

# Report to the Meeting of the

**BOD 116/2018**

(Agenda item: 16)

# Oxford Health NHS Foundation Trust

# Board of Directors

**27 September 2018**

**MODERN SLAVERY ACT – TRANSPARENCY STATEMENT**

**For: Approval**

**Executive Summary & Statutory responsibilities**

The relevant obligation falls under section 54 of the Modern Slavery Act 2015 which requires commercial organisations carrying on business in the UK supplying goods or services with a total global annual turnover of over £36 million to produce a slavery and human trafficking statement for each financial year. The statement must contain details of the steps that the organisation has taken in that year to identify and eradicate modern slavery from both its own business and its supply chain. The obligation to produce a statement first applied to qualifying businesses with year-ends of 31 March 2016. In practice, it is encouraged that organisations report within six months of the organisation’s financial year end.

The background and requirements are set out in more detail below. The proposed statement for the Trust is also appended in a clean version and also in a blackline version showing changes/updates since the previous version.

**Recommendation**

The Board is invited to approve the Modern Slavery Act Statement for publication on the Trust’s website and to support the Trust to foster a culture in which modern slavery is not tolerated in any form.

**Lead Executive Director: Kerry Rogers, Director of Corporate Affairs & Company Secretary**

1. *A risk assessment has been undertaken around the legal issues that this report presents and there are no issues that need to be referred to the Trust Solicitors*
2. ***Strategic Objectives*** *– this report relates to or provides assurance and evidence against the following Strategic Objective(s) of the Trust:*

*2) Delivering Operational Excellence*

*(Goals: our services will be effective and efficient; information will be translated into knowledge; and our planned surplus will be delivered)*

**Background**

The Transparency in Supply Chains provision in the Modern Slavery Act 2015 seeks to address the role of businesses in preventing modern slavery from occurring in their supply chains and organisations. Modern slavery is a crime resulting in an abhorrent abuse of human rights. It is constituted in the Modern Slavery Act 2015 by the offences of ‘slavery, servitude and forced or compulsory labour’ and ‘human trafficking’. Many organisations are taking action to promote ethical business practices and policies that protect workers from being abused and exploited in their own organisation and global supply chains.

From October 2015 the Government introduced a provision in the Modern Slavery Act 2015 which requires certain businesses to produce a statement setting out the steps they have taken to ensure there is no modern slavery in their own business and their supply chains. If an organisation has taken no steps to do this, their statement should say so. The measure is designed to create a level playing field between those businesses, whose turnover is over a certain threshold, which act responsibly and those that need to change their policies and practices. However, the Government wants to encourage businesses to do more, not just because they are legally obliged to, but also because they recognise it is the right thing to do.

Section 54 of the Modern Slavery Act 2015 gives the Secretary of State the power to issue guidance. The provision in the Act requires that any ***commercial*** organisation in any sector, which supplies goods or services, and carries on a business or part of a business in the UK, and is above a specified total turnover, must produce a slavery and human trafficking statement for each financial year of the organisation.

For the purposes of this requirement, ‘supply chain’ has its everyday meaning. Regulations have set the total turnover threshold at £36m. The Act specifically states that the statement must include ‘the steps the organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place in any of its supply chains, and in any part of its own business’. When the Act refers to ensuring that slavery and human trafficking is not taking part in any part of its supply chain, this does not mean that the organisation in question must guarantee that the entire supply chain is slavery free. Instead, it means an organisation must set out the steps it has taken in relation to any part of the supply chain (that is, it should capture all the actions it has taken). The provision requires an organisation to be transparent about what is happening within its business. This means that if an organisation has taken no steps to ensure slavery and human trafficking is not taking place they must still publish a statement stating this to be the case.

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. In practice, failure to comply with the provision will mean the organisation has not produced a statement, published it on their website (where they have one) or has not set out the steps taken by the organisation in the relevant financial year. This can include setting out that it has taken no such steps, or is just beginning investigations. Whilst clear, detailed and informative statements are encouraged, legal compliance does not turn on how well the statement is written or presented (provided that it sets out the steps taken or that no steps have in fact been taken).

It is expected that organisations will build on their statements year on year and for the statements to evolve and improve over time. However, a failure to comply with the provision, or a statement that an organisation has taken no steps, may damage the reputation of the business. It will be for consumers, investors and Non-Governmental Organisations to engage and/or apply pressure where they believe a business has not taken sufficient steps. The Government has not been prescriptive about the layout or specific content of a slavery and human trafficking statement. It is up to organisations how they present information in the statement and how much detail they provide. However, organisations must include in the statement all the steps they have taken. The information presented in the statement will be determined by the organisation’s sector, the complexity of its structure and supply chains, or the particular sectors and nations its suppliers are working in.

The requirement for organisations to publish a statement was commenced on 29 October 2015. Businesses with a financial year-end date between 29 October and 30 March 2016 were not required to publish a statement for that financial year of the organisation. Businesses with a year-end of 31 March 2016 were the first businesses required to publish a statement for their 2015-16 financial year. These organisations are required to produce a statement covering the full financial year of the organisation. An organisation is required to complete a statement for each financial year (of that organisation) in which their turnover exceeds the specified threshold.

To ensure the information contained is relevant and up to date, it is expected that organisations publish their statements as soon as reasonably practicable after the end of each financial year in which they are producing the statement. Organisations may choose to publish the statement alongside any other annual or non-financial reports they are required to produce. In practice, it is encouraged that organisations report within six months of the organisation’s financial year end.

The Modern Slavery Act requires a slavery and human trafficking statement to be approved and signed by an appropriate senior person in the business. This ensures senior level accountability, leadership and responsibility for modern slavery and gives it the serious attention it deserves. An organisation’s top management will be best placed to foster a culture in which modern slavery is not tolerated in any form. The guidance states they need to lead and drive the measures required to address this problem throughout the business. To effectively combat modern slavery, senior managers will need to ensure everyone in an organisation is alive to the risks of modern slavery. This is to ensure informed decisions are made in a timely way which mitigate and manage these risks, and to monitor the implementation of relevant policies. They will need to ensure credible evidence is used in identifying and reporting on human rights risks in supply chains, as well as to remedy workers and rectify problems where appropriate. The person who is required to sign the statement depends on the type of organisation. **For a body corporate (other than a limited liability partnership), the statement must be approved by the board of directors and signed by a director (or equivalent).**

The Act requires each organisation to publish a slavery and human trafficking statement on their website and include a link in a prominent place on its homepage. The purpose of this measure is to increase transparency and it is vital that the statement can be easily accessible by anyone who wants to see it – the public, consumers, employees, NGOs or investors.

The Act is clear that the link must be in a prominent place on the home page itself. A prominent place may mean a modern slavery link that is directly visible on the home page or part of an obvious drop-down menu on that page. The link should be clearly marked so that the contents are apparent i.e. a link such as ‘Modern Slavery Act Transparency Statement’. Organisations should seek to publish their statement as soon as reasonably practicable after the end of their financial year. In practice, we would encourage organisations to report within six months of the organisation’s financial year end. Organisations may wish to publish these statements at the same time as they publish other annual accounts.

**The Act in the context of other reporting requirements**

Companies Act 2006 (Strategic Report and Directors’ Report) Regulations 2013 also require UK quoted companies to report within their Strategic Report on human rights issues ‘where necessary for an understanding of the development, performance or position of the company’s business’. This includes any policies a business has in relation to these matters and the effectiveness of those policies. **The wording in the Companies Act 2006 does not explicitly mention supply chains or modern slavery**. It is left to the individual business to determine what policies are relevant and the level of detail required. However, the right to be free from forced labour, slavery and servitude is a fundamental human right under international law, including the European Convention on Human Rights and so may be a consideration in this reporting requirement.

The Financial Reporting Council has issued guidance on how to prepare the Strategic Report, including how to consider human rights related matters in the process of preparing the Strategic Report as a whole. Quoted companies obliged to prepare a Strategic Report, according to the Companies Act, who are also required to prepare a Slavery and Human Trafficking statement should ensure that it meets both requirements. Whilst a joint statement may be possible, it is envisioned most companies will opt for two separate statements.

**Recommendation:**

The Board is invited to approve the Modern Slavery Act Statement attached for publication on the Trust’s website and members should support the Trust to foster a culture in which modern slavery is not tolerated in any form.

**Lead Executive Director: Kerry Rogers, Director of Corporate Affairs & Company Secretary**