be reported on.

Are there any further areas not mentioned above that should be required? If yes, please state which.

- 3.13. The guidance suggests that statements should be made on what an organisation has delivered or has carried out. The LGA also believes that the wording should be amended to include an additional field in which organisations set out what they propose to do in these areas in the coming year.

Should any of the six suggested areas (and any additional areas suggested) be combined? Please explain your answer.

- 3.14. The areas stand alone as they are and the LGA does not believe they need to be merged or combined.

Should organisations be able to choose not to report on one or more of the required areas if they provide an explanation for omitting this area? Please explain your answer.

- 3.15. We believe that for consistency, organisations should be required to report under each of the six headings, but that there must be recognition of the fact that different organisations will be able to undertake varying levels of activity under each area.

- 3.16. For example, in-scope councils with have vastly different budgets and access to the relevant resources and activity, and therefore reporting, will vary accordingly. Many smaller in-scope councils will struggle to carry out due diligence, supply chain mapping or supplier risk assessment to the same levels as larger, better resourced councils. This should not, however, pose any reputational impact on those less well advanced councils. Organisations should be required to report on all six areas, but there needs to be an acceptance that some reporting may include honest and justifiable explanation as to why activity in some areas has been more limited.

Would organisations face any challenges if it became mandatory to report on specific areas? If so, what would you consider these to be?

- 3.17. The overwhelming challenge to councils will be the additional burden on time and resources that carrying out and embedding policies and practices to mitigate the risk of modern slavery in our supply chains will involve, rather than the process of reporting this.

- 3.18. Considerable amounts of time will be required to carry out due diligence on the millions of contracts councils tender and let each year. Even adopting a risk based approach will add significant time to the procurement process as well as the on-going due diligence required through the contract phase of the life time of the contract. Suppliers will have to be additionally risk assessed for modern slavery concerns, all adding time and resource to the procurement cycle. The cost of dealing with a suspected incident of modern slavery in a council's supply chain could run into thousands of pounds, and only larger authorities are likely to have the resources required to undertake an audit into an issue of this nature. There is also likely to be an issue with training and expertise in dealing with such an incident, with the sector not currently equipped for this.

- 3.19. The challenge for councils will be whether they have the resources to carry this out to the degree that is required to make a tangible difference to mitigating the risk of modern slavery in our supply chains.
- 3.20. As set out above, there will need to be recognition of the constraints that some public authorities will face, and – to offset this - a focus on providing central support that can help authorities.

4. Transparency, compliance and enforcement

Would there be any challenges associating with requiring organisations (including businesses) in scope of the Act to publish their modern slavery statement on the Government registry? Please explain your answer.

- 4.1. The LGA welcomes the recommendation that all transparency statements should be published on a Government registry. We already work closely with the TISC Report registry and have our own local government council transparency statement portal with 106 council transparency statements on it. We receive numerous requests for additional information and assistance with writing and drafting statements, as well as requests by councils to add their statements to our portal. We believe that Government should prescribe the requirement to publish transparency statements on a registry and on an organisation's home page.
- 4.2. By having statements all in one place will make it much easier for procurement teams to check for missing statements if they are not provided during the tendering and pre-tendering process of a procurement.

<https://www.local.gov.uk/topics/community-safety/modern-slavery/transparency-statements>

In addition to the ability to publish and view modern slavery statements, which features should a central registry should include?

A. Modern slavery statements are accessible automatically through an application programme interface (for example to support analysis by third parties)

B. Organisations who have reported are available as a downloadable list

C. Guidance to help organisations to prepare more effective modern slavery statements

D. Guidance to help consumers better understand modern slavery statements

E. Functions to enable easier comparison of modern slavery statements

F. Any other features - please specify

- 4.3. The LGA welcomes all of those additional features to the central registry, which should be a one-stop-shop for organisations, business and the public to visit.
- 4.4. The LGA would like the statement to be made as easy as possible to complete and suggests the form is online and able to be directly loaded onto the Government repository; this would also standardise the statements so they are easier for procurement teams to process.

- 4.5. The LGA would also suggest the development by Government, or someone commissioned by it, of 'what good looks like' best practice for each sector to support this work.

Would establishing a single reporting deadline make the reporting process clearer for organisations captured by the legislation?

- 4.6. Creating a reporting deadline would again provide some clarity and take away any ambiguity as to when a statement, particularly a new one, was due to be published. It would also give councils timeframes to work with when it came to getting these signed off and approved. It would also have benefits for comparative and analytical purposes. However, given limitations on resources, a reporting deadline would ideally avoid other statutory deadlines which organisations are already working to.

If you are an organisation required to publish a statement, what would be the challenges of publishing on a single reporting deadline, including any additional resource or cost implication? Please explain your answer.

- 4.7. By creating a reporting deadline it would enable councils to add this to their extensive list of statutory reporting requirements but crucially to plan and allocate resources to compile and complete the statement.
- 4.8. We do not feel there would be any additional costs or resources if a deadline was imposed, above the additional cost of reporting and carrying out additional due diligence practices. However, the timing of the deadline would need to complement other activities.

Would a single reporting deadline make it easier for external parties to scrutinise whether an organisation has published an up to date statement? Please explain your answer.

- 4.9. As previously stated this would make it easier for councils to check external supplier statements and know when a new one was due. Anything to simplify the due diligence process and reduce the resources required to do so is welcomed.

If a single reporting deadline is introduced, which annual date should be used?

- A. March 31 (most UK-registered companies' financial year end)**
- B. 30 September (six months most UK-registered companies' financial year end)**
- C. December 31 (the end of the calendar year)**
- D. 30 June (six months after the end of the calendar year)**
- E. 30 March for public sector organisations, and 4 April for other types of organisations (in alignment with Gender Pay Gap reporting deadlines)**
- F. Other – please specify**

- 4.10. The LGA would request that the reporting deadline did not fall on an existing financial year end commitment or around the end of the year when resources are challenged by the festive period and holidays. The end of reporting quarters two or three seem most appropriate.

Should any variable penalty for failing to publish a modern slavery statement or failing to publish a fully compliant statement be capped at a maximum prescribed amount? Please explain your answer.

If yes, what do you think the maximum sum should be? Please explain your answer.

- 4.11. The LGA does not have a view on the amount penalties should be set at but it does feel that stricter monitoring and compliance should be enforced. There is currently no penalty for non-compliance or for incomplete or sub-standard statements, and consequently there is currently widespread non-compliance with the Act. The LGA in principle supports the introduction of an enforcement body, as the Independent Review of the MSA recommended. We also note that softer enforcement approaches, such as naming and shaming businesses which have not complied with the requirement to, for example, submit a statement by the statutory deadline, should in itself begin to drive up compliance, as well as the introduction of penalties.

If the reporting requirements are extended to the public sector, should a civil penalty scheme also apply to public sector organisations? Please support your view.

- 4.12. For ease and clarity, and on a point of principle on an important ethical issue, it would make sense for the same penalties, deadlines, and budgetary compliance requirements (i.e. £36m threshold) to remain consistent across all organisations. However, the LGA notes that if the requirements are extended to include the wider public sector and therefore councils, then adequate lead in time should be made available for councils to become compliant.

5. Public sector supply chains

Should the requirement to publish a modern slavery statement be extended to large public sector organisations that are not currently captured by the legislation?

- 5.1. The LGA is supportive of the recommendation in the Independent Review of the MSA for large public sector organisations with budgets over the £36m threshold to be included within the scope of the legislation.
- 5.2. The local government sector is already fairly well prepared; of the 343 English councils, 150 fall in-scope with a budget of over £36m, and 61 in-scope councils already have transparency statements and would meet the recommendations of any revision to the Act. A further 34 in-scope councils have signed up to the Co-operative Party's Modern Slavery Charter which goes beyond the provisions and requirements of the MSA as it currently stands.

What would the benefits of extending the reporting requirements to large public sector organisations not currently captured by the legislation be?

- 5.3. Local government has the opportunity to use its extensive buying power, circa £55bn per year, to help mitigate the risks of modern slavery occurring in its supply chain by adopting new processes and procedures, in both

procurement and supplier/contract management. Local government has led the way in including social value into its contracts and is also leading the way in the fight against modern slavery in the public sector.

- 5.4. The challenge for councils will not be producing a modern slavery statement; this will take time and resource but over 100 councils have already produced statements. The challenge, especially to resources, will be in carrying out the policies and practices outlined in the statement, carrying out additional due diligence and assessing supplier risk, mapping supply chains, training staff and potentially having to deal with an occurrence of modern slavery in a supply chain which will be both costly and require a level of expertise that many councils do not currently have.

Should budget be used to determine the threshold for which large public-sector organisations should be required to publish a modern slavery statement?

- 5.5. The LGA believes that budget should be used to determine the threshold for the public sector.

If yes, should the budget threshold should be £36 million? Please explain your answer.

- 5.6. The LGA believes that the current threshold of £36m is satisfactory and for consistency with the private sector threshold, and to remove any ambiguity, it should be used uniformly across the board.

Should public sector organisations be able to publish a 'group statement'?

Please explain your answer and if you are a public sector organisation please include any relevant examples of the group structure which you might report under

- 5.7. The LGA believes that councils and public sector organisations should be able to publish joint or group statements if their procurement function or council structures are combined. There are currently a number of examples of joint transparency statements included on the LGA Council Statement Portal, examples include;

1. Lewes and Eastbourne
2. Mid Suffolk and Babergh
3. Northampton, Northamptonshire, Cambridgeshire and Milton Keynes (under the umbrella of LGSS)
4. East Suffolk – formerly Suffolk Coastal and Waveney

- 5.8. Private limited companies, owned and run by councils, with thresholds over £36m should continue to report individually as they currently do.

Should public sector modern slavery statements be approved by the most senior managing body and signed off by the accounting officer, Chief Executive or equivalent role? Please explain your answer.

- 5.9. The LGA believes that transparency statements should be approved and signed by the most senior managing body, preferably the Chief Executive (or equivalent). For councils, this should also include political sign off by the leadership of the council. Buy in from both senior management and political

leaders is crucial and demonstrates that the council takes seriously both the threat of modern slavery in its supply chains and efforts to eradicate it from its supply chains.