

QUESTION TAKEN ON NOTICE

Parliamentary Inquiry : 03 August 2018

HOME AFFAIRS PORTFOLIO

(MSB/001) – Anti-Slavery Commissioner and business community consultation.

Asked:

Can the Department provide a response to evidence from inquiry participants supporting the establishment of an Independent Anti-Slavery Commissioner through the Modern Slavery Bill 2018? Can the Department also provide a summary of advice from the business community during departmental consultations about this issue?

Answer:

Based on extensive consultations, the Department considers that the Modern Slavery Business Engagement Unit is the best body to implement and administer the Modern Slavery Reporting Requirement (reporting requirement). The Unit's primary focus will be to provide advice and support to business about compliance with the reporting requirement. It will also undertake awareness-raising and training; manage the central register of statements; and coordinate the Commonwealth Modern Slavery Statement. The Unit will be supported by an expert reference group of business and civil society stakeholders to help guide its work.

The Committee has received a range of evidence from business and civil society stakeholders proposing that the Unit be complemented by, or replaced with, an Independent Anti-Slavery Commissioner (IASC). There is no clear consensus on what the role and functions of any IASC should be, including the extent to which it should work with businesses. For example, some stakeholders support an IASC focused on implementing the reporting requirement, including: undertaking training and awareness-raising; monitoring the quality of statements; providing general advice and support to business; and coordinating Government agencies involved in implementing the reporting requirement. None of these proposed IASC functions require independence and the Department considers they can all be effectively delivered by the Unit.

Other stakeholders that have provided evidence to the Committee support an IASC with a broader role and responsibilities modelled on UK legislation, including overseeing Australia's national response to modern slavery. The Department's view is that a broader UK-style IASC may not be appropriate for the Australian context. Australia already has a well-coordinated national response to modern slavery, which is subject to robust oversight from Parliament, Government Ministers and civil society. It is also unclear whether a broader IASC would work in coordination with the Unit or simply subsume the Unit's functions.

Importantly, the Department's extensive business consultations have not indicated any clear preferences from business for an IASC rather than the proposed Unit. Businesses have consistently highlighted the need to provide a mechanism for reporting entities to seek advice and support but have not expressed strong views about whether this mechanism should be independent from Government. Businesses have also not indicated to the Department that they would be more likely to seek advice and support from an independent body like an IASC rather than the Unit. Copies of business submissions to the Department's consultation process are available online.¹

Additional information about the appropriateness of the proposed revenue threshold

The Committee has received a range of evidence about the most appropriate revenue threshold for the reporting requirement, including the feasibility of lowering the threshold for high risk industries.

The Department considers that requiring reporting from entities below the revenue threshold is unlikely to substantively reduce modern slavery risks in Australian goods and services. As drafted, the reporting requirement will apply to over 3,000 large entities with more than \$100 million annual consolidated revenue. These entities have the capacity to meaningfully comply with the reporting requirement and the market leverage to change supplier practices.

The Department's consultations have clearly demonstrated that smaller entities below the revenue threshold do not have the capacity or resources to comply with the reporting requirement. Importantly, many of these entities also do not have sufficient buying power or market influence to change supplier practices. This includes entities in sectors that may be seen as higher-risk, such as family-run construction businesses, farms and small manufacturing companies. Unlike larger businesses, these entities do not have dedicated procurement teams, access to in-house legal counsel, or resources to hire staff with sustainability or human rights expertise. Requiring reporting from these smaller entities would impose significant regulatory costs and may undermine their competitiveness. In addition, many small higher-risk entities are also likely to be based overseas, such as garment factories. This means they cannot be directly targeted by lowering the reporting threshold. Instead, the Bill requires reporting from large Australian entities that use their products and have the influence to change supply chain practices.

¹ <https://www.homeaffairs.gov.au/about/consultations/modern-slavery-supply-chains-reporting-requirement>