Consultation on Legislation to Address Modern Slavery and Worker Exploitation

SUMMARY OF FEEDBACK

MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

Te Kāwanatanga o Aotearoa
New Zealand Government

Ministry of Business, Innovation and Employment (MBIE)

Hīkina Whakatutuki – Lifting to make successful

MBIE develops and delivers policy, services, advice, and regulation to support economic growth and the prosperity and wellbeing of New Zealanders. MBIE combines the former Ministries of Economic Development, Science and Innovation, and the Departments of Labour, and Building and Housing.

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Ehara taku toa i te toa takithi, engari taku toa he toa takitini

We can achieve much together

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He Kuputaka Glossary

Acronym	In full
ILO	International Labour Organisation
MBIE	Ministry of Business, Innovation and Employment
MHREDD	Mandatory Human Rights and Environmental Due Diligence legislation
NGOs	Non-Governmental Organisations
OECD	Organisation for Economic Co-operation and Development
OECD Guidelines	OECD Guidelines for Multinational Enterprises
SMEs	Small and Medium-sized Enterprises
UN	United Nations
UNGPs	United Nations Guiding Principles on Business and Human Rights

Term	What it means
Coercion	The use of force or intimidation to obtain compliance. Section 351 of the Immigration Act 2009 identifies coercive behaviours such as an employer preventing their employees from leaving their employment, leaving New Zealand, finding out or seeking their entitlements under New Zealand law, or telling someone about the circumstances of their employment.
Debt bondage	Defined in the Crimes Act 1961 as the status or condition arising from a pledge by a debtor of his or her personal services, or of the personal services of any person under his or her control, as security for a debt, if the value of those services, as reasonably assessed, is not applied towards the liquidation of the debt or if the length and nature of those services are not limited and defined.
Disclosure	Refers to the development and publication of a statement setting out the due diligence an entity is undertaking.
Due diligence	Simply put, this broadly refers to the process of identifying the risks of exploitation across an entity's operations and supply chains, taking steps to address any risks identified, and evaluating the steps taken.
Employment standards	The set of minimum standards that employers must comply with under various employment laws. These standards set out certain rights for employees and obligations that employers must meet and includes entitlements such as being paid at least the minimum wage; being provided annual leave and holiday pay; and being paid wages that have not had illegal deductions.
Enforcement	This has a broad meaning, but here it means investigations where it is suspected a breach of the law or policy has occurred; and also means the resulting action taken, such as penalising the person or entity that committed the breach.
Entity	Something with its own independent existence, such as a company or charitable entity.
Exploitation	This can be seen generally as behaviour that causes, or increases the risk of, material harm to the economic, social, physical, or emotional well-being of a person. Worker exploitation and modern slavery fall within the spectrum of exploitation.

Term	What it means
Forced labour	Forced labour is work exacted from a person under threat and for which the person has not offered themselves voluntarily. It can occur in connection with trafficking or through labour exploitation.
Forced marriage	A marriage in which one and/or both parties have not personally expressed their full and free consent to the union. In New Zealand, coerced marriage occurs where a person intends to cause another person to enter into marriage or civil union through coercion (for example, intimidation, threats, or violence), and is punishable by up to five years imprisonment.
Graduated approach	This approach to new supply chain legislation incorporates disclosure and due diligence-based approaches. This is the proposed approach for the legislation.
Holding company	Generally, this means a body corporate with control over another company. See section 5 of the Companies Act 1993 for more detail.
Legislation/ legislative	The whole or a part of an Act (law that has been agreed by Parliament) or any secondary legislation. See also the meaning of 'regulation'
Liability	The state of being legally responsible for an action or obligation.
Modern slavery	This broadly reflects exploitative situations that a person cannot leave due to threats, violence, coercion, deception, and/or abuse of power. We are proposing that modern slavery be defined as including the legal concepts of forced labour, debt bondage, forced marriage, slavery and slavery like practices, and human trafficking.
Non-compliance	An action that is in breach of standards or obligations set in law.
Operations	All activity undertaken by an entity to pursue its objectives and strategy. We are interpreting 'operations' broadly as including all material relationships an entity has which are linked to its activities, including for example: investment and lending activity; material shareholdings; and direct and indirect contractual relationships (such as subcontracting and franchising relationships).
Regulation	Subordinate legislation made under delegated authority of an Act. Regulations usually deal with matters of detail or implementation, technical matters, or those likely to require frequent updating.
People trafficking	In its simplest form, people trafficking (also known as "trafficking in persons" and "human trafficking") is the recruitment, transportation, transfer, harbouring or receipt of a person, achieved through coercion, deception, or both, for the purpose of the exploitation of the person. Exploitation for the purpose of trafficking can occur in relation to prostitution or other sexual services, slavery, practices similar to slavery, servitude, forced labour or other forced services, and the removal of organs. In New Zealand, people trafficking can be prosecuted without exploitation having actually occurred.
Remediation	Remediation is the act of remedying wrongdoings. In particular, providing aid post-harm to victims.
Serfdom	Defined in the Crimes Act 1961 as the status or condition of a tenant who is by any law, custom, or agreement bound to live and labour on land belonging to another person and to render some determinate service to that other person, whether for reward or not, and who is not free to change that status or condition.
Slavery	Defined in the Crimes Act 1961 as including, without limitation, a person subject to debt-bondage or serfdom. The Supplementary Convention on the Abolition of Slavery recognises institutions and practices similar to slavery, including debt bondage, serfdom, marriage related and exploitative child labour-related practices.
Subsidiary	A company controlled by a holding or parent company. See section 5 of the Companies Act 1993 for more detail.
Supply chain	The network of organisations that work together to transform raw materials into finished goods and services for consumers. They include all activities, organisations, technology, information, resources, and services involved in developing, providing, or commercialising a good or service into the final product for end consumers

Term	What it means
Supply chain tiers	Supply chain tiers reference different stages of the production process. Tier 1 refers to the finished product, Tier 2 is the material production, Tier 3 is the raw material processing and Tier 4 is the raw material production.
Temporary migrant worker	A migrant who holds a temporary work visa, which provides temporary employment for a migrant in New Zealand.
Whistleblower/ whistleblowing	A whistleblower is a person, often an employee, who reveals information about activity within a private or public organization that is deemed illegal, immoral, illicit, unsafe, or fraudulent.
Worker exploitation	Worker exploitation is defined in this document as including non-minor breaches of New Zealand employment standards. This excludes minor and insignificant breaches that are not constant and easily remedied.

Executive Summary

The Ministry of Business, Innovation and Employment (MBIE) consulted on proposed legislation to address modern slavery and worker exploitation in operations and supply chains from 8 April to 7 June 2022.

The proposed legislative response would create new responsibilities across the operations and supply chains of all types of organisations in New Zealand. Responsibilities would vary based on the size of organisations. The primary objective for the proposals is to reduce modern slavery and worker exploitation in New Zealand and elsewhere, helping to build practices based on fairness and respect.

During consultation MBIE sought feedback on:

- how best to facilitate lasting cultural change and encourage best practice to support freedom, fairness and human dignity across the operations and supply chains of entities
- the impact of the proposals on victims and survivors, entities of all types, and individuals
- the costs and benefits of the proposals
- the design and implementation of the proposals.

MBIE received 5,614 submissions through the consultation process consisting of 252 responses to an online survey, 178 email submissions, and 5,184 emailed submissions using a template prepared by World Vision, the Human Rights Commission, Trade Aid and Tearfund and promoted by World Vision, Trade Aid and Tearfund (the 'World Vision, Trade Aid and Tearfund Template'). This document provides a summary of the feedback received.

Overall, there was strong support for the proposed legislation's objectives and graduated approach, under which all New Zealand entities would have responsibilities (noting that the World Vision, Trade Aid and Tearfund Template submissions supported due diligence for all entities). This support was consistent across different types of submitters, including across businesses. Submitters agreed that:

- All entities should have to take reasonable and proportionate action if they become aware of modern slavery in their international operations and supply chains, and/or modern slavery or worker exploitation in their domestic operations and supply chains (95% support, excluding 'unsure responses').
- All entities should be required to undertake due diligence to prevent, mitigate and remedy modern slavery and worker exploitation by New Zealand entities where they are the parent or holding company or have significant contractual control over the New Zealand entity (90% support).
- Medium and large entities should be required to report annually on the due diligence they are undertaking to address modern slavery in their international operations and supply chains, and modern slavery and worker exploitation in their domestic operations and supply chains (87% support).
- Large entities should be required to meet due diligence obligations to prevent and mitigate modern slavery in their international operations and supply chains, and modern slavery and worker exploitation in their domestic operations and supply chains (94% support).

Submitters were also generally supportive of the proposed annual revenue thresholds for defining "medium" ($20 million) and "large" ($50 million) entities. While a range of suggestions were made, both above and below the proposed figures, the proposed figures were the most frequently suggested.

While there was strong support for the general concepts, many submitters were concerned about the lack of clarity with the terms used in the consultation document. They sought clearer definitions for terms such as "worker exploitation", "modern slavery", "operations" and "reasonable and proportionate". Some submitters also noted the need for careful consideration of the scope and breadth of obligations and how they apply to different entities and environments, advocating for a flexible approach. A few submitters were concerned that the requirements would be overly onerous for small and medium sized businesses (SMEs). A few submitters raised concerns about including worker exploitation and modern slavery in the same legislative framework, saying these are distinct things. Many submitters identified the need to uphold Te Tiriti and reflect Māori values in the legislation. Many submitters noted an expectation that Kaupapa Māori and Te Tiriti o Waitangi would equally be incorporated into all aspects of implementing the legislation.

Many submitters agreed that non-compliance should be penalised. Many considered that penalties should vary depending on the type of obligation that is breached and be proportionate to an entity's size. Some submitters emphasised working with non-compliant organisations to improve their practices in the first instance, rather than penalising non-compliance, to

help build a culture of collaboration and to identify exploitation rather than hide it. A few submitters were opposed to the use of penalties. Others said that penalties should be restricted to disclosure, and this should apply only to large entities.

Most submitters considered that remediation was an important part of victim support. They agreed that the legislation should require entities to remedy any harms they have caused or contributed to, where there was a clear link between their actions and the harm. Many suggested that remedies should be reasonable and proportionate to the level of the harm.

Most submitters considered an independent oversight mechanism should be established as part of the legislation, over and above the role of a government regulator. There was support for an independent body to provide oversight, guidance, research, and drive best practice for implementation.

Most submitters considered that a central register for disclosure statements was also necessary. They considered this should be open and publicly accessible, and there was also strong support for using the register as a hub for business support.

Most submitters also identified a need for comprehensive support and guidance. Many advocated for clear reporting guidance which includes mandatory reporting criteria and good practice examples. They asked for further materials, including legislative guidelines, and significant programmes to improve education and capability.

Submitters using the World Vision, Trade Aid and Tearfund Template were in strong support for due diligence and said that it is important that Aotearoa New Zealand take action to address modern slavery and worker exploitation in supply chains. These submitters requested:

1. A law that applies to international and domestic supply chains operating in Aotearoa New Zealand, to all entities of all sizes (small, medium, and large businesses) and to private and public sectors.
2. Due diligence that requires entities to identify risks and cases of modern slavery and exploitation and take action to address what they find. From there, they should publicly report on those actions and the impacts they have had.
3. That there are penalties for non-compliance as this will set the law up from the onset to create positive change and help create a level playing field for businesses.

These submitters also provided reasons why such legislation is required, which aligned with the primary and secondary objectives in the proposal. Submitters stressed that modern slavery is fundamentally unacceptable, and an affront to New Zealand values, and that New Zealanders have an obligation to use their privileges to help those less well off. This group of submitters also highlighted the need for consumers to know that the goods and services they purchase are not made using slavery, and to understand the devastating effects that forced labour and exploitation have on children in particular, and on adults and their communities as well. As one submitter put it: “Those who are trapped in slavery can't give you feedback on this. Think about that.”

MBIE met with stakeholders from a range of businesses and industry organisations, Non-Government Organisation (NGOs), unions, and government entities. The comments and feedback received through those meetings were generally consistent with the themes identified in this summary of submissions. While not included in this submissions analysis, they are being considered as part of the policy development process.

Information and insights gained through the public consultation process will be used to inform and shape more detailed policy development for final decisions.

Structure of the report

The report is structured to reflect the framework set out in the discussion document and the questions contained within it and provides an overview of responses to the specific questions in the discussion document from all submissions received (email, written and survey responses).

Annexed as **Appendix 1** is a summary of the raw data from the survey responses**.**

This analysis presents views without interpretation or assessing their validity against the proposals and any proposed legislation. The terminology used by respondents in their feedback has been used.

Summary of Submissions

Number and type of submission

Table 1: Number of submissions received

Type of submission	Totals
Individual email submissions received	**178**
Individual survey responses	**252**
World Vision, Trade Aid and Tearfund Template submissions	**5,184**
Total	**5,614**

Note: This report does not provide any identifiable information about individual submitters. Quotes or submissions have not been attributed to an individual submission. Many submitters explicitly stated that they did not want their personal information to be publicly available or released under the Official Information Act 1982.

Demographic information

Of the 430 survey responses and email submissions, 278 submitters were responding on behalf of an individual, and the remaining 152 were responding on behalf of a group. Of these submissions, 252 were received through MBIE's survey, whereas the remaining 178 submissions were received via email. The 152 submitters that responded on behalf of an organisation represented a variety of different groups and organisations. Many of these submitters represented businesses of varying sizes and reach, while advocacy groups were also represented in these group submissions. Submitters that responded through the survey and submitting on behalf of an organisation were asked to define what revenue bracket their organisation belonged to. Of the 51 organisation submissions received through the survey, 18 (35%) belonged to the $0-$10 million revenue bracket, 5 (10%) to the $20-$50 million bracket, and 12 (24%) to the $50+ million bracket.

Methodology

Overview of how submissions were received and coded

MBIE received submissions by email to its consultation inbox, survey responses through its online survey portal, and emailed World Vision, Trade Aid and Tearfund Template submissions. Submissions were reviewed and duplicate and blank submissions were removed. Six duplicated, non-templated submissions were removed as they were identical. Many submitters used the submission form provided. There were several submitters that submitted in an alternative format. These submissions were analysed but tended to be more general in nature.

Submissions made by email (excluding World Vision, Trade Aid and Tearfund Template submissions) were uploaded into NVivo 12 (a qualitative data analysis software) and coded against a framework based on the questions in the discussion document and relevant themes. From this, specific reports by question and themes were exported from NVivo and used to inform this report. Survey responses were coded against the same framework (based on the questions in the discussion document) and included in the thematic analysis and report.

World Vision, Trade Aid and Tearfund Template submissions (which tended to provide higher level responses) were recorded in the framework where they related to specific questions. For example, question 10 asks: "Are there any types of entities that should not be included in this legislation?" 5,184 World Vision, Trade Aid and Tearfund Template submissions were treated as answering 'no' to this question.

Submissions received up to 15 June 2022 were included in this report.

Privacy

The Privacy Act 2020 applies to all submissions. Any personal information supplied to MBIE in the course of making a submission will only be known by the team working on this project. Submissions may be requested under the Official Information Act 1982. Personal information will be withheld from any information releases and publications.

Limitations

There were some limitations on the information collected through the consultation process. In some instances, a submitter's initial answer to a proposal would contradict their following response. This may result in the statistics not accurately reflecting the proportion of submitters who agree or disagree with the proposal. These statistics should be read in light of the contextual comments to ensure a clear understanding. Some submitters used the terms exploitation and modern slavery interchangeably in their comments. Many submitters also made comments relating to due diligence and reporting under a general framework of responsibilities. They did not distinguish between the separate requirements of "taking action", "reporting" and "undertaking due diligence" in their comments. Where possible this analysis has aligned comments to the appropriate responsibility. However, in some cases the exact scope of comments *vis a vis* the separate requirements was unclear and these comments have been reported where submitters recorded them. This report should be read in light of the way submitters understood and used these terms.

As submissions were received in a range of formats (including Word, PDF, and email), there were some formatting errors in the submissions. Most submissions were reformatted to be analysed. However, there is a risk that some information may have been missed due to unretrievable formatting issues.

Quantifying submitters

When referring to submitters, the report quantifies support for positions based on the classifications in Table 2: 2 (below). These classifications relate to the number of responses received for that question. For example, whether a question received several hundred responses or less than 100, the same terms are used relative to the proportion of responses to that question. World Vision, Trade Aid and Tearfund Template submissions have been treated as a single submission when referring to overall percentages/totals, to allow an outline of opinion from the survey responses and email submissions to emerge.

Table 2: 2 Submission classification

Classification	Definition
Few	Fewer than 10% of submitters
Some	10%-25% of submitters
Many	26% to 50% of submitters
Most	More than 50% of submitters

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Key Messages

Overarching comments

Purpose

Most submitters

- agreed with the primary objective of the proposals.

Culture and behaviour change, levelling the playing field and supporting consumer choices were viewed as the most important secondary objectives.

Some submitters

- recommended additional secondary objectives. These included:
  - increase living standards and the right to freedom of association amongst our trading partners
  - prepare New Zealand businesses to respond better to the emerging landscape of modern slavery legislation globally (from a supply chain perspective)
  - increase proportionality, consistency, collaboration, accountability, and transparency to achieve fairness and dignity throughout supply chains
  - to raise awareness in businesses of all sizes and in consumers so they take action on the issue of slavery.

Legislative Design Principles

Most businesses

- seek international alignment to avoid duplication
- request that legislation contain clear and specific obligations.

Many submitters

- highlight the need for any legislation to be in line with international human rights obligations including:
  - UN Guiding Principles on Business and Human Rights
  - OECD Guidelines for multinational enterprises
  - ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy
  - ILO Declaration on Fundamental Principles and Right to Work
  - UN Declaration on the Rights of Indigenous Peoples.

Definitions

Many submitters

- voiced concern about the lack of clarity of key definitions including:
  - the distinction between *modern slavery* and *worker exploitation*
  - the meaning of *supply chains, operations and entities.*

Some advocacy groups

- recommended including *child labour* and *sexual trafficking* in the definition of *Modern Slavery.*

Te Tiriti and Te Ao Māori

There is a cultural and spiritual connection between indigenous communities around the world, and internationally indigenous peoples are among most vulnerable to human trafficking and slavery."

Many submitters

- outline the importance of a partnership-based approach and reflecting Te Tiriti and Māori values in the proposed legislation.

Some submitters

- recommended that the proposals be directly informed by a Te Tiriti-based approach that recognises the bearing of the United Nations Declaration on the Rights of Indigenous Peoples upon labour rights, gender-based violence, and workplace safety.

Consultation

Some submitters

- noted the need for further specific consultation on:
  - responsibilities and obligations of entities in New Zealand
  - enforcement and remediation penalties framework.
- requested further consultation with specific groups including:
  - Iwi and hapū
  - Asian communities
  - Pacific peoples
  - investment and finance organisations.

Proposed Responsibilities

Take action

While all entities therefore must take reasonable and proportionate action if they become aware of modern slavery in their operations and supply chains, 'larger' entities can reasonably be expected to devote more attention and resources given their comparatively bigger social footprint."

Most submitters (including almost all business)

- said that it is important that all entities, regardless of size, should take reasonable and proportionate action if they become aware of modern slavery or exploitation
- supported the inclusion of "reasonable and proportionate".

Some businesses

- thought the requirement should be restricted to domestic operations.

A few submitters

- noted that the requirements did not distinguish between the variety and nuances of franchise systems that operate in New Zealand.

Due diligence

Providing a report to an independent public body that demonstrates a full and thorough investigation of its supply chain including independent verification of its findings. The investigation would need to include in person, random and surprise visits to suppliers across the supply chain to assess worker welfare and provide assurances of no modern slavery in the supply chain. Where this is not reasonable for the entity to do itself it should be able to demonstrate that it has made genuine efforts to engage a reputable independent organisation to do so on its behalf."

Most submitters

- supported the proposed due diligence requirements.

Most submitters (including businesses)

- think that whole supply chain transparency and traceability is necessary for robust due diligence.

Many businesses

- noted that there needs to be careful consideration of the scope and breadth of obligations and how they apply to different entities and environments. They advocated for a flexible approach
- said that any assessment should be appropriate and proportionate to the supply chain tier level and modern slavery risk profile.

Many submitters

- were subjective in what they thought 'due diligence' as a term meant; there was a need for clarity of definition.

Reporting

Most submitters

- agreed with the current proposed compulsory disclosure reporting criteria.

Many businesses

- recommended alignment with Australia's Commonwealth Modern Slavery Act 2018 ('the Australian Act').

Entity Size

Larger businesses are likely to be at risk of contributing to slavery practices due to their size and the number of overseas suppliers they use to produce large volume/low costs products or components used in their manufacturing processes in New Zealand. Small businesses such as massage parlours, sushi bars, nail clinics are at risk, and seasonal workers in the horticulture and agriculture sectors may also have employment practices that contribute to exploitation of workers."

Most businesses

- agreed that due diligence obligations should apply to large entities.

Most submitters

- agree that $50 million should be the threshold for a large entity.

Some submitters

- said if distinctions are to be made then dictating the threshold through size of business is limited to relaying the business's ability to undertake risk assessment and comply with the requirements of the Act. They recommend there is a need to prioritise businesses based on higher risk sectors.

Proportionality

Expectations related to the entity should be aligned to be genuinely "reasonable" and "proportionate." This means taking into account factors such as the entity's size and resources, the degree of the control/leverage/influence the entity has over a supplier, sector best practice, sector-specific risks and the degree and type of harm that could result if no action is taken."

Offences and Penalties

I think there should be an escalating level of penalties based on number of events & level of breaches. Perhaps SME's start with warning but they escalate quite quickly."

Most businesses

- said that offences should be proportionate or an entity's size and revenue.

Most submitters

- said that there should be a range of enforcement tools depending on the scale of the legislative breach. They included infringements, improvement notifications and enforcement undertakings.

Some submitters

- thought that repeat offences should have harsher penalties than first offences.

A few submitters, mainly advocacy groups

- said penalties should not vary on size to demonstrate the damage of exploitation.

Link between action and harm

Where clear negligence or intent is proven beyond reasonable doubt, if this is included in the legislation the bar needs to be high and limitation on liability set.

Most submitters

- think that remedy and redress must be included in the legislation where there is a direct link between an entities actions and harm caused.

Many submitters

- said that remedies should be reasonable, proportional, and flexible to their level of harm.

Oversight and Monitoring

Independent oversight mechanism

In line with other jurisdictions globally, the New Zealand Government should establish an Independent Anti-Slavery Commissioner role to supplement the role of government. A Commissioner could drive research into problematic industries and sectors, report and advise on matters related to Aotearoa New Zealand's anti-slavery response and help further continuous improvement where required. The independence of the role from government would be integral to its success and provide for a stronger accountability mechanism for the State's efforts. However, the Commissioner should not take on the role of regulator, act as an enforcement body, or take on the responsibility and remit of any other central government function designed to monitor and incentivise compliance with the legislation."

Most submitters

- agreed that an independent oversight mechanism is necessary.

Many submitters

- recommended that the mechanism provide oversight, guidance and drive best practice and continuous improvement.

Whistle-blowing

Some submitters

- noted the need for proactive monitoring including a mechanism for whistleblowing.

MBIE's role

Some submitters

- cite MBIE as being the key mechanism for oversight as well as being the regulator.

Support and Guidance

Most businesses

- identified the need for comprehensive support and guidance to implement the proposals. Recommendations included needing:
    - education based approach for smaller entities
    - help for small business progressively adjust within their resource constraints
    - well-resourced compliance and engagement initiatives
    - comprehensive resourcing and support options to ensure the full intent of legislation is realised.

Implementation

Businesses need to map their operations and supply chains, carry out risk assessments, educate staff, develop a governance system and understand disclosure and due diligence requirements. This takes time."

Most submitters

- agreed that a phase in time is needed for both responsibilities and penalties.

Some submitters

- said that phase in time is necessary for entities to plan and build resources and capability.

Analysis of consultation questions

This section summarises the responses received to the specific consultation questions.

Note: There are some questions where submitters did not give a definitive answer based on the options available. In these cases, the answer has not been recorded as "yes" or "no", but they have been included in the total number of submitters that responded to the question.

Question 1: What do you think the key policy objectives should be? Which of these objectives do you think are most important?

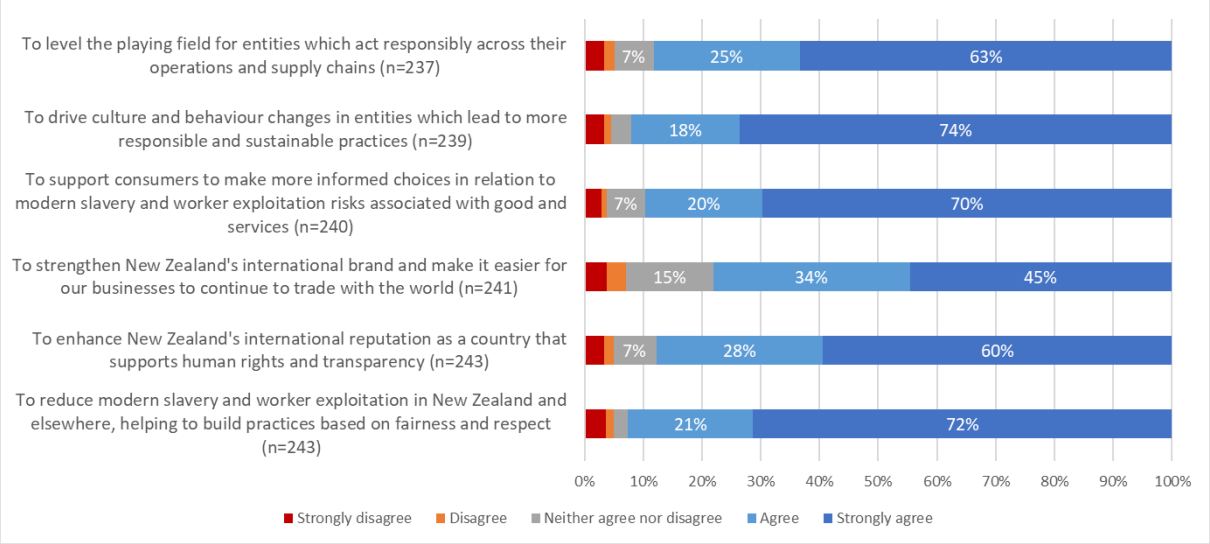
Most submitters agreed with the primary and secondary objectives. Culture and behaviour change, levelling the playing field and supporting consumer choices were viewed as the most important secondary objectives. Many submitters proposed that 'reduction' in the primary objective should be strengthened and replaced with 'elimination'. Some submitters recommended stronger emphasis on victim redress and remediation. For the survey responses, Table 3 includes those that 'agreed' or 'strongly agreed' with the policy objective. Figure 1 (over the page) provides an illustration of responses from all survey respondents.

Table 3 3: Policy objective responses

Policy Objective	Agreed
Reduce modern slavery and worker exploitation in New Zealand and elsewhere	31 (Email submissions) 226 (Survey responses)
Enhance New Zealand's international brand	3 (Email submissions) 189 (Survey responses)
Support consumers to make more informed choices	5 (Email submissions) 216 (Survey responses)
Enhance New Zealand's Human Rights brand	5 (Email submissions) 214 (Survey responses)
Drive culture and behaviourr change in entities	17 (Email submissions) 220 (Survey responses)
Level the playing field for entities which act responsibly across their operations and supply chains	9 (Email submissions) 209 (Survey responses) 5,184 (WVTATF Template submissions[1])

[1] Emailed submissions using a template prepared by World Vision, the Human Rights Commission, Trade Aid and Tearfund, and promoted by World Vision, Trade Aid and Tearfund (the 'WVTATF Template').

Figure 1: Survey respondents' policy objectives



Primary policy objective

Most submitters agreed with the primary objective. However, some submitters suggested that 'reduction' should be replaced with 'elimination' specifically in relation to business activity within New Zealand. Victim remediation was highlighted by some submitters as being noticeably absent from the primary objective. One submitter recommended amending the primary objective to "reduce modern slavery and worker exploitation in New Zealand and elsewhere, helping to ensure that human dignity and rights are protected and respected."

A few submitters recommended extending the key policy objective to "reduce modern slavery and worker exploitation in New Zealand and elsewhere by holding entities accountable for upholding the rights and entitlements of workers in their supply chains."

By contrast, some submitters thought the primary objective should be limited to New Zealand.

Secondary objectives

Most submitters supported the secondary objectives. Driving cultural change, levelling the playing field, and enhancing New Zealand's human rights reputation were seen by most submitters as being the most important secondary objectives.

Other objectives identified

Some submitters recommended additional secondary objectives. These included:

- increase living standards and the right to freedom of association amongst our trading partners
- prepare New Zealand businesses to respond better to the emerging landscape of modern slavery legislation globally (from a supply chain perspective)
- increase proportionality, consistency, collaboration, accountability, and transparency to achieve fairness and dignity throughout supply chains
- to raise awareness in businesses of all sizes and in consumers so they take action on the issue of slavery.

Worker exploitation and modern slavery

A few submitters raised concern about including worker exploitation and modern slavery in the same legislative framework. They said that they are distinct things and there needs to be clarity in the intention to address both and how these aims will diverge and converge. One submitter said that they were specifically concerned with the prospect of duplication of legislation with the inclusion of 'worker exploitation' in the proposals.

Submissions on purpose from people using the WVTATF Template

Many of the 5,184 submitters using WVTATF Template also gave reasons why New Zealand must take action against modern slavery and exploitation. These aligned with the primary and secondary purposes proposed in the consultation document. A sample of the reasons these submitters gave is provided below.

Many of these submitters stressed the fundamental inhumanity of exploitation and modern slavery, including:

Slavery is unacceptable. We have a responsibility to put our privilege to good use and help those of lesser means.

I believe that everyone, no matter where they live, should have access to dignified, fairly paid work. As a mother I believe that children should be able to be children. That they should be in school, not in slavery. It is important to me that Aotearoa New Zealand takes action on this important issue because it's outrageous that slavery should still exist. I support living wages for all: it's not right that the wealthy should live well at the expense of people who can barely survive.

According to the UN declaration on human rights no person should live enslaved. We have a responsibility as a nation that cares, that is kind, to stand up. It's not enough for us to do nothing, it is time for us to do something. Every child should have the right to be free to play, learn and have opportunities to further themselves. Every child should be in school, not enslaved.

These submitters also argued that it was important for New Zealanders to know how the goods and services they purchase are produced, including:

On the website 'SlaveryFootprint.Org', I found out that my household alone has 85 slaves working for me somewhere along the line of production. This is outrageous. New Zealanders need a way to reliably check their goods before they buy for traces of human labour. I am begging you to stop the import of slave produced goods into New Zealand, or at least provide consumers with a way of making sure their food is safe to eat. We need to do everything we can to stop slavery from existing in Kiwi supply chains.

I want to buy clothes from anywhere in New Zealand knowing they were produced ethically.

Because most of our canned tuna comes from Thailand and I have recently found out through a documentary that they have slaves on their fishing boats. It is too much for the New Zealand public to know how all our products are being made, so I would rather our taxes pay for a taskforce to monitor it for everyone.

Submitters using the WVTATF Templatealso highlighted that tolerance of modern slavery and exploitation is inconsistent with New Zealand values, including:

Kiwis care about fairness and dignity as demonstrated by this Act. Modern slavery goes against Kiwi values, and we need laws to do everything we can to stop it from existing in Kiwi supply chains.

We pride ourselves on being 100% pure and that includes exploitation of people. We need to stop being hypocritical, and have our actions match our words.

We cannot live in the abundance we have here knowing we contribute to a life of slavery for others. It's just not how we as NZ'ers want to behave or be associated with. It should not matter where in the world a child is, there should not be an opportunity for them to be used for child labour in this century, we know better, we know more so we need to do better.

One submitter appositely drew attention to the reality faced by victims of modern slavery:

Those who are trapped in slavery can't give you feedback on this. Think about that.

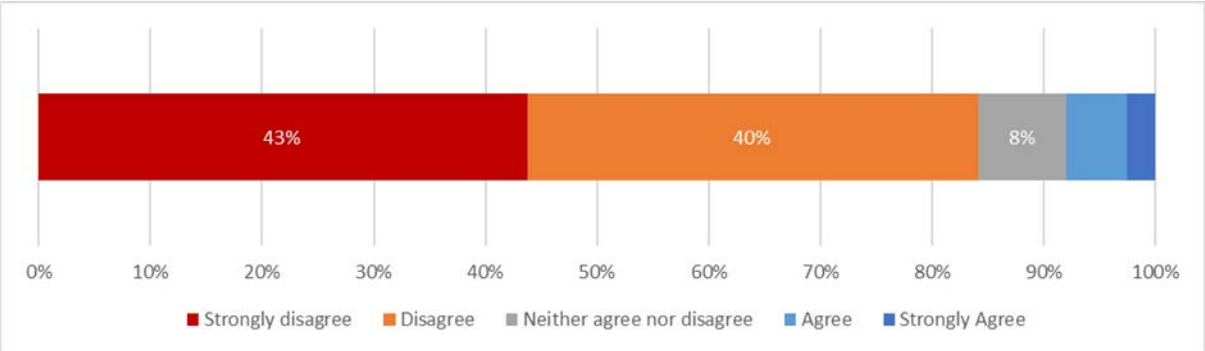
Question 2. Do you think that enough action is currently taken in New Zealand to address modern slavery and worker exploitation across operations and supply chains?

Most submitters said that there was not enough action currently being undertaken in New Zealand to address modern slavery and worker exploitation across operations and supply chains.

Table 4: Enough action being taken

Do you think that enough action is currently taken in New Zealand to address modern slavery and worker exploitation across operations and supply chains?	
Yes (Email submissions)	0
Agreed or Strongly Agreed (Survey responses)	19
No (Email submissions)	51
No (WVTATF Template submissions)	5,184
Disagreed or Strongly Disagreed (Survey responses)	202
Don't know (combined)	3

Figure 2: Survey respondents' enough action being taken



The level of disagreement with the statement is equally reflected in survey responses where 202 respondents indicated that they either disagreed or strongly disagreed. A summary of survey responses is set out below at Appendix 1.

The one submitter who didn't know suggested that work is required to understand which entities breach existing worker exploitation legislation, and how best to educate those entities about their responsibilities.

> *With respect to worker exploitation, it is not clear that the proposed legislative approach is necessary to improve compliance with minimum employment standards in New Zealand. We consider that further work is required to understand which entities and/or sectors in New Zealand most frequently breach existing worker exploitation legislation, and how best to educate those entities about their responsibilities (and where necessary, to take strong enforcement action). Establishing disclosure or supply chain-based due diligence obligations on entities that generally do not breach those standards or interact with entities that do is unlikely to reduce instances of worker exploitation in New Zealand*.

Current legislative environment

Most submitters noted that New Zealand has taken some steps to protect vulnerable workers. However, they considered that the legislative framework was ad hoc and had some gaps including in relation to the supply chain. Some submitters highlighted the need for slavery and exploitation to be a criminal offence. One submitter specifically identified gaps in the Labour Inspectorate and criminal justice system as barriers to adequately addressing modern slavery and worker exploitation. Another submitter highlighted inconsistencies between the application of Immigration and Criminal Laws in New Zealand.

Some submitters noted that specific legislation was needed that is comparable with legal developments in comparable jurisdictions to ensure New Zealand businesses can meet the global standards.

Legislative requirements

Most submitters discussed the scope and application of proposed legislation in responding to this question. These comments are included in the summary of key themes section of this report and below at question 3.

Question 3: Do you think that New Zealand's legislation should be amended to better address modern slavery and/or worker exploitation across operations and supply chains?

Almost all submitters agreed that legislative change was needed and identified issues with the current framework. Most submitters noted the need to align the legislation with international obligations including the United Nations Guiding Principles on Business and Human Rights (UNGPs).

Four submitters questioned the need for legislative reform. One submitter recommended a review of current legislation.

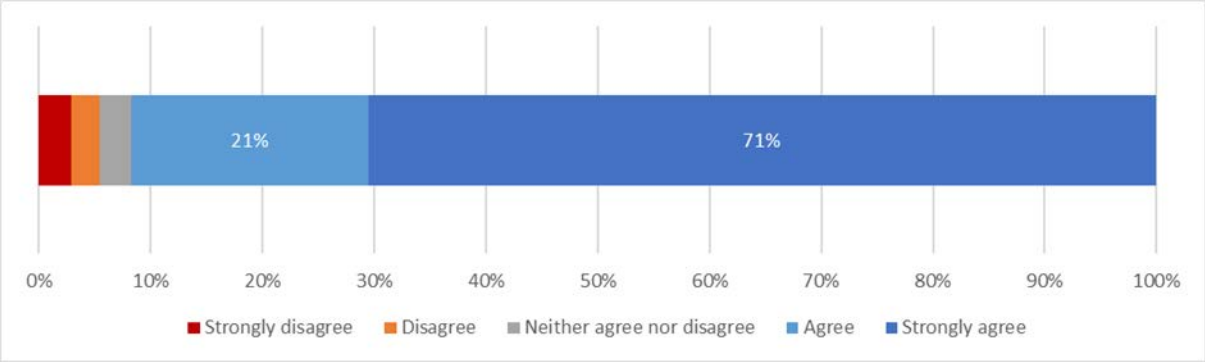
> *I don't believe the answer is always just making more law and compliance. Arduous compliance and regulations just bog down NZ's businesses in paperwork - of which surely the majority are acting fairly. But there does need to be a robust system of investigating complaints and acting when something doesn't seem right.*

One submitter noted that while New Zealand legislation cannot adequately address modern slavery in a global context, issues arising from worker exploitation in domestic operations and supply chains are adequately covered by existing legislation and mechanisms.

Table 5: Amendments to legislation

Should legislation be amended?	
Yes (Email submissions)	49
Yes (WVTATF Template submissions)	5,184
Agreed or Strongly Agreed (Survey responses)	221
No (Email submissions)	0
Disagreed or Strongly Disagreed (Survey responses)	13
Other	4

Figure 3: Survey respondents' amendments to legislation



Current legislation problems and gaps

Some submitters said current legislation does not guard against bad business practice, provide victim redress and remediation, focus on supply chains nor does it recognise visitors as victims of exploitation, as there is a dominant focus only on temporary work visa holders. A few submitters identified the need to review the Crimes Act and ensure consistency across the statute book.

Other gaps identified by submitters included:

- the absence of laws to prevent the import of goods made with forced labour
- mandatory sustainability reporting rules for listed companies to increase transparency and ensure that investors have sufficient data to inform investment decisions and stop investing in companies that perpetrate modern slavery
- the absence of sanctions.

'The current domestic legislative framework (including Crimes Act 1961, Employment Relations Act 2000, Health and Safety at Work Act 2015, and Immigration Act 2009) is piecemeal and does not include provisions that require reporting, oversight or legal accountability for businesses regarding modern slavery. As such, the current framework does not adequately guard against unscrupulous and exploitative business practices – including those that occur overseas – or provide pathways to redress and remediation for victims'

Legislative design and implementation

Most submitters said that any new legislation should be a positive addition to the existing legal framework. Some submitters noted that consequences for non-compliance is necessary.

One submitter recommended that new legislation should be applied to all New Zealand entities and compatible across the areas of employment, immigration, import standards and regulation. Two submitters argued that it should be carefully tailored to the level of complexity of the entity's supply chain.

One submitter noted the need for further changes to immigration policy and how information provided to the Labour Inspectorate, or the Employment Relations Authority is dealt with.

Question 3A: Which type of broad approach to new supply chain legislation would you most support?

Most submitters supported a graduated approach incorporating due diligence and disclosure. Some submitters highlighted that any obligations should be reasonable and proportionate based on the risk of the business or its operations. They also said that the definition of 'reasonable and proportionate' needs to be made clearer. A few submitters recommended the inclusion of measures to ensure efficacy and progress as well as periodic legislative reviews.

One submitter raised concern that a graduated approach might too prescriptive, and entities will perform the bare minimum. Instead, they recommended that legislation uniformly demands diligence in respect of duties of identification, mitigation, prevention, remedy, evaluation, and transparency and stipulates that these duties should be performed to a degree reasonable and proportionate to the entity.

Table 6: Approach to supply chain legislation

Which type of broad approach to new supply chain legislation would you most support?	
Due diligence based	5,192[2]
Graduated approach	26

Disclosure and due diligence

Some submitters said disclosure and due diligence must be applied consistently across the market. In responding to this question, submitters regularly mentioned due diligence issues. They recommended that any due diligence framework implemented should recognise logistical issues such as cost, language barriers and capability. Submitters expanded on these issues when responding to subsequent questions relating to the supply chain and due diligence obligations specifically.

Some submitters noted that the reporting requirements should be closely linked to the due diligence requirements to enable monitoring and enforcement. Two submitters warn if small entities are not required to report then that may create enforcement challenges. The recommend introducing a 'light' reporting requirement for small entities.

A few submitters raised concern about how the obligations would apply to parent companies and subsidiaries. One submitter noted that due diligence is not the most appropriate approach for parent companies as they should already have knowledge of the subsidiary's practice. They recommended reframing the responsibility to conduct due diligence as 'duty to prevent modern slavery or worker exploitation in entities that the entity owns or controls (regardless of whether they are domestic or international).

Size of entity

A few submitters recommended a graduated set of responsibilities linked to the size and risk profile of the entity and/or its operations.

[2] This includes 5,184 WVTATF template submissions, which were taken as supporting due diligence for all entities.

Clarity of obligations

Most submitters voiced concern about the lack of clarity of obligations and responsibilities. Some submitters highlighted the need to specify what is 'reasonable and proportionate' for a particular entity. A few submitters asked for clarification on the difference in disclosure requirements versus due diligence requirements.

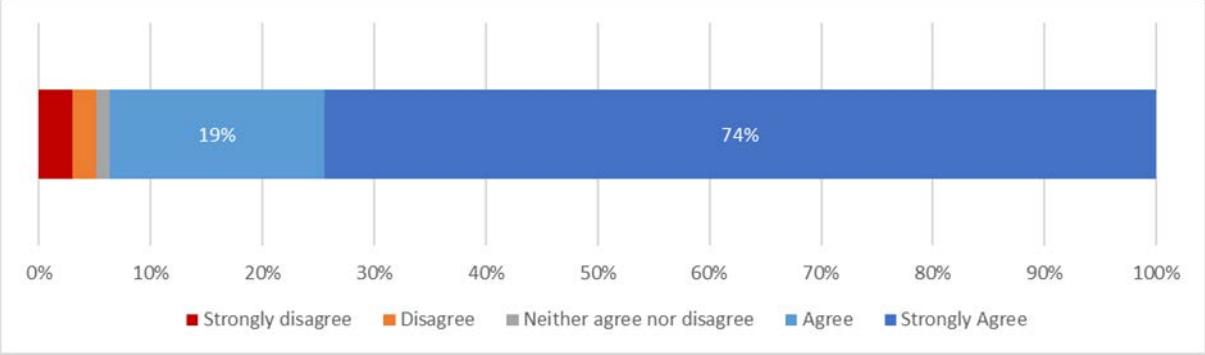
Question 4: Do you agree that all entities should have to take reasonable and proportionate action if they become aware of modern slavery in their international operations and supply chains, and/or modern slavery or worker exploitation in their domestic operations and supply chains?

Most submitters said that it is important that all entities, regardless of size, should take reasonable and proportionate action if they become aware of modern slavery or exploitation. Many submitters said that the use of "reasonable and proportionate" would ensure that this would require a suitable duty of care and responsibility that would not be overly onerous. A few submitters had a different view and thought that the requirements would be overly onerous for SMEs.

Table 7: Reasonable and proportionate action

Do you agree that all entities should have to take reasonable and proportionate action if they become aware of modern slavery in their international operations and supply chains, and/or modern slavery or worker exploitation in their domestic operations and supply chains?	
Yes (Email submissions)	56
Yes (Survey responses)	220
Yes (WVTATF Template submissions)	5,184
No (Email submissions)	2
No (Survey responses)	12

Figure 4: Survey respondents' reasonable and proportionate action



An appropriate expectation

Many submitters said that it was important that all entities take reasonable and proportionate action if they become aware of modern slavery or exploitation in their international or domestic supply chains. They said that a responsibility for all sized entities would ensure that action is taken at a consistent level, and the size of entities is not used as an excuse for ignoring or a lack of action in the instance of modern slavery or worker exploitation. The inclusion of "reasonable and proportionate" was supported by most submitters as it recognizes the responsibility of larger entities to take more action in the instance of worker exploitation – as they have greater resources and capacity to make a difference.

One submitter said:

> *"while all entities therefore must take reasonable and proportionate action if they become aware of modern slavery in their operations and supply chains, 'larger' entities can reasonably be expected to devote more attention and resources given their comparatively bigger social footprint."*

"Reasonable" and "proportionate" not overly onerous to follow

Some submitters said that the expectation of a "reasonable" and "proportionate" response from all entities is realistic. These submitters said that a proportionate response from smaller and medium sized entities would make sure that the responsibilities the obligations are not overly onerous, and compliance is realistic in terms of the resource and capability.

Definitions of reasonable and proportionate

Some submitters said that there should be greater clarification for what a "reasonable" and "proportionate" response would entail. These submitters said that without a clear understanding of what reasonable and proportionate actions are for entities, this proposed legislation would be ineffective. Clear direction on what a proportionate response is should be established to ensure consistent application of proposed legislation, according to these submitters.

One submitter said:

> *"it will be important that the scope and definition of 'reasonable and proportionate' take account of the level of control and influence that a New Zealand entity is practically able to exercise over the particular supplier."*

Requirements would be overly onerous for small to medium sized entities

A few submitters said that "reasonable and proportionate" action is too broad and would pose an excessive and inequitable burden for most businesses.

Question 5: What action(s) do you think would be reasonable and proportionate?

Most submitters agreed that what is considered reasonable and proportionate will depend on the severity of exploitation and the size of the entity.

Reasonable and proportionate action will vary

Many submitters said that the understanding of what actions would be deemed reasonable and proportionate would depend on the severity of misconduct and the size of the entity in question. There was an acceptance from these submitters that small to medium sized entities that are domestically based in New Zealand would have little market power to make meaningful change across international supply chains, and subsequently reasonable and proportionate actions would not be the same as that of multinational, market-leading organisations. Some submitters said that the decision on whether an action was deemed appropriate and proportional would depend "on the severity of the situation uncovered and the nature of the role of the entity in causing or contributing to (indirectly or directly) the situation." Other submitters echoed this sentiment, with some saying that the required duties should entail multiple forms of action in keeping with "both the characteristics of the entity in question and the nature and extent of abuse within its supply chain." These submitters said that the size and power of the entity in question will go some way in dictating what would be deemed reasonable and proportionate action, as well as the extent modern slavery or exploitation that is identified.

It may be appropriate to close certain supply chains

Some submitters said that it would be reasonable and proportionate to terminate contractual arrangements with entities across the supply chain that are engaged with worker exploitation or modern slavery. One submitter said:

> *"this would be the most effective and appropriate way to minimise the presence of worker exploitation in New Zealand, and any other action would not be affectively addressing the issue."*

Other suggestions

A few submitters said entities should be expected to report any instances of modern slavery or exploitation in their supply chain and recommended that a specific agency be established to deal with these reports.

Some submitters said that it was important that any approach taken should be victim-centred to be reasonable and proportionate. They said that it was important that victims of modern slavery and exploitation were looked after throughout the process of reporting.

Other suggestions included:

- reporting the case to the appropriate authority
- working with suppliers to address and remediate the situation
- terminating the relationship with the supplier (in zero tolerance cases)
- engagement with stakeholders including civil society and NGOs providing victim support
- taking additional measures to mitigate or prevent the issue from reoccurring
- obtaining third-party monitoring certificates from New Zealand auditing firms confirming the rights and entitlements owed to employees under relevant employment laws are upheld
- ensuring a grievance mechanism that is accessible to employees throughout the supply chain.

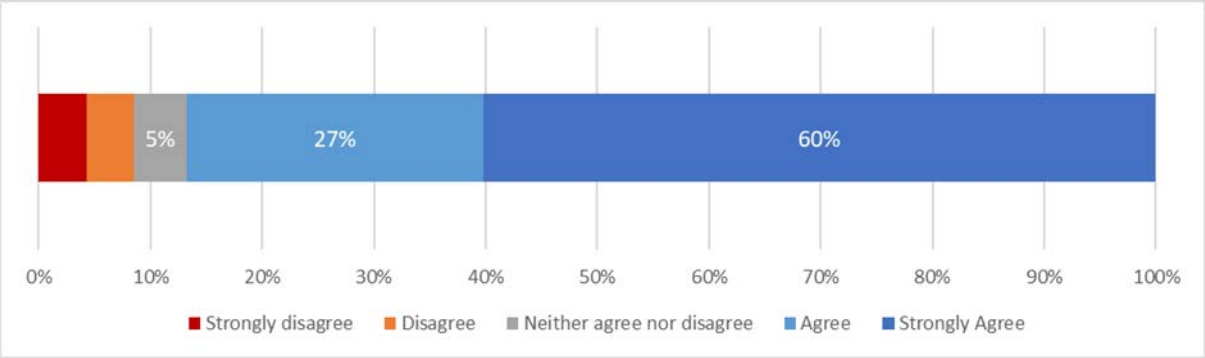
Question 6: Do you agree that small and medium-sized entities should have a responsibility to undertake due diligence to prevent and mitigate modern slavery and worker exploitation in domestic operations and supply chains for New Zealand entities they have significant control or influence over?

Most submitters said that SMEs have responsibilities to combat worker exploitation. Submitters commonly referenced responsibilities for businesses without explicitly mentioning due diligence when responding to this question. Some submitters noted that to strengthen anti-exploitation action from small to medium-sized entities, these entities will require support from legislators. Many submitters recommended that there should be a categorisation of what level of SMEs have responsibilities.

Table 8: SME responsibilities

Do you agree that small and medium-sized entities should have a responsibility to undertake due diligence to prevent and mitigate modern slavery and worker exploitation in domestic operations and supply chains for New Zealand entities they have significant control or influence over?	
Yes (Email submissions)	53
Yes (Survey responses)	183
Yes (WVTATF Template submissions)	5,184
No (Email submissions)	6
No (Survey responses)	18

Figure 5: Survey respondents' SME responsibilities



All entities have the responsibility to take action, including SMEs

Many submitters said that all entities, regardless of size, have a responsibility to take action against modern slavery and worker exploitation. These submitters said that these entities could not use size or resource as an excuse to ignore cases of worker exploitation in their supply chain. Many submitters acknowledged that these SMEs would not be able to take action to the same extent as large, well-resourced entities, but that did not strip them of any responsibility to act. These submitters said that SMEs have just as much responsibility to take action as larger entities, and the understanding of reasonable and proportionate action outlined in the proposed legislation means that this would not be overly burdensome for SMEs.

Support will be required from legislators for SMEs to take action

Some submitters said that SMEs had a responsibility to take action against worker exploitation, but there is requirement from the government or a government agency to provide assistance for these SMEs to meet their responsibilities. A few submitters said that collaboration between a government agency and small businesses could show these businesses "easy, simple, and effective ways to voluntarily investigate modern slavery and worker exploitation in their supply chains."

Greater distinction of what kind of SMEs have responsibilities

Two submitters said that there should be greater distinction on what entities have a responsibility to act in the case of worker exploitation. One submitter suggested that a distinction could be made by whether a SME imports anything overseas (Tier 1 – Tier 4), and these entities would have the responsibility to undertake due diligence, like larger entities. The proposal relates to domestic due diligence requirements. However, respondents appeared to see these obligations applying more broadly which raised concerns for some of them.

SMEs should not have a responsibility to take action

A few submitters said that they did not think it would be appropriate for SMEs to have the responsibility to take action. They said there should be a focus on larger companies that can "best afford to implement the requirements of the proposed legislation." One submitter said that SMEs should be able to voluntarily opt-in to the responsibility to take action, but it should not be a requirement under the proposed legislation because it is unrealistic and overly burdensome for some.

Question 6A: What actions or measures do you think could be reasonable and proportionate for small and medium-sized entities to meet domestic due diligence obligations?

Most submitters that a proportionate approach should be applied to entities.

Reasonable actions

Some submitters gave examples of reasonable actions for SMEs to meet domestic due diligence obligations. These included:

- Mandatory supply chain tracing if an entity does not have its domestic supply chain already mapped (i.e., names and addresses of suppliers from finished products to raw materials production, as noted on page 25 of the discussion document).
- Conducting a labour and human rights risk analysis to identify relevant risks and, where necessary, prioritise addressing human rights risks that are most severe and likely to have (actual or potential) negative impacts on people (or, with environmental risks, the planet) across the value chain.
- Obtaining third-party monitoring certificates from New Zealand auditing firms confirming the rights and entitlements owed to employees under relevant employment laws are upheld.
- Ensuring a grievance mechanism that is accessible to employees throughout the supply chain.

One submitter recommended that where entities become aware that modern slavery is present, they should be required to notify the regulator and take reasonable and proportionate steps to address this including remediating any affected workers.

Another submitter argued that there should be an increased focus on SME's own compliance with minimum employment standards, such as the Health and Safety at Work Act 2015, instead of legislative change. They said the Health and Safety at Work Act 2015 already puts obligations on all persons conducting a business or undertaking (PCBUs) to take reasonable and practicable steps to ensure the health and safety of their own workers as well as where the SME influences/controls the work, together with an obligation to consult, cooperate and co-ordinate with other PCBUs who have duties in relation to the same matter.

One submitter recommended the integration of human rights responsibilities into companies' contract clauses by incorporating one or more of the following:

- Human rights remediation clauses that prioritise remediation over traditional contract remedies for breaches that implicate human rights.
- Engaging in ongoing dialogue with suppliers throughout the course of the contract to ensure that buyers' requirements, including changed orders, do not undermine human rights.
- Collaborating with suppliers to agree on a timeline to ensure that orders will not trigger excessive working hours or unauthorized and unregulated sub-contracting, ensuring that suppliers can perform under the contract while meeting the company's own human rights standards.

Franchises

A few submitters noted that Responsibility 2 does not distinguish between the variety and nuances of franchise systems that operate in New Zealand. They highlighted that the 'significant contractual control' test is unfair and disproportionate to small franchisor entities.

Question 6B: Do you think those actions would be reasonable and appropriate generally, or in specific contexts?

All submitters said that any required actions should be judged on whether they are "reasonable and appropriate" in a specific context, rather than a generalised assessment. One submitter said that policies need to also consider the role of third-party contractors or employees of small businesses. This submitter said that specific policies for these groups would "ensure human rights standards and expectations are set out from the beginning, and the consequences of breaches are outlined". Another submitter said that the actions and requirements needed to be proportionate and "risk-based" to account for small business' limited influence on supply chains.

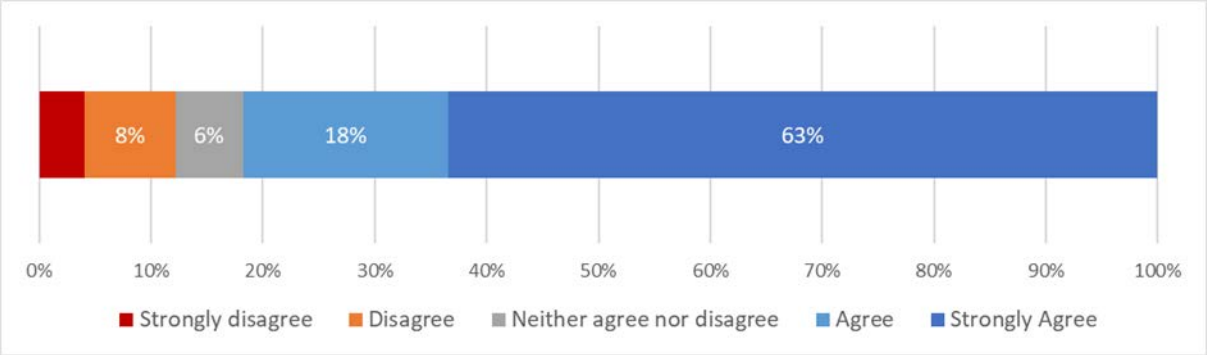
Question 7: Do you agree that medium and large-sized entities should be required to annually report on the due diligence they are undertaking to address modern slavery in their international supply chains, and modern slavery and worker exploitation in their domestic operations and supply chains?

Most submitters said that they agreed with the obligation of medium and large entities to annually report the due diligence they are undertaking. Some submitters said that the burden of scope, detail and frequency of reporting should be proportionate to the risk profile and size of action taken by the entity. A few submitters said all organisations should annually report regardless of size.

Table 9: Annual Reporting

Do you agree that medium and large-sized entities should be required to annually report on the due diligence they are undertaking to address modern slavery in their international supply chains, and modern slavery and worker exploitation in their domestic operations and supply chains?	
Yes (Email submissions)	52
Yes (Survey responses)	161
Yes (WVTATF Template submissions)	5,184
No (Email submissions)	8
No (Survey responses)	24

Figure 6: Survey respondents annual reporting



The requirement is reasonable

Most submitters said that they agreed with the obligation for medium and large entities to annually report due diligence that they are undertaking and that it was a reasonable requirement for these entities. One submitter said that these requirements should be written in a way that mirrors the requirement of the Australian Modern Slavery Act 2018 to assist in "reducing duplication of compliance costs for businesses with Trans-Tasman operations."

Reporting requirements should vary on the size of entities

Some submitters said there should be a tiered approach to reporting expectations to ensure that is achievable. A few submitters said that the burden of reporting should be proportionate to the risk profile, size and action taken by the entity.

By contrast some other submitters said the requirement of annual reporting for medium sized entities is burdensome and unnecessary. These submitters said that the reporting requirements should only apply to large-scale entities, as they have the resources and finances to afford the costs of this reporting. One submitter said:

> *"SMEs do not have the capacity to fund and monitor compliance of their supply chains in accordance with the legislation."*

Entities should annually report their due diligence regardless of size

A few submitters said that the due diligence reporting requirements proposed in the legislation should be extended to include all entities, regardless of size. These submitters said that the importance of the issue justified any cost or burden placed on entities to minimise involvement in modern slavery or worker exploitation.

Question 7A: What information should be compulsory for entities to provide in their annual disclosure?

Many submitters said that the bare minimum reporting requirements should include information about the entities' own business, as well as information about the supply chains they are engaged in, as well as a basic risk assessment. A few submitters said alignment with the requirements of Australian legislation would be a good guide for the information necessary.

Recommendations included:

- structure
- employer and employee statistical information
- revenue
- due diligence undertaken
- cases of modern slavery or exploitation identifies
- steps taken to comply with obligations
- proof of external audit
- supply chain mapping
- action plans and mitigation/improvement steps
- risk assessments
- human rights policies
- Health and Safety audits.

Compulsory information should not become overly burdensome or a barrier to operation

Some submitters said that information that is required as part of the annual disclosures should not be overly burdensome for entities to ensure it does not become a barrier to operation, particularly for smaller entities. These submitters were not opposed to the concept of annual reporting, but they were wary of the potential cost (both time and resource) of overly extensive reporting for all entities, even those smaller entities that have no clear links to worker exploitation or modern slavery. Some submitters said that it was important that the requirements of annual reporting are applicable for all entities, and that the resource limitations of smaller entities are considered when assigning the requirements for this reporting.

One submitter said that access to a central resource (such as MBIE or another government agency or an independent commission) that can assist entities gather and present their reported information would be an important addition to make the reporting expectations feasible. The submitter said that this central resource would "ensure that the process is robust, not overly onerous and protected against tokenism."

Alignment with Australian and other jurisdictions' similar legislation

A few submitters said that consistency with similar legislation from other jurisdictions is important. These submitters said that legislators should use the Australian, United Kingdom and European Union experiences to inform what information is practical to require from annual reporting.

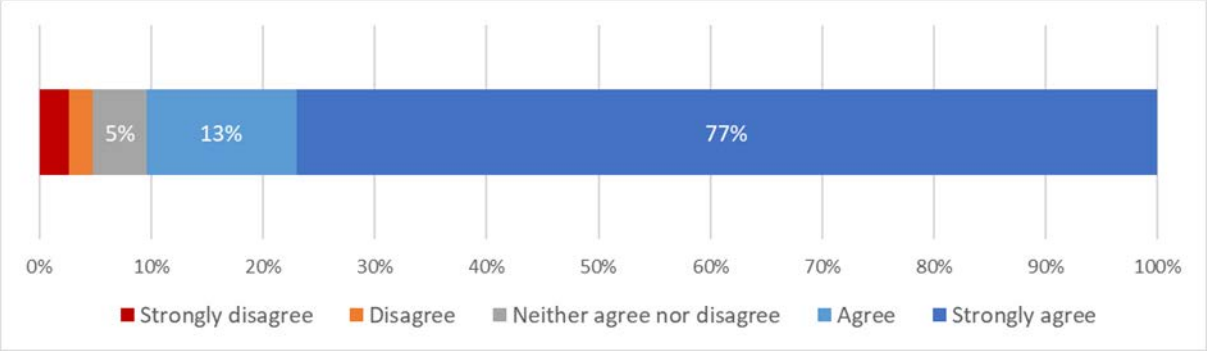
Question 8: Do you agree that 'large'-sized entities should be required to meet due diligence obligations to prevent and mitigate modern slavery in their international and domestic operations and supply chains?

Many submitters said that they agreed with the proposal for large-sized entities to have a requirement to meet due diligence standards. Some submitters agreed that large entities should be required to meet due diligence obligations, but so should small and medium-sized entities.

Table 10: Large entities due diligence requirements

Do you agree that 'large'-sized entities should be required to meet due diligence obligations to prevent and mitigate modern slavery in their international and domestic operations and supply chains?	
Yes (Email submissions)	50
Yes (Survey responses)	169
Yes (WVTATF Template submissions)	5,184
No (Email submissions)	4
No (Survey responses)	9

Figure 7: Large entities due diligence



Clarity of obligations

Some submitters were supportive of the proposed obligations but also wanted more certainty on what form of "due diligence" would take place, as this would determine the required level of cost and resources for affected large entities. These submitters said that it was important for this clarity to be established first before any obligations come into force.

Due diligence obligations should be extended to medium-sized entities

Some submitters said that the obligations were appropriate for large entities, but to achieve the proposed purpose of the legislation these obligations should also be extended to medium sized entities.

> *"Small and medium businesses should adopt the same due diligence approach to ensure slavery or exploitation is not happening in their operations or supply chains as these larger businesses."*

Alignment with similar Australian legislation would be beneficial

A few submitters said that for the legislation to be effective and consistent, the obligations on large organisations (and other sizes) should be aligned with those outlined in Australia's similar legislation. Some businesses said that due diligence obligations should be consistent across Australia and New Zealand, as often these businesses have a common supply chain for its Australian and New Zealand operations. They said that inconsistency across these pieces of legislation may create

negative unintended consequences for entities that are based in New Zealand. One submitter noted that due diligence is not a mandatory requirement under pre-existing modern slavery legislation in Australia and the United Kingdom. They said that obligations and responsibilities of entities in New Zealand to practice due diligence should not unnecessarily extend beyond pre-existing expectations internationally.

Demonstration of due diligence would be overly burdensome

A few submitters did not agree with the proposed due diligence requirements for large entities. These submitters said the responsibility were overly complex and demanding. One submitter noted more work is needed to provide "concrete, actionable guidance to support a risk-based approach."

Question 8A: What actions or measures do you think could be appropriate for large entities to meet domestic and international due diligence obligations?

Many submitters said that large entities had the responsibility to demonstrate due diligence across the entirety of the supply chains that they are engaged in. Some submitters said that the expectations and obligations for large entities would be similar to that of SMEs, but they would be expected to go "deeper into the supply chain." One submitter suggested that large businesses could invest in the use of blockchain technologies that would help them trace and monitor their supply chain. The submitter also suggested that large entities could procure the use of third-party auditors who could work with supply chain partners to monitor and report the actions of offshore suppliers.

Most submitters agreed with the suggested measures but thought they should be tailored to the entity. Additional recommendations included:

- What slavery and exploitation risks they have identified, and what gives them confidence they have identified everything (ideally there will be guidance so that missing risks is rare; currently in Australia it is very common for companies to miss risks).
- What due diligence they are doing with new suppliers to make sure they are not using slave labour either themselves or through their own suppliers.
- What due diligence they are doing with existing suppliers. For high-risk sectors it should be required that unannounced audits are carried out at least every three years on at least a randomly chosen subset of suppliers, either by the entity themselves, by a third-party, or via the use of a certification that does unannounced audits
- How many cases of slavery and exploitation they have identified and what has been done in response?
- Disclosure statements included in their annual reports, including links to annual audit reports by third party compliance auditing bodies.
- Evidence to confirm any concerns raised through their "whistleblower" line or raised through any other form of engagement with staff, including internal investigations, outcomes, and corrective/preventive actions taken.

Mandatory Human Rights and Environment Due Diligence (MHREDD) should be phased into large organisations' requirements

Some submitters said that MHREDD should be phased into large organisations' requirements to assist in fighting worker exploitation and modern slavery. They said that this approach focusses on human rights (not limited to modern slavery) and environmental risk. The approach incorporates the requirement for supply chain transparency, but also goes further in terms of processes and the focus of actions taken.

A few submitters said that a form of MHREDD has been considered by the European Union and New Zealand should take this approach also, in the interests of consistency and transparency.

Due diligence obligations should be context-specific, even for large entities

Some submitters said that meeting due diligence obligations for large entities needs to be context-specific, with "a degree of flexibility necessary to ensure obligations are reasonable and proportionate." These submitters said that it would not be feasible to apply one rule of obligations for all large entities, given the complexity of the potential variation across these organisations. A few submitters said that a risk-based approach was needed to allow for sufficient flexibility.

Question 8B: Do you think those actions would be reasonable and proportionate generally, or in specific contexts?

All submitters that responded to this question said that it was important that the reasonability and proportionality of actions were judged in specific contexts, rather than a standard benchmark across all entities. Submitters said that it is only right that

large entities with significant market power and influence are held to a higher standard of required proportional action than smaller entities that have far less resource and capability.

One submitter noted, however, that some level of consistency – that is, having some reasonable and proportionate expectations of entities regardless of size – would help reinforce consistency of application for the proposed legislation.

Question 9: How far should expectations apply?

Most submitters think that whole supply chain transparency and traceability is necessary for robust due diligence. They advocate that any assessment should be appropriate and proportionate to the supply chain tier level and modern slavery risk profile.

As one submitter said:

> *"The majority of risks lie beyond first-tier suppliers, and so entities should take a multi-tier approach to supply chain management involving proactive mapping of their supply chain and collecting data to increase transparency."*

By contrast, one submitter said responsibility should stop at Tier 1:

> *"In our view, requiring a New Zealand organisation to deploy this kind of investigative and interrogative capacity, beyond its direct Tier 1 relationships, in a foreign country with no local legal mandate, in relation to an entity for which it has limited commercial relevance (Tier 2 and beyond), potentially placing their direct or indirect employees in jeopardy of criminal retribution, is a step too far. "*

Some submitters agreed that responsibilities needed to be limited and recommended that entities should complete due diligence up to the point they have a direct relationship, control, influence, or contractual agreement with another entity within the supply chain. Three submitters disagreed with the proposal that responsibility should apply across the entire supply chain. One submitter outlined the complex nature of due diligence among supply chains and suggested that extending due diligence beyond direct relationships should be discretionary and voluntary.

Many submitters advocated for a proportionate prioritisation via risk rather than 'tiers'. These submitters said due diligence should extend to all Tier 1 suppliers and extend to Tiers 2 and 3 wherever possible and when "reasonably practicable." One submitter outlines that the responsibility for a company should be limited to a number of tiers based on the entity's ability to influence the tiers further up the supply chain in international operations. They stated proposed legislation should not mandate how many tiers should be included.

Another submitter said that it will be important for the legislation to be clear on how far down the supply chain each entity needs to go in relation to any checks and balances, including clear accountabilities around direct versus indirect influences each has over their respective supply chains.

Some submitters recommended that tools should be implemented to assist companies extending beyond Tiers 1 and 2. They made several suggestions including that the Government continue to support research that considers challenges companies encounter in considering entities and workers further down their supply chains, and that recommendations and guidance based on this research be published as it becomes available. Another advocated for risk mapping across the entire supply chain. Once this is done, the entity could then consider the application of potential additional controls (such as collaboration via industry associations or NGOs, cascading controls via Tier 1 requirements, etc).

Contractor responsibilities

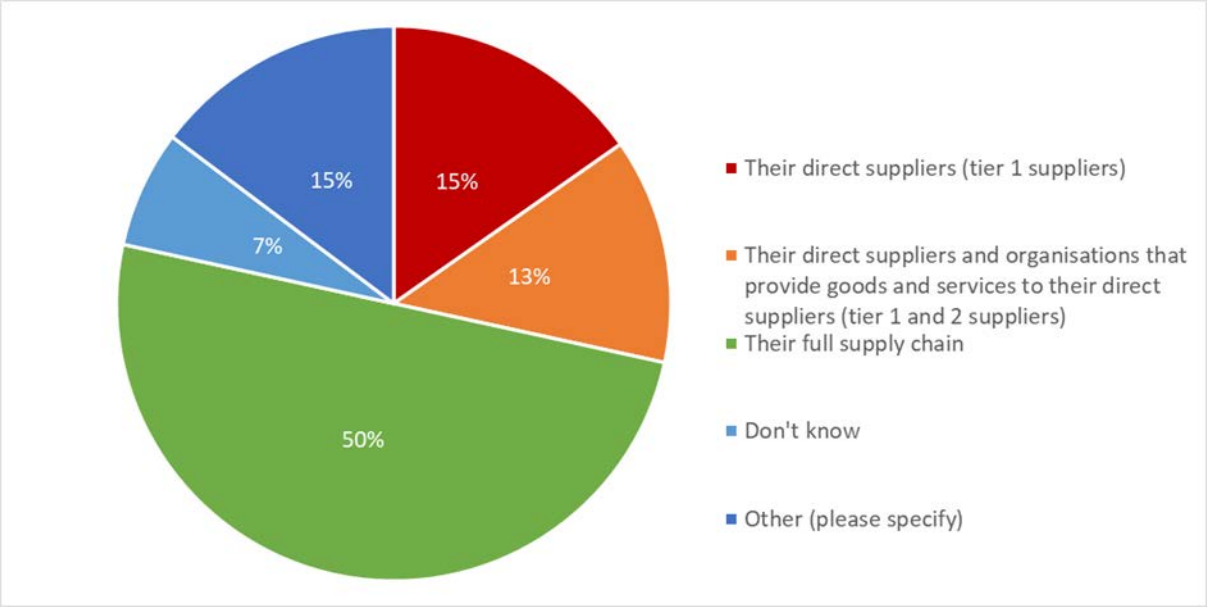
Some submitters said that due diligence below direct subcontractor level will need to be supported by rules or guidance requiring subcontractors to disclose their supply chain, as far as they are reasonably able to do so. The inability to identify the sub supply chain will hinder any other due diligence obligations required at that level. One submitter suggested that the onus of due diligence applies to the contractor in the supply chain where there's a contractual link. For example, an infrastructure client would be expected to conduct due diligence on their first-tier contractor/supplier, and ensure the contractor conducts due diligence on the second tier, and so on.

One submitter advocated for direct suppliers, third-party suppliers in categories of risk and strategic suppliers to commit to innovation and transparency improvements.

Survey respondents

Survey respondents were asked 'How far across an entity's operations and supply chains should expectations to undertake due diligence apply?'

Figure 8: Survey respondents how far should expectations apply



Question 9A: What could reasonable due diligence activity look like at different supply chain tiers, and how could this be defined or reflected in the legislation?

A few recommended keeping legislation simple and to not over-specify the nature of due diligence. Some submitters highlighted that any form of mandatory due diligence must be consistent with the OECD guidelines which contemplates due diligence being risk-based.

If legislation requires companies to perform due diligence in supply chains, one submitter suggests consideration be given to the below items below before a position is finalised:

- Suppliers are often unwilling and/or unable to allow an end customer to perform end-to-end due diligence and leverage does not always exist to secure broad rights to do so.
- Audit findings would likely be confidential between parties to a contract and unable to be shared throughout the supply chain.
- Full supply chains are often commercially sensitive for legitimate reasons and therefore unlikely to be exposed exhaustively.
- While supply chain visibility passed the point of direct contractual relationships is difficult, it becomes exponentially more challenging the further removed the process is. It is therefore not feasible for extensive due diligence through deep supply chains where spend is modest. With this in mind, we suggest that if indirect supply chain assurance is required by the resulting legislation, it is limited to very high spend and/or very high-risk categories where the purchaser is likely to have meaningful impact.

Some submitters proposed specific recommendations to meet due diligence responsibilities. These included:

- All tender forms and contracts to include a declaration on Modern Slavery and Worker Exploitation. This declaration to cover any sub-trade/organisation in the supply chain that is on-boarded/used by the main contractor:
    - Complete the same declaration; and
    - That the main contractor perform point on the organisation before entering into an agreement.
- Tender forms include questions around Modern Slavery and Worker Exploitation; somewhat already covered in most public procurement documents as part of Sustainability/Broader outcomes.
- All agreements to include clauses on Modern Slavery and Worker Exploitation requirements and obligations, not just on the main contractor, but their entire supply chain. Set the expectation/requirements that all sub-trade agreements between the main contracting organisation, its supply chain and include the same clauses.

- That MBIE provide a register and/or a list of approved end-to-end third-party risk management platforms where organisations can obtain reports/certification that an organisation complies with the Modern Slavery and Worker Exploitation legislation/global best practice.
- Should an organisation not be registered, or information not be available on its Modern Slavery and Worker Exploitation status, that the organisation either:
    - Not be used, or
    - Used but registered as being used with no Modern Slavery and Worker Exploitation status available and given 3-6 months to register.
- Failing the above two results in the organisation to be registered as non-compliant.
- Organisations must require specified tier(s) of its suppliers to subscribe to its Supplier Code of Conduct (Code).
- Organisations Codes must set a minimum standard.
- Supplier risk and modern slavery risk plans may be a useful requirement to ensure targeted risk profiling is completed.
- Verification on a targeted basis would provide a check on various suppliers' representations of compliance with the organisation's Code.
- Requirements for regular, cyclical review of the scope and content of the Code and a resourcing commitment to verification processes.
- Implementation of ethical trade audits.

Phased approach

Submitters generally preferred a phased approach whereby any due diligence expectations initially begin with primary providers (Tier 1), before increasingly applying further down the supply chain (Tier 2, Tier 3 etc.). One submitter suggested that actions required of companies could increase every year. Another submitter suggested legislation should permit flexibility of due diligence approaches and should only penalise contraventions featuring deliberate or dishonest intent and knowledge of the essential facts of the contravention.

Proportionate

One submitter gave an example of what they mean by proportionate. They said:

> *"For most medium entities, due diligence on only first tier suppliers feels appropriate. However, if they are importing products at high risk of modern slavery, they should be required to demonstrate that the products they are importing. For all large entities, due diligence on a random sample of second tier suppliers should be required. For large entities importing high risk products should further be required to audit at least a random sample of original producers (entities such as fishing boats and cocoa farms). Similarly, for large entities importing products for which there are significant modern slavery risks throughout the supply chain, they should be required to audit at least a random sample of suppliers at all levels of the supply chain."*

Code of conduct

Three submitters suggested creating a Supplier Code of Conduct which holds suppliers accountable for compliance and gets them to commit to conducting due diligence on their suppliers. One submitter said a Business Code of Ethics, and a Responsible Sourcing Policy, will help employees who are working with suppliers, to understand their responsibilities when dealing with suppliers, and how they can conduct business ethically, to ensure they are not participating in practices that can lead to modern slavery or worker exploitation.

Question 10: Are there any types of entities that should not be included in this legislation? If so, please specify and explain why they should not be included.

Most submitters said that no entities should be excluded. Most recommended that that all entities should be required to take reasonable and proportionate action if they become aware of modern slavery in their international operations and supply chains, and/or modern slavery or worker exploitation in their domestic operations and supply chains.

Some submitters identified the inclusion of all profit-based, not for-profit, NGOs, charities, social enterprises, trusts, State entities, charities, partnerships, and other organisations engaged in production and employment processes both domestic and offshore. Five submitters specifically said that government should lead by example through demonstrating how it is assessing and addressing modern slavery in its operations and supply chains and in their procurement practices.

Five said any framework should be commensurate with the size, risk profile, influence, and resources of entities. One of the five thinks a risk-based approach should be adopted.

One submitter recommended a consistent approach between Australian and New Zealand legislation. They specify that the following should be considered:

- Use of consolidated revenue as the basis for determining whether an entity meets a revenue threshold, and using existing accounting definitions to define entities, consolidated revenue etc.
- Allowing for multiple entities in a corporate group to report jointly.
- Providing for companies not required to report by the Act (for example, companies below a given revenue threshold) to report voluntarily.
- Requiring entities to align reporting dates with their existing reporting year.
- Where companies are required to report in relation to modern slavery, allowing them to submit the same statement in multiple jurisdictions, subject to the report meeting the requirements of each jurisdiction.

Table 11: Entities that should be excluded

Are there any types of entities that should not be included in this legislation?	
Yes (Email submissions)	6
No (Email submissions)	27
No (WVTATF Template submissions)	5,184

Entities should be excluded

Six submitters thought some entities should be excluded. Submitters also responded to this question by discussing the related issue of revenue threshold and distinctions when defining entities and their required actions.

Question 11: Do you agree that 'medium' and 'large' entities should be defined based on revenue?

Most submitters said that defining the size of entities by revenue was a practical and appropriate characterisation for the purposes of this legislation. These submitters said that revenue was an appropriate characterisation as it affects the size and ability to allocate resource to their work in meeting the obligations of this legislation. One submitter said that a size distinction based on revenue recognises the fact that "SMEs have less capacity as well as more informal processes and management structures than larger organisations." Another submitter noted that generally – across other similar legislation internationally – revenue appears to be the most widely-used measure for determining the scale of appropriate responsibility. This submitter said that this suggests revenue is the best characterisation for the time being at least, until a more complex assessment of the size criteria could be established.

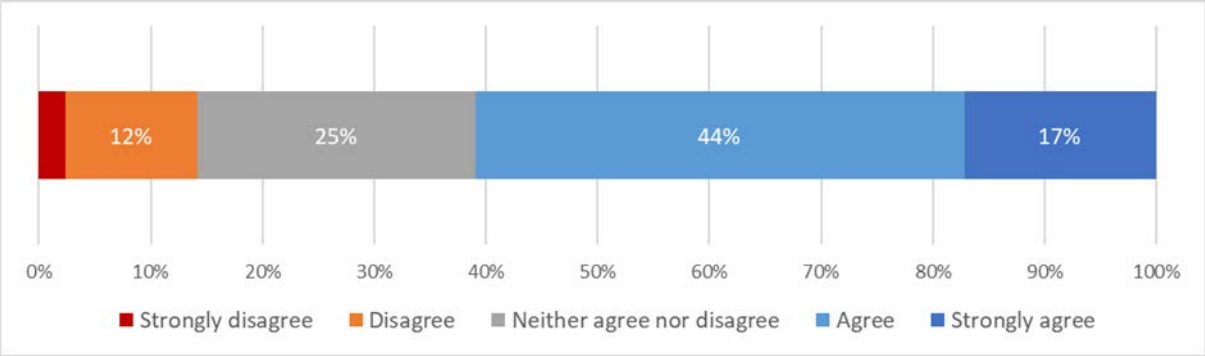
Three submitters said that responsibility should be proportionate to revenue. These submitters considered the Australian AU$100 million annual consolidated revenue and the UK annual turnover of £36 million or more in the 12-month reporting period should be used as a model.

One submitter said medium and large entities should have responsibility to evaluate their supply chains, but small entities should not. Another suggested that SMEs (as currently defined) should not be included under the compulsory requirements of this legislation, and they should only be included to the extent that they voluntarily opt in.

Table 12: Defined based on revenue

Do you agree that 'medium' and 'large' entities should be defined based on revenue?	
Yes (Email submissions)	18
Yes (Survey response)	103
No (Email submissions)	12
No (Survey response)	24

Figure 9: Survey respondents defined based on revenue



Characterising the size of an entity by revenue would not accurately capture risk and size of entities

Some submitters said that revenue would not be the best way to characterise the size of entities and subsequent responsibilities. One submitter pointed out an issue with the proposed revenue characterisation being the complexity of funding allocations. For example, the submitter said that government infrastructure clients cannot be defined by revenue as they receive funding from government. Therefore, the submitter suggested that annual spend or annual funding should be used to allocate responsibilities.

Another submitter said that using entity size as a distinction for obligations is not the right approach. The submitter said that small businesses tend to be where minor breaches of worker rights occur more often, and subsequently characterising entity size by revenue would give these smaller entities fewer responsibilities where they need more.

Some submitters said that number of employees should be part of the assessment. A few submitters highlighted insurance and assets as other considerations.

There should be no size distinctions and the legislation should be applied equally to all entities

A few submitters said that there should be no size distinctions made between medium and large entities, and the responsibilities of the legislation should be applied equally to all entities. One submitter said that there should not be any tiers of entity included "within an Act of Parliament", regardless of the reason for the differentiation. The submitter suggested that the only real difference between medium and large entities is the magnitude and intensity of rights violations committed or involved with.

The responsibilities of each entity should be determined by the nature and risk of the sector they are involved in

Some submitters said that entities should be characterised by the risk profile of the entities' business and supply chains they are engaged in. One submitter said that details such as the risk profile of countries where suppliers are based along the supply chain, for example, could be valuable information that could be used to determine the responsibilities required of each entity.

Other

One submitter is concerned that the proposed definitions of "small", "medium" and "large" will capture too many entities too soon, particularly with the inclusion of all forms of organisations (e.g., companies, partnerships, charities, and trusts).

One submitter said the threshold application needs to be practical and based on IRD data over the last two years or self-declared for entities established for less than two years.

Question 12: What do you think the revenue threshold for defining a medium-sized entity should be?

Some submitters agreed with the proposed threshold of annual revenue of $20 million. A few submitters noted that this is comparable to the European Union, where a medium-sized enterprise is defined as an entity with an annual turnover greater than €10 million.

Many submitters said the proposed threshold is too high. One submitter suggested that the bracket should be $0-10 million for small entities, $10-20 million for medium entities and $50+ million for large. Another submitter said the threshold bracket for medium sized should be $10 million-$20 million range. A few submitters recommended an even lower threshold of $5 million.

Some submitters said the proposed thresholds were too low and recommended increasing the thresholds. A few submitters suggested that small entities would have yearly revenue of less than $20 million, medium would range between $20-$100 million and large would be over $100 million. They noted that this would align more closely with Australia and provide a level playing field.

Survey responses provided a useful summary of where submitters thought the threshold should sit. The average (mean) suggested threshold according to MBIE survey data was approximately $29 million.

These responses are set out at Table 13 below:

Table 13: Revenue threshold

What do you think the revenue threshold for defining a medium-sized entity should be?	
$200 million	2
$50 million	10
$20 million	16
$15 million	2
$10 million	1
$5 million	6
$1 million	3
$500,000	3
$0	2

Question 13: What do you think the revenue threshold for defining a large-sized entity should be?

Many submitters agree that $50 million should be the threshold for a large entity.

Some submitters think the proposed threshold is too high. Suggestions ranged from as $5million-$30million as a more appropriate benchmark. One submitter referred to section 45 of the Financial Reporting Act 2013 which provides that an entity is considered large if either "as at the balance date of each of the two preceding accounting periods, the total assets of the entity and its subsidiaries exceed $66 million or in each of the two preceding accounting periods, the total revenue of the entity and its subsidiaries exceed $33 million." They recommended consistency in definitions across legislation.

Some submitters said the threshold is too low. They recommended alignment with Australia and said the threshold should be >$100 million

Survey responses provided a useful summary of where submitters thought the threshold should sit. The average (mean) value that the threshold should be according to the survey responses was approximately $80 million.

These responses are set out at Table 14 below:

Table 14: Revenue threshold

What do you think the revenue threshold for defining a large-sized entity should be?	
$500 million	4
$100 million	9
$50 million	22
$30 million	2
$25 million	2
$20 million	3
$10 million	9
$1 million	2

Distinctions not necessary

Some submitters said distinctions based on company size should be redundant. One submitter said if distinctions are to be made then dictating the threshold through size of business is limited to relaying the business's ability to undertake risk assessment and comply with the requirements of the Act. They recommend there is a need to prioritise businesses based on higher risk sectors.

Question 14: How could the proposals and/or the implementation of the proposals better reflect Kaupapa Māori and Te Tiriti o Waitangi principles?

Most submitters differed responding to this question and said a proactive tailored approach to consultation with Māori is necessary. They recommended consultation with a broad range of Māori stakeholders. For instance, hapū, iwi, urban Māori authorities and other Māori collectives. One submitter referenced kanohi ki te kanohi, the Māori concept that emphasises the value of sitting 'face to face' to discuss key issues and seek resolution. They also said that after the consultation, a short course could also be developed to train the appropriate personnel on these protocols and processes.

Most submitters noted that Te Tiriti o Waitangi should be explicitly embedded in the legislation. Some submitters highlighted informed decision making and redress are two principles of Te Tiriti which should be considered in these proposals. Many submitters noted an expectation that Kaupapa Māori and Te Tiriti o Waitangi would equally be incorporated into all aspects of implementing the legislation.

Many submitters advocated for a partnership co-design process with Māori businesses and organisation to enable ongoing improvement and sustainable impact.

Te ao Māori

Some submitters noted proposed legislation has some connections to Te ao Māori and Māori values. They said the focus on kaitiakitanga and manaakitanga is important, both as a positive focus in extending that kaitiakitanga and manaakitanga in legislation, as well as limiting the loss of mana associated with not being able to exercise that kaitiakitanga and manaakitanga. A few submitters said it was unclear in the proposals how mana whenua exercise their own kaitiakitanga, and how mana whenua can manaaki, as Te Tiriti partners and in application of the principle of partnership.

International obligations

One submitter recommended that the legislation and the process for its development, be consistent with Te Tiriti, as well as the United Nations Declaration on the Rights of Indigenous Peoples and the International Labour Organisation's Indigenous and Tribal Peoples Convention. They recommended that the Crown engage with tangata whenua and work in partnership with them across all stages of the legislative process, including by providing adequate avenues for participation. They also suggested that the proposed legislation should:

- promote and protect the rights of tangata whenua under Article 17 of the declaration in a manner consistent with the Tiriti principle of active protection
- include language taken explicitly from the Declaration
- be consistent with all other Te Tiriti and Declaration articles and principles.

One submitter said they would expect policy in this area to have regard to the UN Guiding Principles on Business and Human Rights and the principles of Te Tiriti, including Māori representation in governance entities established as part of any reporting regime.

Support

Some submitters said assistance should be provided to Māori and Māori businesses to ensure they are aware of modern slavery and worker exploitation risks and have support available to meet both legislative requirements and their customers' expectations in this regard.

Question 15: Are you aware of any disproportionate impacts (positive or negative) this legislation could have on Māori entities?

Some submitters said that Māori individuals or representatives would be best placed to answer this question in the submission document. These submitters did not identify as Māori and said that they subsequently could not accurately or fairly answer this question. One submitter said that research should be undertaken with Māori entities and industries that have a significant number of Māori entities to ensure that there are no disproportionate impacts that these submitters are unaware of.

Some submitters identified the need for resources and support for Māori businesses and entities to fulfil their obligations. They highlighted the cultural context in which they operate and said that this needs to be considered.

Early engagement with Māori businesses and stakeholder groups necessary

Some submitters said that there needs to be engagement with Māori businesses and stakeholder groups to address and mitigate the disproportionate impacts that could occur as a result of this proposed legislation. One submitter said that there would be disproportionate impacts on Māori entities, and engagement with Māori and Pasifika groups prior to the implementation of the proposed legislation would help to develop strategies and processes "that would offset these impacts."

No disproportionate impacts on Māori entities

A few submitters said that they were not aware of any disproportionate impacts on Māori entities that would come as a result of this proposed legislation. One submitter did recommend engagement with Māori groups would be a way to ensure that this was the case and there were no "hidden" disproportionate impacts.

Question 16: Please describe any disproportionate impacts (positive or negative) this legislation could have on Māori individuals, iwi or hapū?

While many submitters said they were not well placed to answer this question, some submitters said that without government support, there would be disproportionate impacts from this proposed legislation.

Disproportionate impacts will be felt unless there is government support

Some submitters said that if the legislative change that is proposed is not accompanied by government support, then there will be disproportionate impacts on Māori. One submitter said that this support could include infrastructure or systems that would assist entities in meeting requirements for both public and private sectors. Another submitter said that specific consultation with Māori entities would be required to understand the unique needs of Māori entities, which can be large-scale but not "run along the same lines as a conventional company."

A few submitters said that the Māori economy is heavily invested in primary sector industries that have been identified as being at risk of modern slavery, such as forestry, fishing, and aquaculture. They said that this suggests there needs to be special focus and support from the government to assist these industries and entities.

Unclear how there would be disproportionate impacts on Māori

A few submitters said that they were unaware of how this proposed legislation would have any kind of disproportionate effect on Māori, either positive or negative. One submitter said that the only way disproportionate impacts would occur is if the Crown undertakes a legislative process which does not partner with tangata whenua. This submitter said that, provided the legislation recognises Te Tiriti o Waitangi, there should not be any disproportionate impacts on Māori.

Submitters not well placed to answer the question

Some submitters said that Māori individuals or representatives would be best placed to answer this question in the submission document. These respondents did not identify as Māori and said that they subsequently could not accurately or fairly answer this question.

Question 17: What types of non-compliance should be penalised?

Many submitters said that an entity's failure to report on due diligence or upon discovery of worker exploitation throughout supply chains is a minimum standard of when action needs to be taken against these entities. Some submitters said a failure to take reasonable and proportionate action when an entity becomes aware of modern slavery should always lead to enforcement action. A few submitters said a focus on disciplinary action in instances of non-compliance would not create a positive relationship with the Government and entities and there should be more educative and collaborative approach to enforcement.

Survey responses provided a snapshot of the types of non-compliance submitters thought should lead to enforcement. These responses are set out at Table 15 below:

Table 15: Non-compliance

What types of non-compliance should be penalised?	
Failure to react	20
Failure to review supply chain	13
Failure to report	9
Misleading public about compliance	7
Exploitation found	15
Unreasonable or careless non-compliance	5
Profit from non-compliance	12
None	2

Failure to report due diligence efforts

Many submitters said that a failure to report due diligence efforts from an entity was a clear benchmark of non-compliance that should be met with action and enforcement. Submitters said that basic reporting was a realistic expectation for entities, and that even for smaller entities this would not be overly burdensome. One submitter said that "non reporting on things it is compulsory to report on" is an example of actionable non-compliance and reporting of due diligence is the most fundamental aspect of the proposed reporting. One submitter who agreed that reporting was a necessary obligation of entities also suggested that "non-compliance for omission of basic reporting data can be minimised through use of an online submissions portal whereby incomplete reports cannot be submitted." This submitter said that – while failure to report is an actionable offence or instance of negligence, there should be government support for entities to make this process as easy and non-burdensome as possible.

Failure to take reasonable and proportionate action upon discovery of worker exploitation requires enforcement action

Some submitters said that in cases where worker exploitation in a supply chain is discovered by an entity, if they do not take reasonable and proportionate action to combat this then there should be action taken against these entities. Submitters said that it did not matter if these entities were actively engaging or supporting these cases of worker exploitation. They said that a lack of action (reporting these cases/organisations across the supply chain) was in of itself reason for enforcement action against these entities.

A few submitters said that some flexibility should be exercised in the case of small entities provided that the discovery of worker exploitation is not in a large-scale, international supply chain, as these are unlikely to be part of a broader pattern of ongoing or sustained non-compliance. These submitters said that enforcement for failure to report upon discovery of worker exploitation could be scaled to recognise this, however this still remains an example of non-compliance that would require some kind of action.

Enforcement should not be disciplinary and should be more collaborative

A few submitters said that there should be a focus from the government (or whoever is the authoritative body in the case of worker exploitation) to educate and support entities in their work to eradicate worker exploitation. Submitters said an overly disciplinary approach to non-compliance and enforcement would not be a sustainable long-term approach to the proposed legislation, as entities may be forced to shut down without any positive change in behaviour. One submitter explained that a penalty framework may create a fear-based approach to slavery that could "create denial and evasion rather than collaboration." They said, "it is important to give companies and suppliers confidence to admit errors and the space to work on solutions." Some submitters said education and collaboration in the case of non-compliance is a more sustainable and effective approach to reducing modern slavery, and harsh penalties should be reserved as a last resort in the case of continued, blatant non-compliance that has been done by an entity in bad faith. These submitters said that most entities are likely willing to change and want to reduce worker exploitation across supply chains, so authorities should approach these entities as collaborative partners rather than applying disciplinary, penalty-based frameworks.

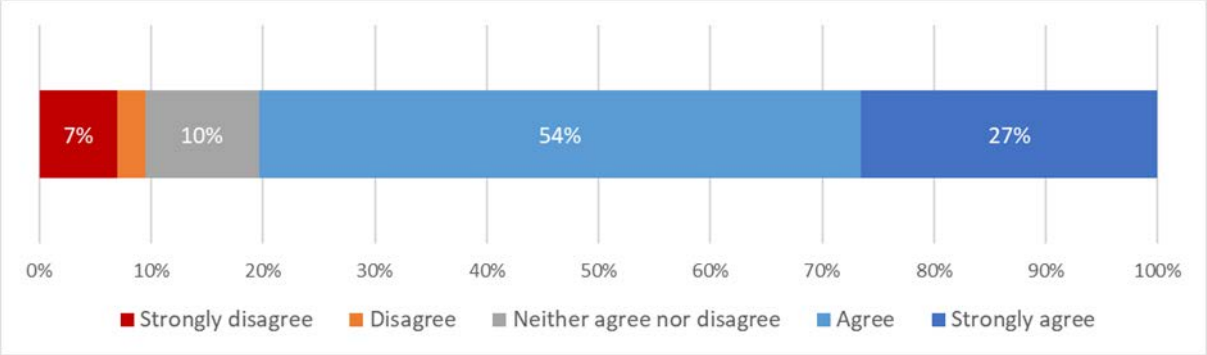
Question 18: Do you think there should be different offences and tools to deal with noncompliance with different obligations (such as for disclosure versus due diligence)? Should these differ depending on the size of the entity (or other factors, such as whether an entity is run by volunteers)?

Most submitters agree that penalties for non-compliance should be required and that different tools should be available.

Table 16: Different tools

Do you think there should be different offences and tools to deal with noncompliance with different obligations (such as for disclosure versus due diligence)?	
Yes (Email submissions)	25
Yes (Survey responses)	127
No (Email submissions)	5
No (Survey responses	15

Figure 10: Survey respondents' different penalties/tools for non-compliance



Most submitters said that there should be a range of enforcement tools depending on the scale of the legislative breach. They included infringements, improvement notifications and enforcement undertakings. Some submitters thought that repeat offences should have harsher penalties than first offences. A few submitters said that in some cases, education may be more appropriate in response to non-compliance than punitive measures. One outlines that criminal penalties are not appropriate.

Some submitters said any penalties should complement and not duplicate existing offences and penalties under the criminal and employment law. They also state that the Health and Safety at Work Act 2015 (HSWA) should not be included as an enforcement mechanism for failure to comply with the obligations under the new legislation, given the magnitude of the potential penalties under that Act.

One submitter recommended:

- A mechanism to put entities on notice for non-compliance with any of the responsibilities set out in the discussion paper, which also allows interested stakeholders to report non-compliance.
- Penalties for entities who fail to meet any of the responsibilities outlined in the discussion paper (these could be scaled, depending on the nature of the responsibility and level of noncompliance, and in some instances, may only be issued where the entity has been put on notice for non-compliance and failed to rectify).
- Injunctive relief: power for courts to issue compliance orders, including requiring an entity to publish a modern slavery report or to conduct due diligence if it has not done so or it is found to be insufficient. An action for injunctive relief should be able to be brought by both harmed individuals or interested parties.
- Power to exclude entities from government tendering and contracts if an entity fails to meet any of the responsibilities.
- Civil liability which allows harmed individuals to bring actions to seek damages where the harm was caused by the company's failure to take reasonable and proportionate action or failure to comply with its due diligence obligations to prevent, mitigate or remedy modern slavery or worker exploitation.

One submitter suggested that directors and sole traders who either intentionally or negligently break the law, should be prohibited from owning, running, or having any kind of shareholdership in an entity for either a pre-determined amount of time, or permanently if of an acute nature or repeat offender.

Transition period

A few submitters said that penalties should be implemented after an adequate transition period and the provision of tools, workshops, and training. Similarly, one submitter argued that companies should be given time to improve on malpractice before receiving penalties.

Penalties should not just be monetary

A few submitters noted that penalties should not be solely monetary. One submitter gave the example of temporarily removing liquor licencing from liquor stores if they are found guilty under malpractice. Some survey submitters also said that organisations found to be guilty of non-compliance should be required to make an apology. This apology should be public, but also specifically to affected groups or individuals that may have suffered as a result of the businesses' lack of action.

Offences not required

A few submitters opposed the introduction of penalties. One submitter suggested that a risk-based approach to penalties and enforcement is needed and that penalties are inappropriate. They said that non-compliance should be restricted to disclosure (reporting), and this should only apply to large sized entities.

A few submitters said penalties alone will not be a strong enough deterrent for companies engaged in deliberant, serious, and sustained breaches. They recommend that the legalisation should make provisions for stand-down periods and ban orders which prevent the worst offenders from hiring employees either for a period or permanently.

A few submitters noted that by the time the modern slavery law is introduced, there will be more than enough adequate enforcement mechanisms such as:

- The Accredited Employer Work Visa
- Section 142W of the Employment Relations Act 2000
- The Employment Relations (Triangular Employment) Amendment Act 2019
- Fair Trading Amendment Act 2021.

They also said that greater resources can be given by the Government towards enforcement of minimum employment standards. For example, recruitment of more labour inspectors who have the appropriate expertise and have the proper powers of inspection and enforcement against rogue employers (instead of passing the cost of monitoring compliance and enforcement on to small private businesses).

Question 19: What comparable legislation do you think we should consider in developing the penalties framework for this legislation?

Many submitters think New Zealand legislation should align with Australian legislation. Many submitters identify the Health and Safety at Work Act 2015 as the appropriate framework for penalties and liabilities. Some submitters identify the enforcement mechanisms outlined in the French Duty of Vigilance as a good reference point.

Australian approach

Many submitters said that New Zealand legislation should align as closely as possible with the Australian Modern Slavery Act 2018. A few submitters suggested a comprehensive the Australian Act for the benefit of understanding best practice, areas for alignment, identifying and learning from issues and being in tune with any amendments to their regime.

These submitters highlighted as good practice Australia's:

- 'prescribed disclosure' approach
- reputation penalty framework.

One submitter referred to a recent civil society review of the Australian Modern Slavery Act which showed that companies were failing to comply with mandatory reporting requirements. The review recommended that, at a minimum, consideration should be given to the addition of penalties and other consequences for companies that fail to report, provide false or misleading information, or submit incomplete reports that fail to address the mandatory criteria. The Review also found the current Government's statutory three-year review of the Act explicitly considers the matter of civil penalties as an additional measure to improve compliance with the Act.

Other comparable jurisdictions

A few submitters recommend looking into the UK, French and Canadian penalty frameworks as useful reference points.

Some submitters recommended taking inspiration for enforcement mechanisms outlined in the French Duty of Vigilance including injunctive relief, penalties, and civil liability, which enables parties who have been harmed to seek damages resulting from a company's failure to comply with its vigilance obligations where compliance would have prevented the harm. One submitter mentioned the Dutch Child Labour Law has a compelling penalties framework which includes an initial (relatively small) fine but more serious penalties for future non-compliance, including criminal sanctions.

A few submitters referred to the German Supply Chain Act ("Lieferkettensorgfaltspflichtengesetz") and the Norwegian Transparency Act ("Åpenhetsloven") due to the various penalties for non-compliance. They also referred to the proposed EU corporate accountability directive that aims to set up an accountability mechanism, which might be also instructive in developing the penalties framework in New Zealand.

Other legislation

A few submitters identified the Employment Relations Act 2000 and the Immigration Act 2009 as comparable pieces of legislation. They said that the legislation should be consistent with the existing statutory environment.

One submitter recommended that the Corporate Sustainability Due Diligence Directive and the Withhold Release Orders (WRO) from the Customs and Border protection under section 307 of the Tariff Act of 1930 be considered when developing the penalties framework.

The AntiMoney Laundering and Countering Financing of Terrorism Act 2009, Financial Markets Conduct Act 2013, and Health and Safety at Work Act 2015 were also identified as being comparable legislation.

International obligations

Some submitters recommended that the legislation algin with international standards such as ILO Conventions on forced labour and child labour as well as the UNGPs.

Question 20: What responsibilities, if any, should members of the governing body of the entity (such as the directors and board of a company) be personally liable for?

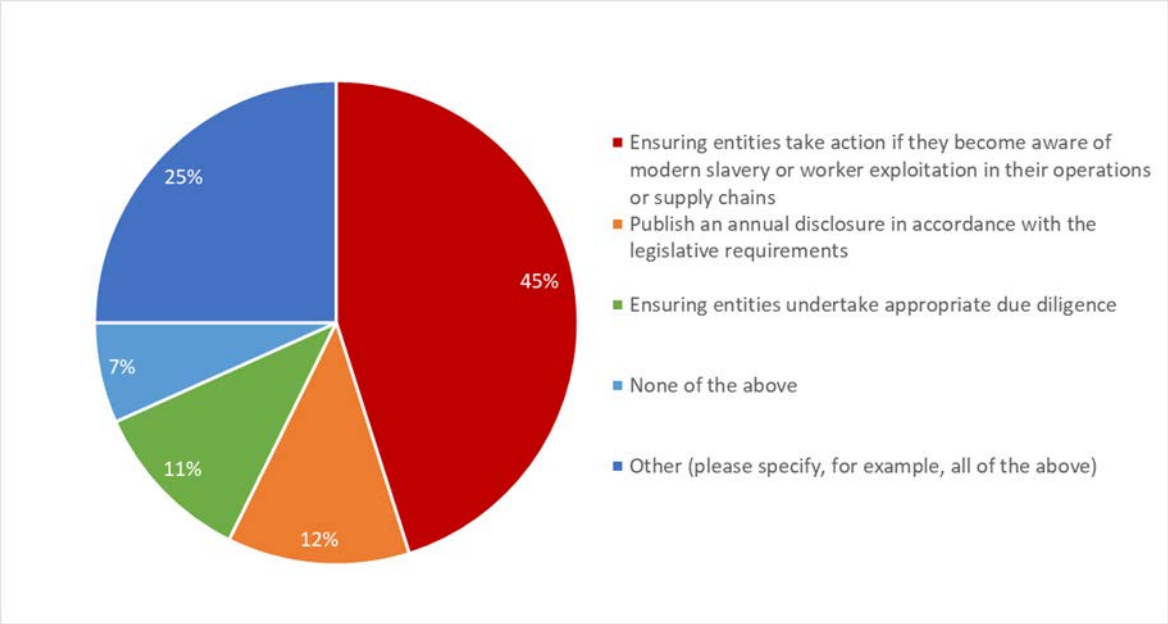
Most submitters think that there should be personal liability but only in extreme circumstances. A few submitters do support personal liability.

Survey responses provided a snapshot what type of personal responsibility should apply. These responses are set out at Table 17 below:

Table 17: Personal responsibility

What responsibilities, if any, should members of the governing body of the entity (such as the directors and board of a company) be personally liable for?	
Ensuring entities take action if they become aware of modern slavery or worker exploitation in their operations or supply chain	74
Publish an annual disclosure in accordance with legislative requirements	20
Ensuring entities undertake proper due diligence	18
None of the above	11
Other	41

Figure 11: Survey respondents' personal responsibility



Most submitters said that it should be possible for directors or senior management to be held liable in addition to the corporate entity where certain conditions are met. Most agreed that this liability should be limited to circumstances where the company is directly involved in modern slavery. Intentional non-compliance was highlighted by some submitters as a particularly serious breach. One submitter said that there should be a case for imprisonment for individuals whose offending is consistent and sustained.

One submitter recommended that the proposed legislation include the requirement that all modern slavery statements be approved by the Board and signed by a director (or equivalent body and position-holder in a non-corporate entity).

One submitter noted that any personal liability penalties must align with reforms to company law to ensure directors' duties are consistent with an approach to corporate governance that prioritises and acknowledges human rights risk management as part of broader corporate sustainability governance

There should not be personal liability

A few submitters considered personal director liability is inappropriate in the given context. They warned that it will deter people from taking governance roles and reduce the pool of good potential directors for New Zealand companies. One submitter said it would lead to conservative and counterproductive behaviours by companies and investors:

> *"We would be concerned about imposing liability on directors for breaches of what might ultimately be principles-based obligations. We expect it will be very difficult for individual directors to establish conclusively (on a forward-looking basis) whether they have personally done enough to ensure the company satisfies its obligations under proposed modern slavery laws. Rather, we expect that the adequacy of the director's steps – in the event of non-compliance – will inevitably be assessed narrowly and negatively with the benefit of hindsight."*

One submitter outlined the need to be consistent with the Australian legislation and that failure for non-compliance should equate to being publicly published on the Modern Slavery Statements Register. One submitter recommended that New Zealand legislation including the aim of the proposed EU directive on Corporate Sustainability Due Diligence which is to "improve corporate governance practices to better integrate risk management and mitigation processes of human rights and environmental risks and impacts, including those stemming from value chains, into corporate strategies."

Question 21: Should victims onshore and offshore have the ability to bring a civil claim against an entity that has failed to meet its responsibility? If so, please explain why. If not, please explain why not.

Most submitters agreed that onshore victims should be able to bring a civil claim. Some agreed with caveats. These included that it should be restricted to high offending cases where there is a direct causal connection between the victim and the

entity. It should also be dependent on the circumstance of the case. One submitter suggested that civil claims against an entity should be limited to cases onshore where no other legislation is available.

A few submitters disagreed that victims should be able to bring a civil claim. One submitter said these claims can be dealt with under the existing New Zealand statutes, including employment law and the Contracts and Commercial Law Act 2017, as well as tort law, which affords a wide range of remedies for workers who are exploited or placed in conditions of modern slavery. They concluded that no additional ability to bring a civil claim for onshore victims is required. Other submitters referred to the barriers to civil litigation making court action undesirable for victims.

There are mixed views on whether this should extend to offshore victims. This is because of the complexity with offshore claims, cost for both parties and victims being subject to further exploitation as a result of poor legal advice.

> *"The ability to bring proceedings for modern slavery would require careful development of existing legal doctrines (for example, off-shore individuals have made duty of care and tort claims at the highest levels of the UK and US courts)] does not consider that legislation is the appropriate means of addressing those highly complex issues (including, for example, who constitutes a "victim" or what constitutes an actionable instance of modern slavery, as well as what extent of causation is required)."*

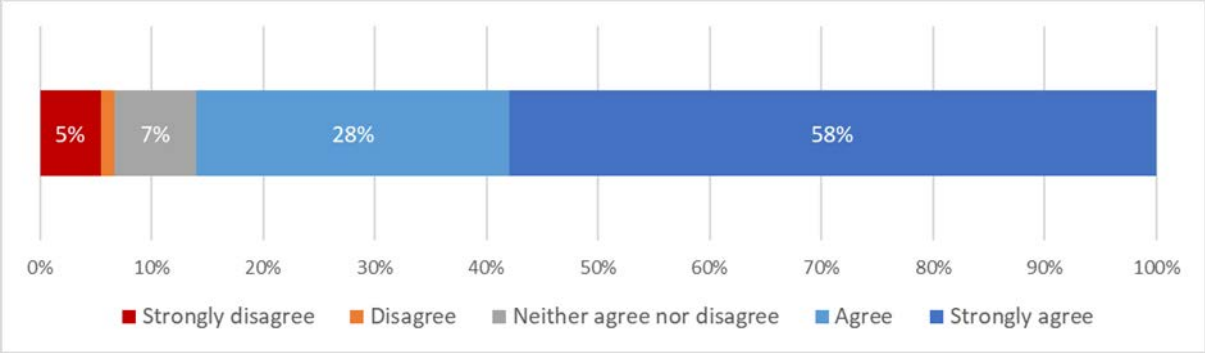
Question 22: Should entities be required to remedy any harm they have caused or contributed to, where there is a clear link between their actions and the harm? If so, how should this link be demonstrated and what types of remediation would be appropriate?

Most submitters think that remedy and redress must be included in the legislation. Many submitters said that remedies should be reasonable, proportional, and flexible to their level of harm. Some submitters think it should align with the United Nations Guiding Principles on Business and Human Rights (UNGPS) and the Australian Government's Guidance for Reporting Entities under the Commonwealth Modern Slavery Act 2018.

Table 18: Remedy

Should entities be required to remedy any harm they have caused or contributed to, where there is a clear link between their actions and the harm?	
Yes (Survey responses)	141
No (Survey responses)	11

Figure 12: Survey respondents' remedy



Some submitters suggested remedies should be compensatory rather than punitive.

Specific actions recommended included:

- facilitating access to health, legal or psychosocial services
- repatriation
- financial compensation
- removal from vulnerable working conditions
- imposition of penalties.

One submitter recommended that MBIE explore whether there are other ways to address victim harm other than through litigation and how they might sit alongside a penalty regime. Restorative justice practices were identified as an option.

Suitable redress for overseas victims identified by submitters included financial redress and referral to local rehabilitation NGOs at the company's expense. One submitter recommended a collaborative and educational approach to enhancing relationships with suppliers to improve the practices in the supply chain.

A few submitters requested further information about the types of activities that might constitute "remedies", particularly where suppliers may be operating in an international setting.

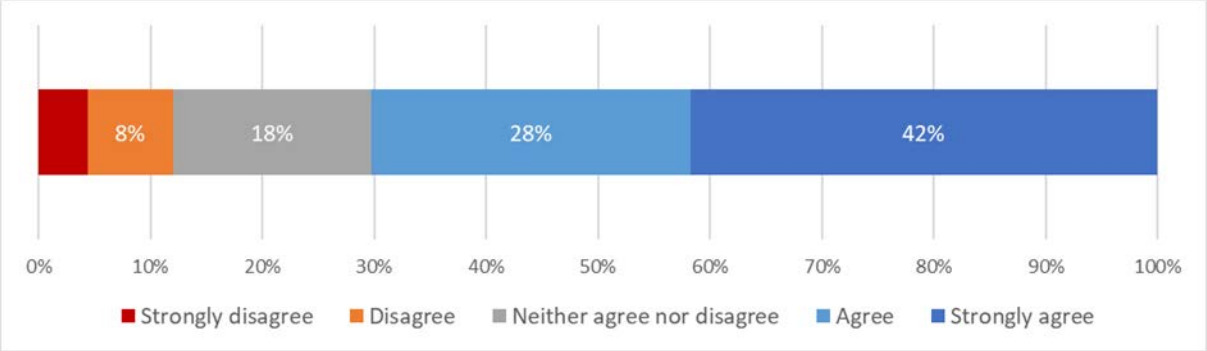
Question 23: Is an independent oversight mechanism required, or could this oversight be provided by Government and civil society?

Most submitters favoured a well-resourced independent oversight mechanism.

Table 19: Independent Oversight mechanism

Is an independent oversight mechanism required, or could this oversight be provided by Government and civil society?	
Yes (Email submissions)	44
Yes (Survey responses)	111
No (Email submissions)	5
No (Survey responses	8

Figure 13: Survey respondents' independent oversight



Some submitters suggested alignment and learning from overseas models, namely the UK Commission and Australia. One submitter said it should be a similar model to WorkSafe.

Government and civil society

A few submitters said that government and civil society should provide oversight. Some submitters cite MBIE as being the key mechanism for oversight as well as being the regulator. One submitter raised concerns about whether the cost of an independent body would be justified for the benefits it would provide.

Other

A few submitters refer to other mechanisms. One submitter cites the Employment Relations Authority as being the lead organisation around all domestic 'exploitive' issues and an 0800-whistle-blower number. Another submitter suggested mandated collaboration between government and private/public entities to allow for the creation of a slavery commissioner or board that reviews disclosure reports, compliance and provides both review and recommendations. They did not think that it would have to be completely independent of MBIE.

Question 23A. If independent oversight is required, what functions should the oversight mechanism perform?

Most submitters said its role would include:

- monitoring disclosures
- assessing actions businesses are taking

- redress for victims and penalties for entities
- creation of registry
- monitoring due diligence procedures
- investigating
- public reporting.

Some submitters noted the importance of the mechanism driving cultural transformation and mindset shift within the business sector. They said that this would require working with civil society and cultural groups to drive change, supporting, and undertaking research, and developing strategic partnerships. Many submitters highlighted the need for support and guidance from the oversight mechanism. They emphasised that reports and learnings should be made public.

Question 24: Do you think a central register for disclosure statements should be established? If so, please explain why. If not, please explain why not.

Most submitters favoured a searchable, public central register or database for mandatory and voluntary disclosure statements. Most think it should serve as a central hub for guidance materials, toolkits, training materials pertaining to the legislation. They said it should be free, open, and publicly accessible. Some submitters suggested it could operate as a certification tool, so companies and consumers are aware of businesses that are free from modern slavery. They further recommended that the public should be able to use it as a confidential whistle-blowing tool as well as compulsory reporting criteria.

A few submitters considered that the registry should be a hub for information. They said it should contain links to other organisations, industry specific forums and groups, and collaborative networks that can also help entities by providing support and best practice guidelines.

Some submitters highlighted that a feature that has worked well in the Australian context is the provision on the Register website of guidelines and supporting material that assist reporting entities and facilitate the process of submission of compliance statements. A few submitters identified the need for a regular maintenance and review process to ensure the register continues to be fit for purpose.

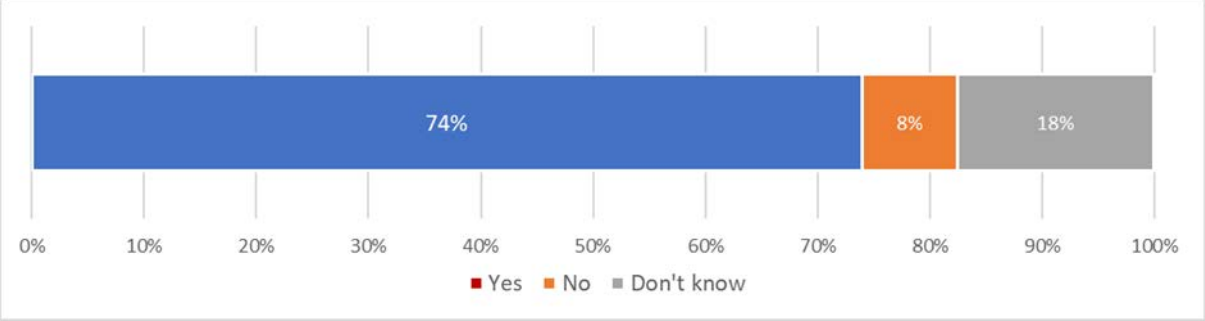
A few submitters said that if a register is to be established, the purpose should be clearly defined and should be harmonised with the requirements and guidance of other jurisdictions.

One submitter proposed delaying the establishment of the Register until after the legislation is implemented.

Table 20: Register

Do you think a central register for disclosure statements should be established?	
Yes (Email submissions)	46
Yes (Survey responses)	122
No (Email submissions)	0
No (Survey responses	14

Figure 14: Survey respondents' register



Question 25: What support services, products or other guidance do you think are most needed? What would be of greatest benefit to you?

Most submitters highlighted the need for guidance on reporting requirements as well as training. Some submitters suggested databases and hotlines to support business.

Guidance and materials

Most submitters advocated for clear strong reporting guidance which includes mandatory reporting criteria and good practice examples. They asked for further materials, legislative guidelines, training and education, webinars, and consultants' databases. They said these should be widely advertised and available in all languages. Some submitters also noted that these should be developed in collaboration with stakeholders such as from business, the investor community, trade unions and civil society.

Many submitters proposed the development of the following centralised tools:

- templates
- methods of how to approach offending suppliers and ameliorate supply chains
- consumer and entity recognised certification for compliance
- published list of 'sanctioned' suppliers, countries or industries that are perceived as high risk
- case studies of what good looks like, guidance for best practice.

Hotline

Some submitters recommended a national whistle-blower hotline for suppliers that gives on call support for organisations to know how to prevent and respond to worker exploitation and modern slavery. They said it should also have trauma support and guidance for victims' rights and needs.

Financial support

Many submitters identified the need for financial support for SMEs and not-for-profits as well as clear guidance tailored to specific sectors and industry sizes. The amount of financial support needed would decrease over time as capacity increases in these organisations.

One submitter recommended that first, research is funded to establish an understanding of effective methods of consumer engagement in corporate disclosures, and then findings used to inform the development of further support services and products.

Education and awareness raising

Most submitters recommended a significant education and capability programme. One submitter specifically recommends the development of Computer-Based Training ("CBT") addressing modern slavery and worker exploitation awareness. They said modules should address awareness training for both internal staff and external suppliers.

Definitions

Many submitters said it will be important for entities to have as much certainty and clarity as possible around the definitions and intent of terms and requirements. To this end, they recommended guidance documents defining the terms and requirements and providing case study examples.

Question 26: What do you consider would be needed from the regulator to support the adoption of good operational and supply chain practice, and compliance with the proposed responsibilities?

Most submitters support the need for a centralised regulator or entity to provide guidance, resources, and training as well as monitor and evaluate compliance, review how successful the legislation is, undertake enforcement activities and maintain the proposed register of disclosures. One submitter proposed a cross-sector advisory group, another states a group that is similar to the Overseas Investment Office.

Supply chain standards

Many submitters said the regulator should support the adoption of good operational and supply chain practice, and compliance with proposed responsibilities, through guidance and training. Some submitters asked for support in industry's

assessment of their supplier's compliance, standards and response process to exploitation and modern slavery. They said evaluation of risk within the supply chain will require a mandated and independent evaluation of the business systems.

Clear guidance

Many submitters recommended that the regulator implement a process to verify the accuracy of disclosure statements and provide clear practical guidance about the requirements, auditing processes and penalties so that businesses can enact the legislation effectively.

International engagement

Some submitters recommended that the regulator have a role internationally to ensure our major trading partners understand the approach New Zealand is taking to this important issue.

Partnership approach

Many submitters highlighted the importance of the regulator working closely with business organisations and community groups to leverage these groups' reach. Some submitters said views of other Government offices and officers such as the Human Rights Commission, WorkSafe, the Commissioner for Children and the Race Relations Commissioner should also be taken into account in terms of supporting the approach of the regulator. A few submitters recommended that the government consider partnering with sector or representative organisations and Unions to disseminate the legislation and its practical application.

Existing tools

Many submitters emphasised the need to compliment rather than replicate existing tools and legislation.

Question 27: Do you consider a phase-in time is needed for this legislation? If so, do you consider the phase-in should apply to the responsibilities or application of penalties, or both?

Most submitters agreed that a phase in time is needed for both responsibilities and penalties. Some submitters said that phase in time is necessary for entities to plan and build resources and capability. One submitter said that businesses need to map their operations and supply chains, carry out risk assessments, educate staff, develop a governance system, and understand disclosure and due diligence requirements. This takes time.

One submitter does not support penalties in the initial phase-in because they considered that it could be counterproductive to the purpose of the legislation should be to encourage entities to look for modern slavery and bring these incidences to light and remedy them, rather than seeking to avoid the issue for fear of being penalised.

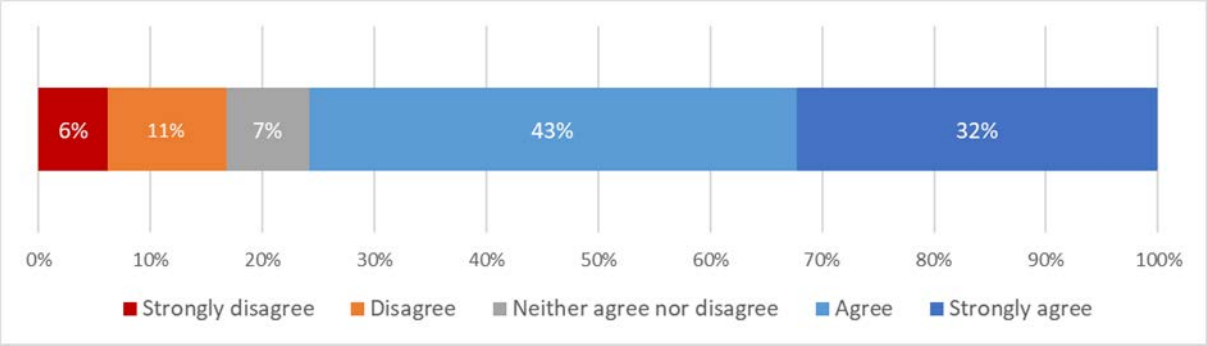
In terms of timing, there is no quorum among submitters, the phase in period ranges from 1 – 3 years. There is an agreement that clear timeframes need to be established and that responsibilities should come before penalties. A few submitters recommended the law applying first to large entities before capturing SMEs.

A few submitters referred to the money laundering legislation as an example.

Table 21: Phase in time

Do you consider a phase-in time is needed for this legislation? If so, do you consider the phase-in should apply to the responsibilities or application of penalties, or both?	
Yes (Email submissions)	42
Yes (Survey responses)	93
No (Email submissions)	1
No (Survey responses	12
No – Strong from the outset (WVTATF Template submissions)	5,184

Figure 15: Survey respondents' phase in time



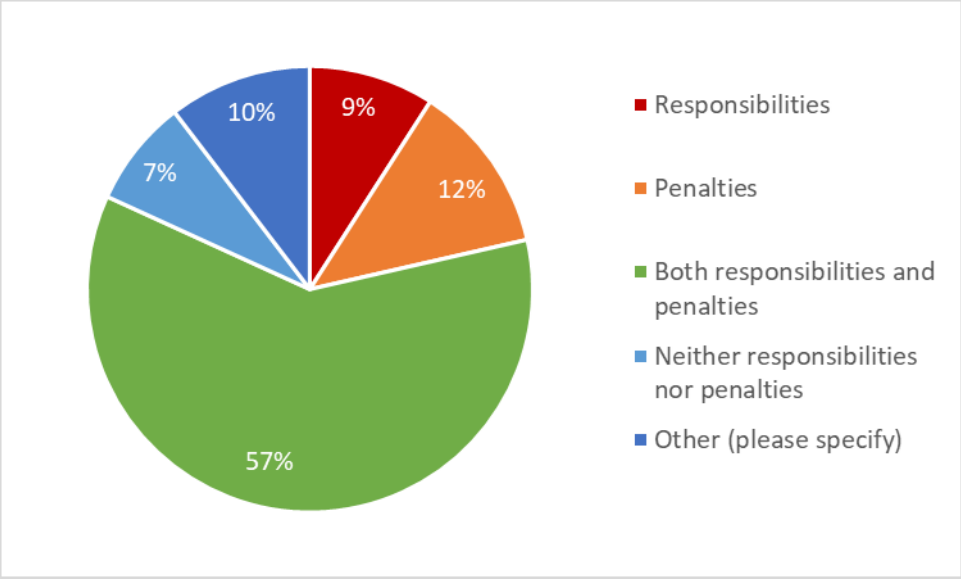
Question 27A: Do you consider a different phase-in period should apply in relation to domestic responsibilities compared to internationally-focused responsibilities?

Most submitters favoured alignment between domestic and international obligations. One submitter said:

> *"We think that domestic and international responsibilities in the context of modern slavery are just as important, especially given that most risks of modern slavery arise in international supply chains.*
>
> *That said, we recognise the potential difficulties in supply chain mapping / transparency and are therefore open to a regime that contemplates a phased approach for more cumbersome / difficult to achieve obligations (likely those relating to lower tier, international suppliers)."*

A few submitters were open to different phasing for domestic and international responsibilities. One submitter said it seemed like a natural progression.

Figure 16: Survey respondents' phase in time for different responsibilities



Question 28: What additional monitoring, evaluations and review mechanisms are needed, if any, to support this legislation?

Most submitters suggest a review process should be implemented and that it should be undertaken by an independent commissioner. They suggest that the review consider any gaps in the framework and implementation. Many submitters highlighted the need for engagement with business and civil society and the need for any findings to be made public.

The desired timing for the review process varies across submitters. Most think it should be every three years by an independent modern slavery commissioner. Some think it should be an annual review undertaken by an advisory group/committee alongside improvements to education. One suggests a review every five years.

A few submitters highlighted that under the Australian regime, the Minister is required to prepare an annual report for each calendar year addressing the actions taken by the government to implement the Act which New Zealand should adopt.

APPENDIX 1: Survey responses

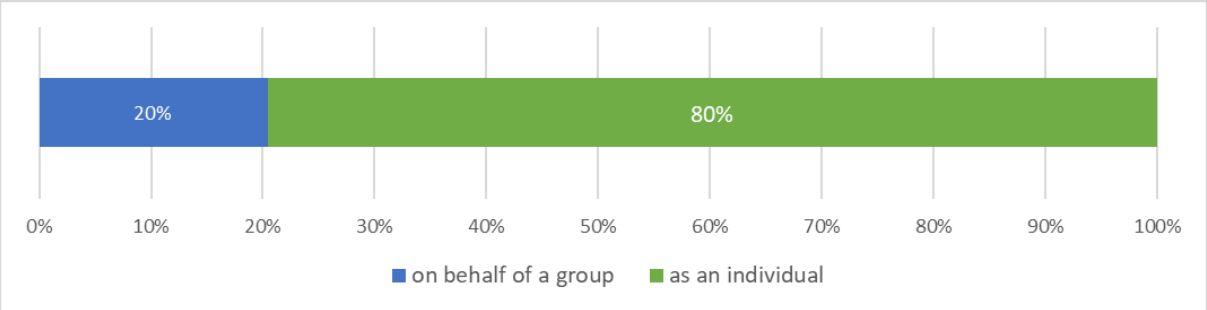
This part provides a visual overview of the data received from survey responses.

Note:

- Where survey respondents have provided recommendations, examples, or substantive responses to questions, these have been reviewed and included in Part A and Part B of this report.
- Not all questions in the survey lend themselves to graphical presentation.
- For ease of reading, we have not included data labels for responses of less than 5%.
- We have not included 'Don't know' responses in the graphs.

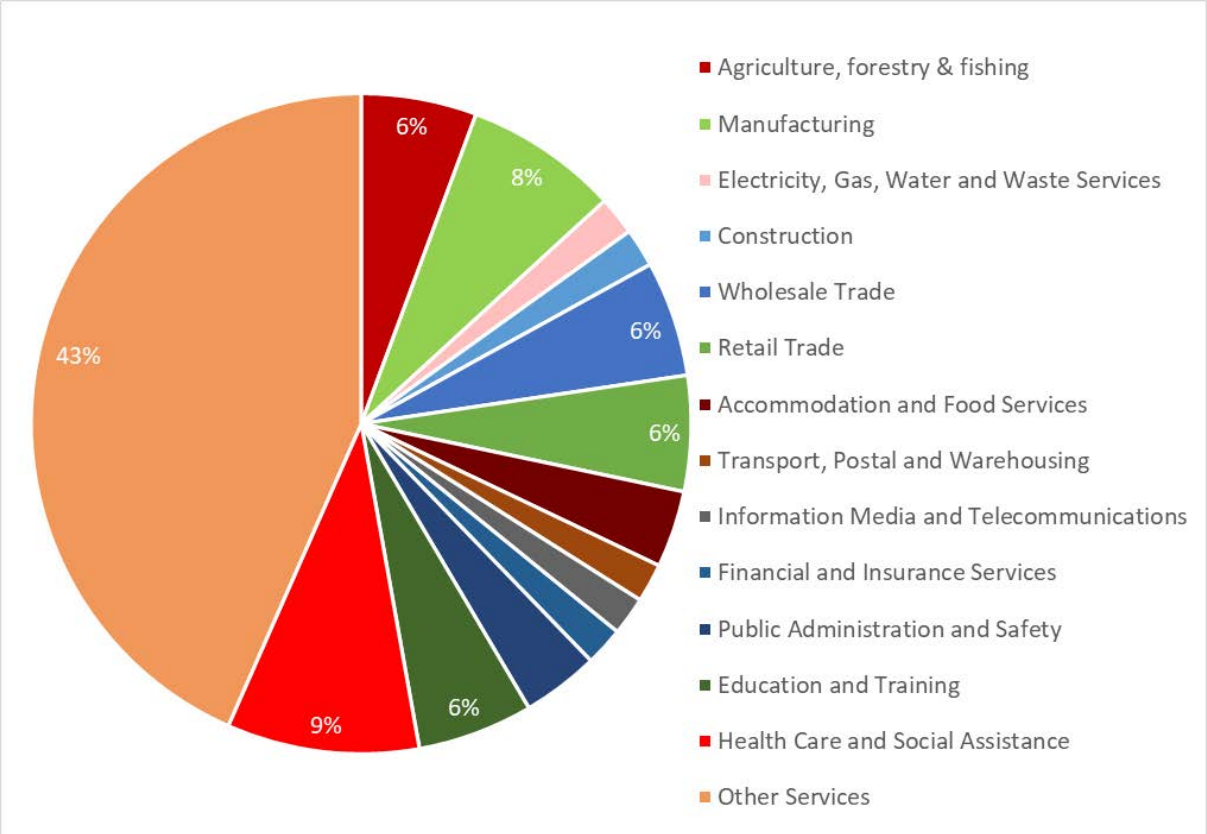
Question 1: Who is responding?

249 responses were received to the survey. 198 of these were from individuals and 51 from groups or organisations. 3 respondents did not provide a response to this question.



Question 2: What sector matches the group you are submitting on behalf of?

53 responses were received to this question, and 23 of those that responded said 'other'. Those that skipped this question were individuals.

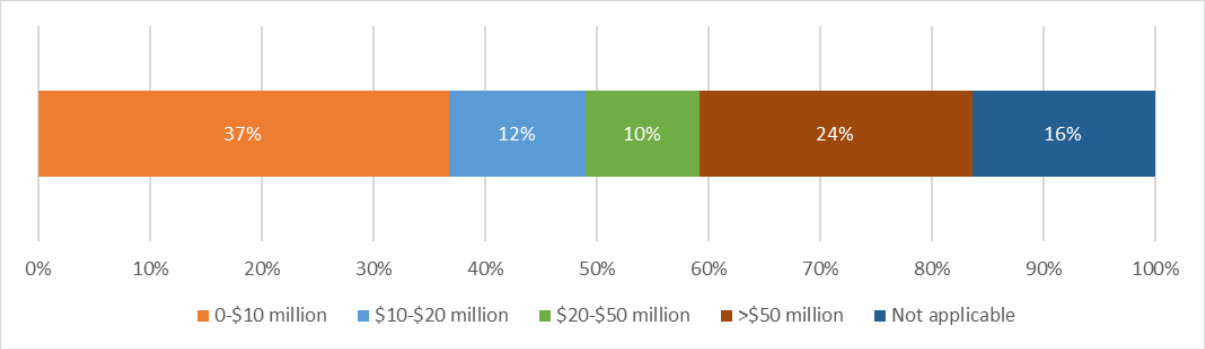


Question 3: Name of the group you are submitting on behalf of?

This question has not been reported on due to privacy considerations.

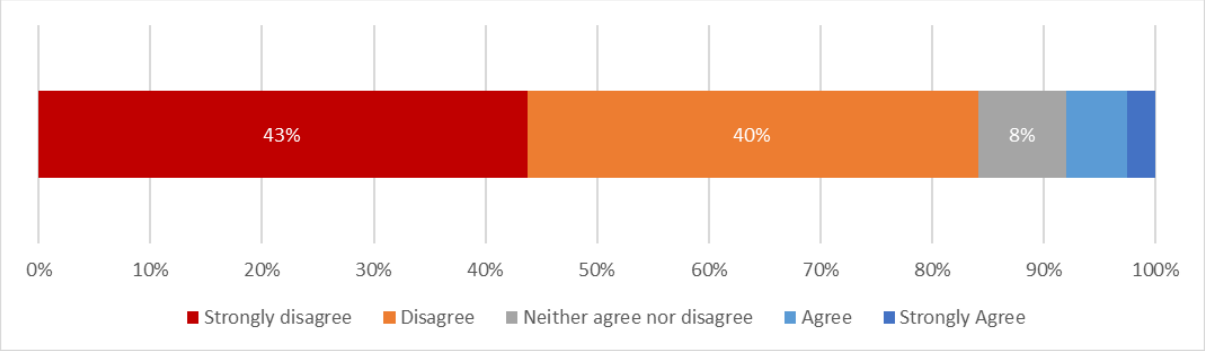
Question 4: What is the annual revenue of your organization?

49 responses were received to this question. 213 respondents skipped the question, most of these were individual respondents. Of those who responded most indicated that their annual revenue was between 0 -$10 million.



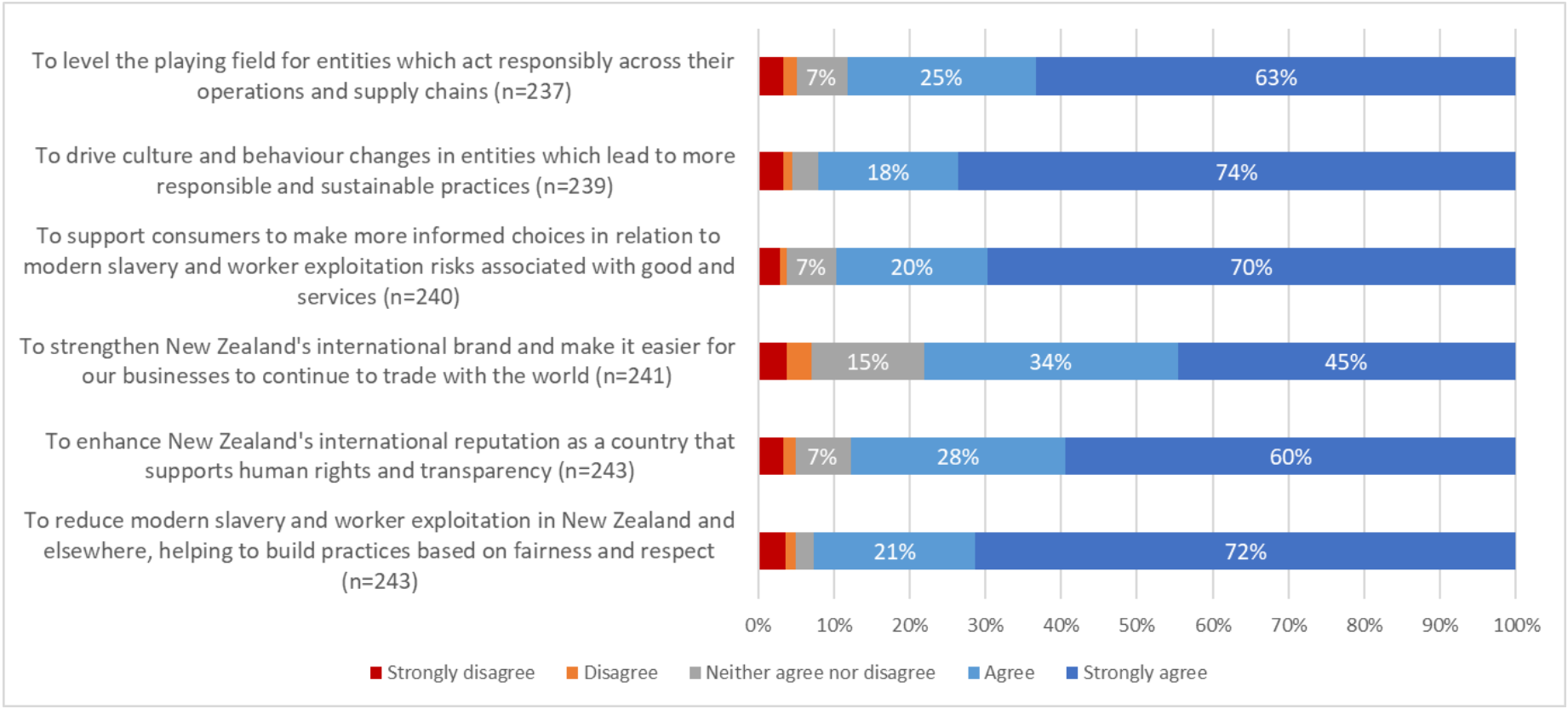
Question 5: What is your level of agreement with the following statement: Enough action is currently taken in New Zealand to address modern slavery and worker exploitation across operations and supply chains?

242 responses were received to this question, two responded 'Don't know'. 10 respondents skipped the question. Most respondents either disagreed or strongly disagreed that enough action is currently taken in New Zealand to address modern slavery and worker exploitation across operations and supply chains.



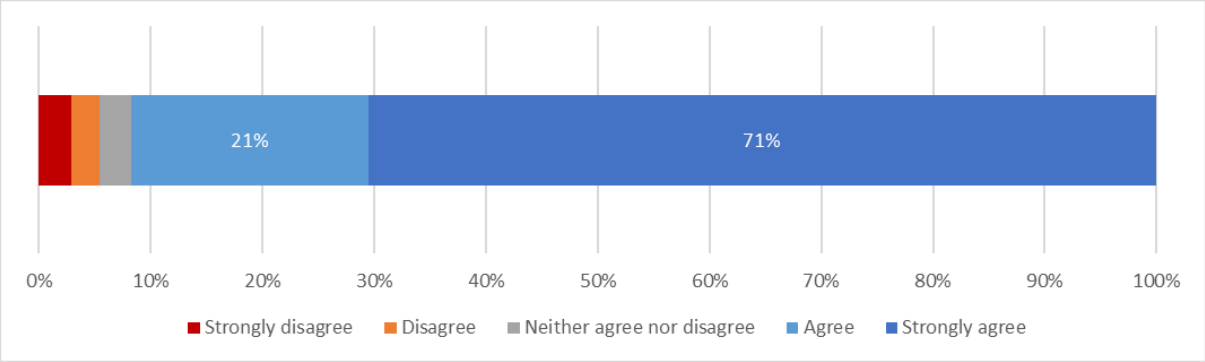
Question 6: What is your level of agreement with the following policy objectives for addressing modern slavery?

244 responses were received to this question. 8 respondents skipped the question. The majority of respondents strongly agreed with the policy objectives to address modern slavery and worker exploitation in New Zealand. As differing numbers responded 'Don't know' with regards the different policy objects, we have included the total number of responses for each policy objective.



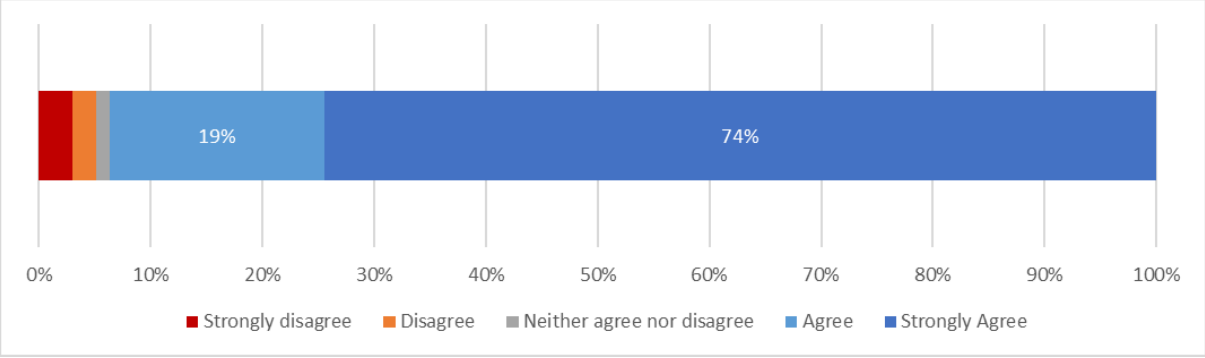
Question 7: What is your level of agreement with the following statement: New Zealand's legislation should be amended to better address modern slavery and/or worker exploitation across operations and supply chains?

24 responses were received to this question, one responded 'Don't know'. 10 respondents skipped the question. Most respondents either agreed or strongly agreed with the statement.



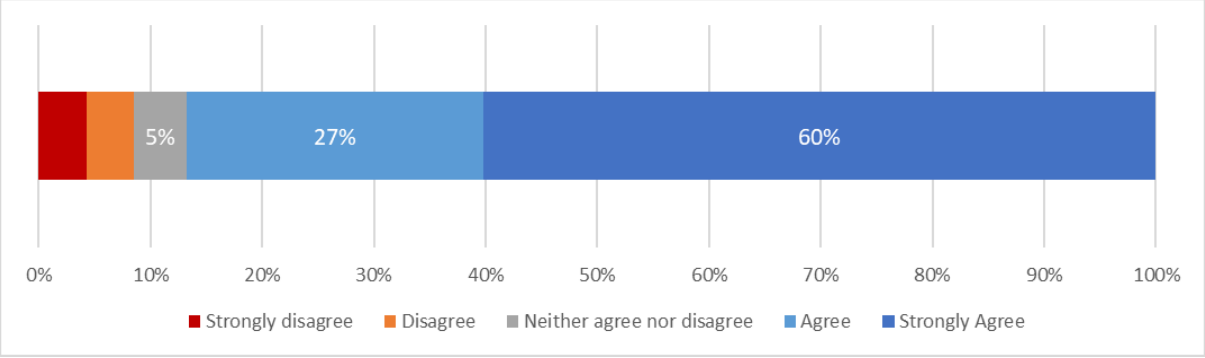
Question 8: What is your level of agreement with the following statement: All entities should have to take reasonable and proportionate action if they become aware of modern slavery in their international operations and supply chains, and/or modern slavery or worker exploitation in their domestic operations and supply chains?

235 responses were received for this question. 17 respondents skipped the question. Most respondents either agreed or strongly agreed with the statement that all entities should have to take reasonable and proportionate action if they become aware of modern slavey or worker exploitation across supply chains.



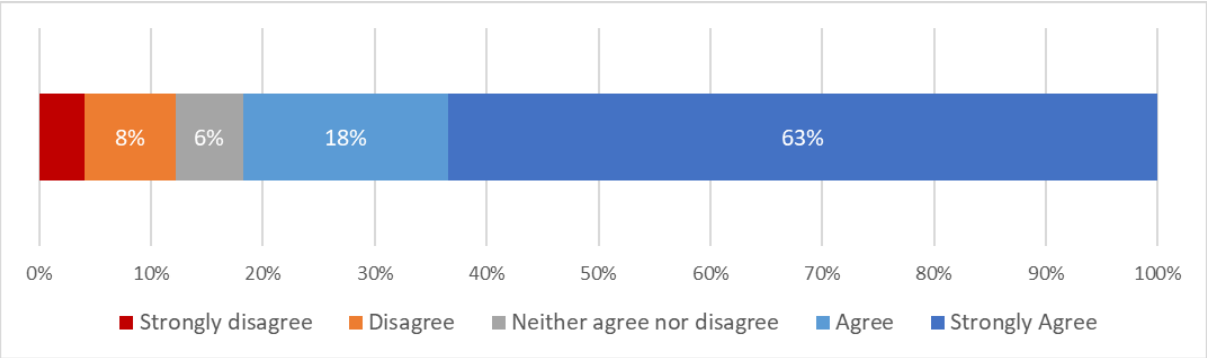
Question 10: What is your level of agreement with the following statement: Small and medium-sized entities should have a responsibility to undertake due diligence to precent and mitigate modern slavery and worker exploitation in domestic operations and supply chains for New Zealand entities they have significant control or influence over.

212 responses were received for this question, one responded 'Don't know'. 40 respondents skipped this question. Most respondents either strongly agreed or agreed that small and medium-sized entities should have a responsibility to undertake due diligence to prevent and mitigate modern slavery and worker exploitation in domestic supply chains that they have significant control or influence over.



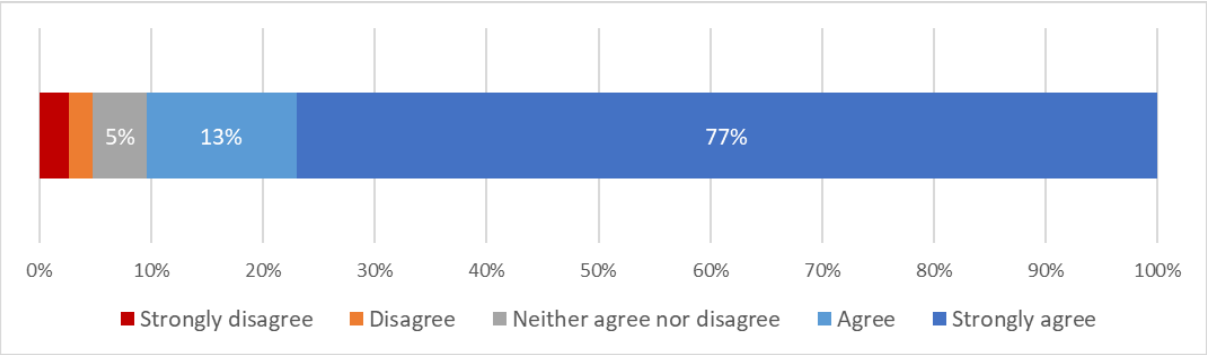
Question 12: What is your level of agreement with the following statement: Medium and large entities should be required to report annually on the due diligence they are undertaking to address modern slavery in their international operations and supply chains, and modern slavery and worker exploitation in their domestic operations and supply chains

200 responses were received for this question, three responded 'Don't know'. 52 respondents skipped this question. Most respondents strongly agreed that medium and large entities should be required to report annually on the due diligence they were undertaking to address modern slavery.



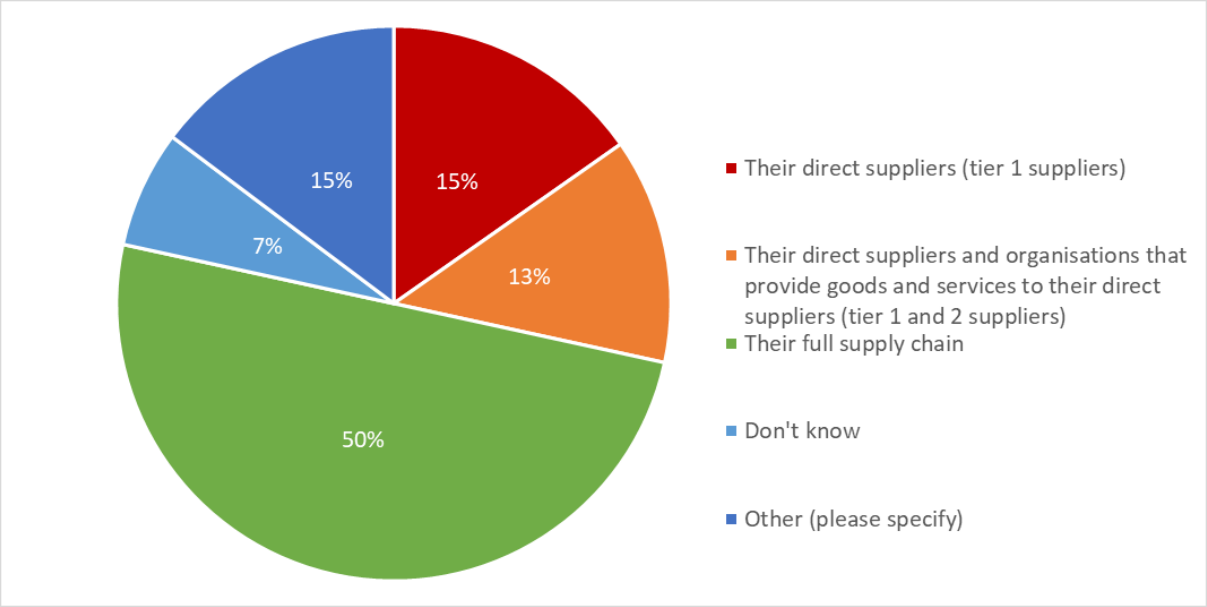
Question 14: What is your level of agreement with the following statement: Large entities should be required to meet due diligence obligations to prevent and mitigate modern slavery in their international operations and supply chains, and modern slavery and worker exploitation in their domestic operations and supply chains.

188 responses were received for this question, one responded 'Don't know'. 64 respondents skipped this question. Most respondents strongly agreed that large entities should be required to meet due diligence obligations to prevent and mitigate modern slavery in international obligations and supply chains.



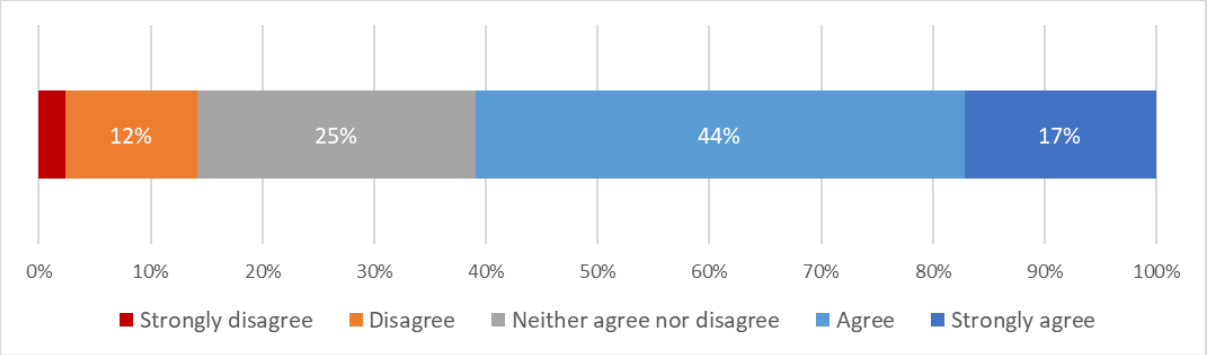
Question 16: How far across an entity's operations and supply chains should expectations to undertake due diligence apply?

190 responses were received for this question. 62 respondents skipped this question. Exactly half of the respondents said that entities should be expected to undertake due diligence across their full supply chain.



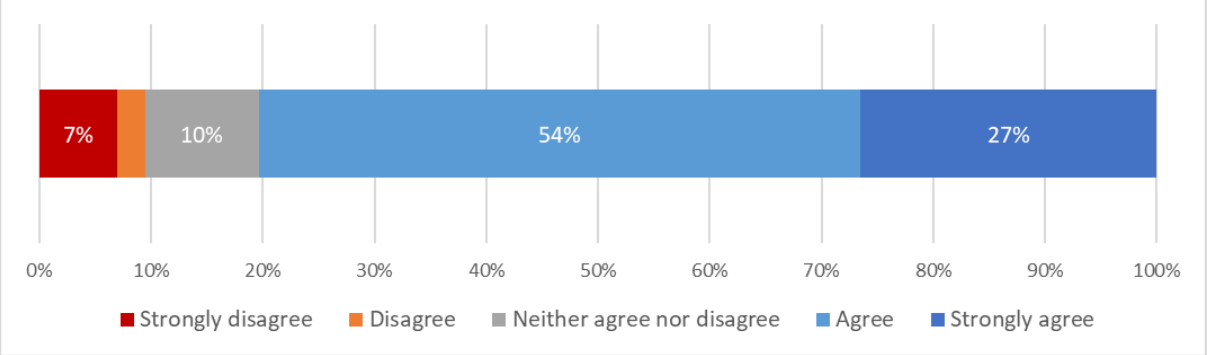
Question 18: What is your level of agreement with the following statement: 'Medium' and 'large' entities should be defined based on their annual revenue.

181 responses were received for this question, 12 responded 'Don't know'. 71 respondents skipped this question. Most respondents agreed that large and medium entities should be defined by their annual revenue.



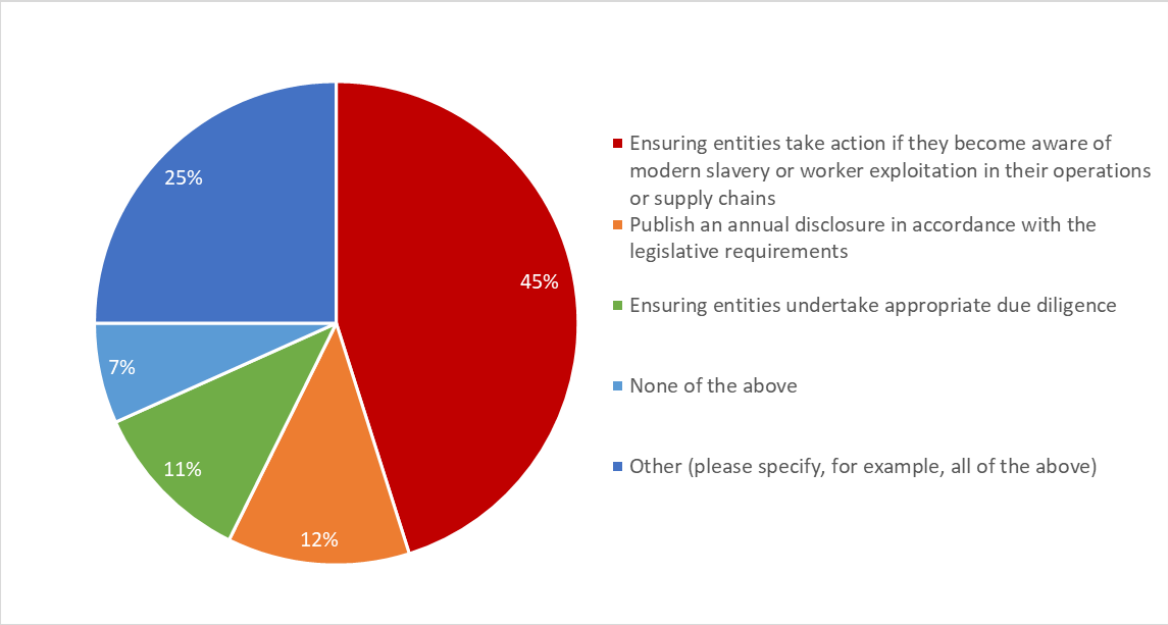
Question 25: What is your level of agreement to the following statement: There should be different penalties/tools to deal with non-compliance with different obligations (such as for disclosure versus due diligence).

167 responses were received for this question. 9 responded 'Don't know'. 85 respondents skipped this question. Most respondents agreed that there should be different penalties and tools to deal with non-compliance for different obligations.



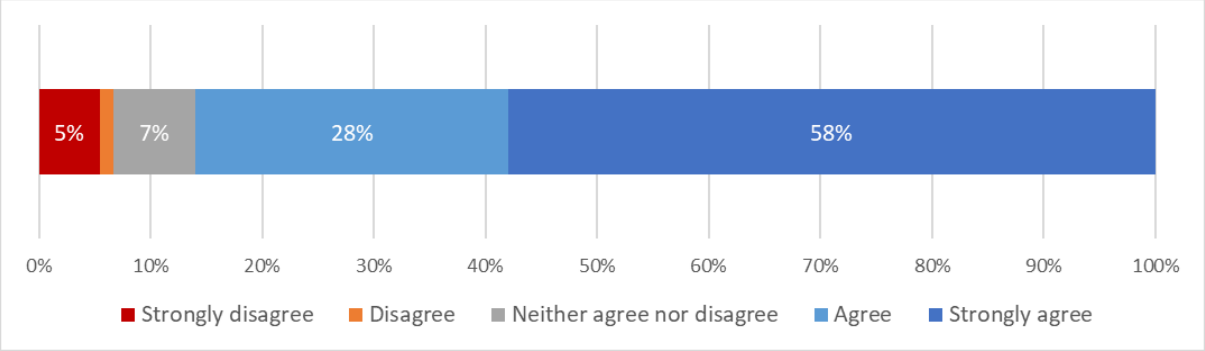
Question 26: What responsibilities, if any, should members of the governing body of the entity (such as the directors and board of a company) be personally liable for?

164 responses were received for this question. 88 respondents skipped this question. Most respondents said that the governing body of an entity should be responsible for ensuring entities take action if they become aware of modern slavery or worker exploitation in their operations or supply chain.



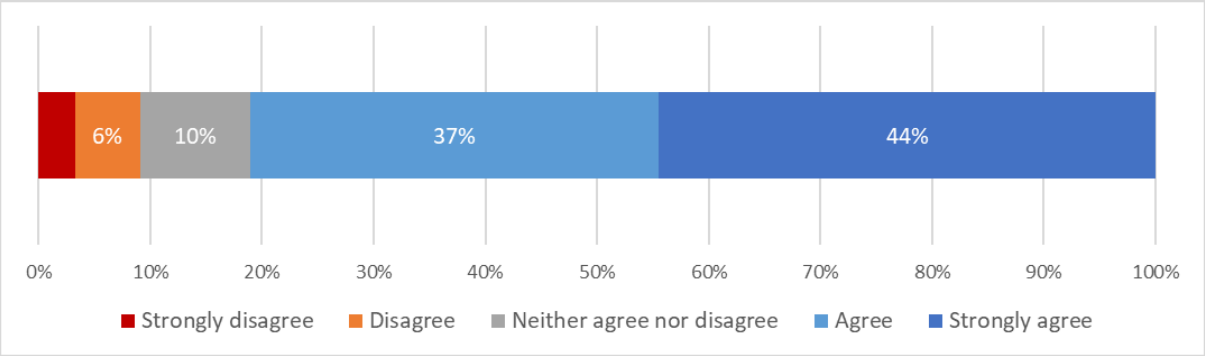
Question 27: What is your level of agreement with the following statement: Entities should be required to remedy any harm they have caused of contributed to, where there is a clear link between their actions and the harm.

165 responses were received for this question. 87 respondents skipped this question. Most respondents strongly agreed that entities should be required to remedy harm they have cause or contribute to, where their actions are linked to the harm.



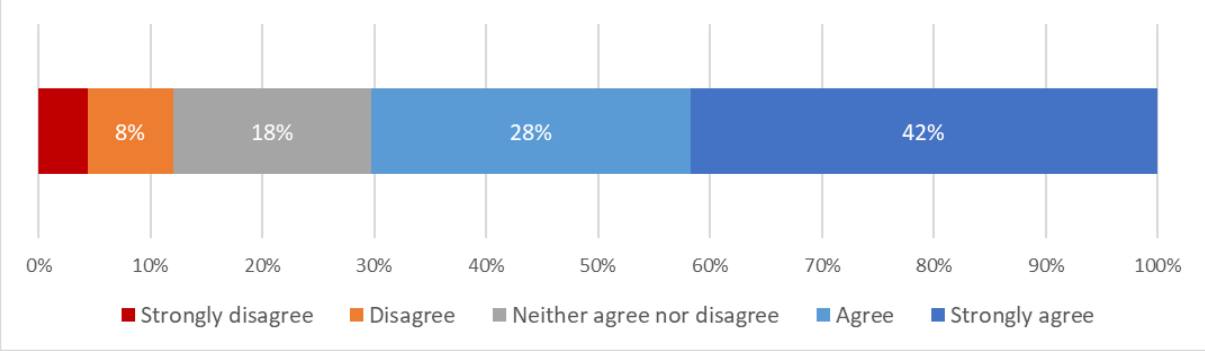
Question 29: What is your level of agreement with the following statement: Victims onshore and offshore should have the ability to bring a civil claim against an entity that has failed to meet its responsibilities.

163 responses were received for this question, 10 responded 'Don't know'. 89 respondents skipped this question. Most respondents either strongly agreed or agreed that victims should be able to bring a civil claim against an entity that has failed to meet its responsibilities.



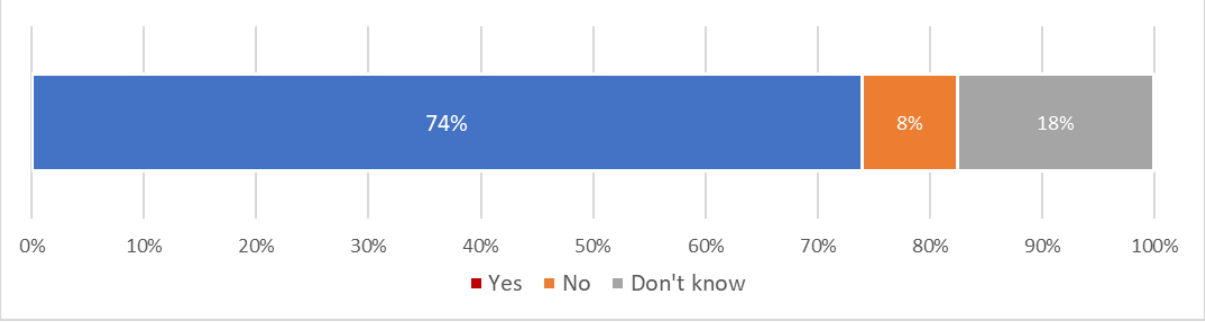
Question 31: What is your level of agreement with the following statement: An independent oversight mechanism is required, as oversight could not appropriately be provided by Government and civil society.

164 responses were received for this question. 88 respondents skipped this question. Most respondents strongly agreed that an independent oversight mechanism is required.



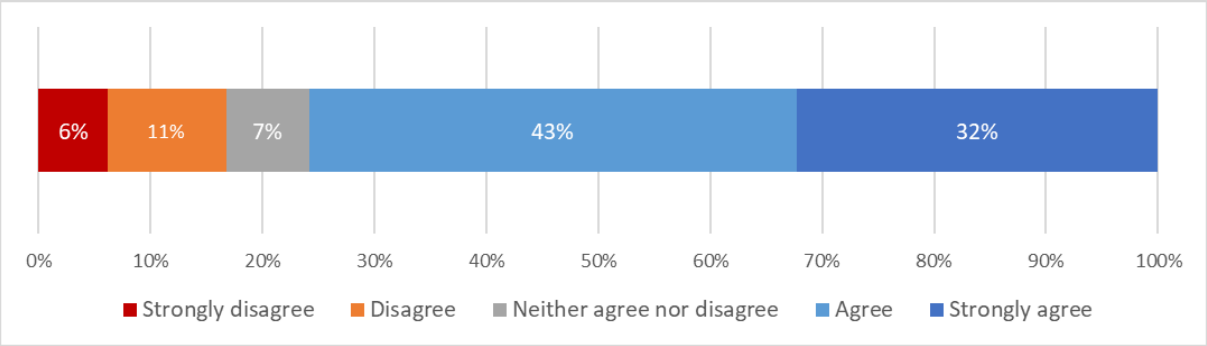
Question 33: Do you consider that a central register for disclosure statements should be established?

165 responses were received for this question. 87 respondents skipped this question. Most respondents agreed that a central register for disclosure statements should be established.



Question 35: What is your level of agreement with the following statement: A phase-in time is needed to allow entities to prepare for the proposed responsibilities.

164 responses were received for this question, three responded 'Don't know'. 88 respondents skipped this question. Most respondents agreed with the statement that a phase-in time is needed to allow entities to prepare for their upcoming responsibilities.



Question 36: Do you consider that phase-in time should apply to?

163 responses were received for this question, nine responded 'Don't know'. 89 respondents skipped this question. Most respondents said that the phase-in time should apply to both responsibilities and penalties associated with this legislative change.