SUPPLY CHAIN ACCOUNTABILITY
OPERATING IN A LEGAL VACUUM?

Hayley Lund, Sarah Chaplin and Rupert Balfe of Weil, Gotshal & Manges (London) LLP analyse the legal and practical implications of Dyson's recent settlement of certain supply chain liability claims.

The trend of UK companies facing potential liability for the actions of their subsidiaries and, more generally, of operators within their supply chains has intensified in recent years. The courts of England and Wales have also taken a notably more hands-on approach, even where the alleged wrongdoing has occurred outside national borders.

It was widely hoped that the case of *Limbu and others v Dyson Technology Limited and others*, which concerned certain alleged exploitative labour claims brought against certain companies in the Dyson corporate group (the Dyson companies) by workers at third-party factories in Malaysia (the workers), would bring some clarity to this area of law (*[2024] EWCA Civ 1564*) (*see box "Background to the Dyson claims"*). Unfortunately, that hope has proven misplaced, as permission to appeal to the Supreme Court was refused on 1 May 2025 and the case settled in February 2026.

Dyson raised significant questions regarding both the appropriate forum for multinational supply chain disputes and the extent of corporate accountability for labour practices across global supply chains. While some high-level answers were provided as part of the proceedings, the settlement means that obscurity remains for the foreseeable future.

This article considers the application of the "appropriate forum" arguments and examines the principles of tortious liability for the actions of third parties. It provides some key takeaways for entities that are incorporated or operating in England and Wales when assessing their exposure to multinational supply chain litigation risks in the future.

THE DYSON CLAIMS

The claims against the Dyson companies were framed under three key areas of law:

- Negligence. The workers claimed that the Dyson companies had a duty of care to them that was breached, causing economic loss and personal injuries.
- The tort of false imprisonment. The workers claimed that they had been falsely imprisoned and the Dyson companies bore some responsibility for this.

- Unjust enrichment. The workers claimed that, due to exploitative labour practices, the Dyson companies had been enriched at their expense.

This article focuses principally on the negligence aspects of the claims, although the analysis may be equally applicable, or applicable by analogy, to the other limbs of the claims.

At a High Court hearing in 2023, the two English Dyson companies disputed the jurisdiction of the English courts, claiming that Malaysia, where the wrongdoing was alleged to have occurred, would be the appropriate forum. The High Court initially agreed, but this finding was overturned by the Court of Appeal in December 2024 (*[2023] EWHC 2592 (KB)*).

Background to the Dyson claims

In 2022, 24 migrant workers brought claims before the English courts against certain Dyson companies, alleging that they had been subject to exploitative and forced labour practices at Malaysian factories within the Dyson supply chain between 2011 and 2022. The claimants, who were migrant workers of Nepalese and Bangladeshi backgrounds, claimed that they had been trafficked to Malaysia and subsequently subjected to conditions including substantial overtime, denial of annual leave, payment below the legal minimum wage and punishment for failing to meet production targets, including through intimidation and physical violence. While accommodation was provided by Dyson, the workers claimed that they had limited freedom of movement and that their passports were forcibly retained by factory personnel.

The initial claims were brought against Dyson Technology Limited and Dyson Limited, two English companies within the Dyson corporate group, whose principal place of business is in England. The claimants were also given permission to serve Dyson Manufacturing Sdn Bhd, a Malaysian company with its principal place of business in Malaysia, in response to assertions that it was the entity responsible for the implementation and enforcement of Dyson's corporate policies across its South-East Asian supply chains, and that it was a contracting entity with the relevant third-party factories.

THE LEGAL FRAMEWORK

The two key legal implications from *Dyson* relate to the determination of the most appropriate forum for a dispute to be heard and the relevant principles governing the liability of an English company for the actions of a third party operating within its supply chain.

Appropriate forum

Where a company or an individual is served as a party to civil proceedings before the English courts, it is possible to apply for a stay of proceedings on forum non conveniens grounds. This is a common law doctrine whereby, even if the English courts are a proper forum and have jurisdiction, a case may nevertheless be more appropriately and conveniently tried elsewhere.

The key case elucidating this doctrine is the House of Lords decision in *Spiliada Maritime Corporation v Cansulex Ltd* (*[1987] AC 460*). As a general statement, the most appropriate forum for a case to be tried is that which best serves the interests of all of the parties and the ends of justice (*Spiliada; Vedanta Resources Plc and another v Lungowe and others [2019] UKSC 20, see News brief "Parent company liability: your place or mine?", www.practicallaw.com/w-020-1794*).

The relevant test differs for service-in cases, where a defendant has been served as of right in England or Wales, such as at their place of business, and service-out cases, where a defendant has been served outside of England and Wales under Practice Direction 6B.

In service-in cases, the burden is initially on the defendant to show that there is another available forum that is clearly and distinctly more appropriate. This reflects the principle that service-in cases represent a form of service as of right, which will not lightly be disregarded. Importantly, it is insufficient to merely demonstrate that England is not the appropriate forum; a more appropriate alternative forum must also be identified.

In contrast, in service-out cases, the burden is reversed and it falls on the claimant to show that England is clearly the appropriate forum. For cases with both service-in and service-out aspects, the court will look for a single jurisdiction in which the claims against all of the defendants may most suitably be tried (*Vedanta*).

In all cases, the clear crux of the question is that of appropriateness. As the Court of Appeal put it in *Dyson*, the English courts have held that the appropriate forum is "that in which the case may be tried more suitably for the interests of all the parties and the ends of justice". In making this determination, the court will look at the connecting factors to each jurisdiction (*see box "Determining the appropriate forum"*).

As a second stage, even if the court concludes that the proposed foreign court is more appropriate, it may nevertheless retain jurisdiction if the claimant can demonstrate a real risk that it will not be able to obtain substantial justice in the appropriate foreign jurisdiction. This stage of the test is applicable for both service-in and service-out cases. It may involve considerations that overlap with those at the first stage, and the line between the stages is not rigid (*Municipio De Mariana v BHP Group (UK) Ltd [2022] EWCA Civ 951; www.practicallaw.com/w-036-6525*). Accordingly, the Court of Appeal in *Dyson* said that both stages are better conceived as "juridically a single holistic exercise in seeking to identify where the case can most suitably be tried in the interests of the parties and for the ends of justice".

Importantly, the English courts must be careful not to overstep the bounds of their expertise. For example, they should be reluctant to accept jurisdiction, and thereby deny jurisdiction to the proposed foreign court, simply on the basis that England offers a subjectively "better" legal system, or a "Rolls Royce" approach to justice as it has been termed in some of the cases, such as *Connelly v RTZ Corp Plc (No 2)* (*[1998] AC 854*). This means that the courts should not resort to general public policy or public interest arguments (*Lubbe and others v Cape Plc [2000] 1 WLR 1545*). However, the fact

that a foreign court may be better suited to the determination of issues relating to its own domestic laws does not fall outside of the scope of relevant considerations, even if it might appear on its face to be a public policy or public interest consideration (*see box "Impact of Brexit on jurisdiction"*).

Negligence

The second core issue in *Dyson* was whether the Dyson companies should be held liable for the actions of third parties in their supply chains.

It is important to remember that there is nothing inherently novel about this question; the principle that a party may owe a duty of care to third parties in respect of harm caused by those under its control has long been recognised. In *Home Office v Dorset Yacht Co Ltd*, for example, the House of Lords held that correctional officers owed a duty of care to nearby property owners where imprisoned persons under their supervision escaped and caused damage (*[1970] AC 1004*). That decision established, over half a century ago, that where a defendant has assumed responsibility for the custody or control of another, the law may impose a corresponding obligation to take reasonable care to prevent that person from inflicting harm on others. The issue in *Dyson* engaged that same well-settled principle.

Recent case law relating to the liability of parent companies for actions of their subsidiaries has also affirmed this. In *Vedanta*, it was clearly noted that this is not, of itself, a distinct category of liability in common law negligence (*see feature article "Managing risk in multinationals: parental responsibility", www.practicallaw.com/w-021-7622*). Therefore, a parent company is not responsible for the acts or omissions of its subsidiary simply by virtue of its status as parent. This is in line with the commitment in English law to the separate legal personality of companies; the courts must instead apply well-established general principles of tort law as to when a duty of care is held to exist.

In *Vedanta*, the following three non-exhaustive routes to establishing a duty of care in the context of a parent-subsidiary relationship were outlined:

- Where the parent company has provided defective advice or promulgated defective group-wide safety or environmental policies, which were implemented as a matter of course by the subsidiary.
- Where the parent company has promulgated group-wide safety or environmental policies and taken active steps to ensure their implementation.
- Where the parent company has held itself out as having a particular degree of supervision or control over the subsidiary.

These are instances where well-established principles of tort law might be held to apply, rather than elucidations of any new legal principles or routes to liability.

A fourth illustrative route to the assumption of a duty of care was identified in *Okpabi and others v Royal Dutch Shell Plc and another*, that is, where the parent company has taken over the management, or joint management, of the relevant activity of the subsidiary (*[2021] UKSC 3; www.practicallaw.com/w-030-2235*).

The central question is whether the parent company or, more broadly, any potentially responsible party, has actively intervened in, engaged with, or otherwise overseen the third party. In the authors' view, this analysis would apply equally to third-party supply chain contractors (*see "Parent company duty of care" below*). The mere existence of a parent-subsidiary relationship is not, in this sense, unique, but rather illustrates that the parent had the opportunity to engage in those activities (*Vedanta*).

Determining the appropriate forum

In order to determine the appropriate forum, the court will look at the connecting factors to each jurisdiction, including:

- Convenience.
- Expenses. This is a fact-dependent exercise that will turn on the nature of the relevant civil litigation, such as whether experts will be needed.
- The governing law of the relevant claim or claims.
- The place where the parties reside or carry on business.
- The place where the alleged conduct concerned in the claims occurred.
- Any inequality of resources between the parties.
- The risk of a multiplicity of legal proceedings and the accompanying risk of inconsistent judgments.

In cases that involve several defendants or claimants, or both, the court will consider their relative status and importance in the case so that greater weight is given to the claims against the principal party or parties (*JSC BTA Bank v Granton Trade Limited [2010] EWHC 2577 (Comm)*).

LEGAL ANALYSIS IN *DYSON*

The legal principles on forum and negligence discussed above can usefully be examined in relation to the issues that arose in *Dyson*.

Findings as to forum

Before the High Court, the Dyson companies argued that a stay of proceedings should be granted on forum non conveniens grounds as Malaysia was the more appropriate forum for the claims to be heard. As this was a mixed service-in and service-out case, the task for the High Court was to identify the single jurisdiction where the claims could most suitably be tried, taking into account the connecting factors to each jurisdiction.

The High Court found in favour of the Dyson companies, granting a stay of the proceedings on the basis that Malaysia was

the more appropriate forum, a finding that was subsequently overturned by the Court of Appeal.

After identifying various errors of law in the High Court judgment, the Court of Appeal reconsidered the decision, assessing once again the appropriateness of each forum. In so doing, it adopted and implicitly endorsed the two-stage approach developed through *Spiliada,* while recognising that the exercise is inherently holistic.

The Court of Appeal considered a number of different factors.

Place of occurrence of wrongs. The alleged forced labour conditions existed in Malaysia. However, the question of where the alleged wrongs occurred was not as straightforward as it might appear. The real issue was whether the Dyson companies could be held liable due to their oversight or effective management of the relevant wrongdoers. In substance, therefore, the claim concerned alleged wrongdoing in England, namely the promulgation and oversight of policies by Dyson employees who were based in the UK. Indeed, it was expressly recognised that Dyson's sustainability team, which was responsible for developing and promulgating mandatory policies for incorporation into the group's supply chains, was based in the UK.

Convenience. Factors weighed on both sides of the matter of convenience. While most of the workers were closer in distance to Malaysia, there were practical difficulties that made returning to, or giving evidence in, Malaysia difficult. Similarly, while evidence of wrongdoing might exist in Malaysia, evidence of any defective policies or oversight would exist in England.

Governing law. The relevant law to be applied was that of Malaysia. It was, however, recognised that the relevant Malaysian laws draw heavily on English common law. Therefore, the court felt comfortable that it would be able to draw on its knowledge of English common law, guided appropriately by foreign law expert advice.

Service-in aspects. The court said that the fact that the English Dyson companies were domiciled in the UK reflected "a degree of permanence and allegiance to the country's institutions", which might give rise to a legitimate expectation that any lawsuits brought against them should be brought before the English courts. This affirms the strong presumption that applies to service-in cases remaining in the jurisdiction. By the same token, the English Dyson companies were resisting the jurisdiction, so it could be said that there was no allegiance or expectation on their part. Nevertheless, from the workers' perspective, they may have also legitimately expected that proceedings could be served on the English Dyson companies and then proceed in the UK.

Operational control. The Dyson group primarily operated from Dyson's UK offices and it was expected that the litigation would be co-ordinated and conducted by the English officers and employees of Dyson UK from England, where the group's chief legal officer was based.

Inequality of arms. In light of the marked differences between the relative positions of the Dyson companies and the workers, the latter of whom were impoverished and had limited English language skills, it was all the more essential for the justice system to ensure that the workers were placed on an equal footing. It is important to remember that this was not a question of policy. While the court did consider certain case management powers available in Malaysia and whether they would be exercised on the facts, it emphasised that any analysis was "not in any sense a criticism of the Malaysian justice system". Rather than being a critique, the court's analysis was an assessment of the utility of these powers in the particular circumstances. Therefore, while the Malaysian courts can, in theory, permit remote hearing attendance and the remote provision of evidence, the extent to which this occurs in practice and its overall utility in light of the factual background was debated given that some of the workers had limited access to technology and language barriers were likely to persist without additional translation support.

Ultimately, the court's analysis of the case, including the above factors, led to the conclusion that England was clearly and distinctly the appropriate forum in which the case should be tried.

Impact of Brexit on jurisdiction

Before the UK's exit from the EU, the starting point for establishing the appropriate forum was set out in Article 4.1 of the recast Brussels Regulation (*1215/2015/EU*) (Article 4.1), which provides that persons domiciled in an EU member state shall, whatever their nationality, be sued in the courts of that member state.

This meant that UK-domiciled defendants could not resist the jurisdiction of the English courts, except in limited circumstances. Indeed, it conferred a right on claimants to bring an action against UK-domiciled defendants even if they were not themselves from a member state (*Owusu v Jackson C-281/02; see News brief "Regulating jurisdiction: English courts' discretion is curtailed", www.practicallaw.com/2-200-6688*). Therefore, in a pre-Brexit scenario, the Malaysian claimants in *Limbu and others v Dyson Technology Limited and others* could have relied on the recast Brussels Regulation as against the UK-domiciled Dyson defendants (*[2024] EWCA Civ 1564; see box "Background to the Dyson claims"*).

Some of the limited exceptions from Article 4.1 related to where there was a risk of inconsistent judgments, raising Article 4.1 was itself an abuse of process, or the underlying claim disclosed no reasonable cause of action (*Article 34, recast Brussels Regulation*). These exceptions were construed restrictively. The recast Brussels Regulation starting point could also not be bypassed by using forum non conveniens arguments (*Vedanta*).

Consequently, the post-Brexit position has not shifted significantly. Before Brexit, the English courts could not decline jurisdiction against UK-domiciled defendants except on limited grounds and, after Brexit, the English courts are still finding reasons to retain jurisdiction over these defendants (*see Focus "Jurisdiction and enforcement: the UK landscape beyond Brexit", www.practicallaw.com/w-038-9588*).

Undertakings

Interestingly, and as part of a novel argument, the Dyson companies also offered certain undertakings to the court to encourage it to instead identify Malaysia as the appropriate forum. A particular concern of the workers was the absence of appropriate funding arrangements in Malaysia and, in comparison, the availability of conditional fee arrangements in the UK, which would enable the workers to have their legal fees payable only in the event that their claim succeeded.

In response, the Dyson companies proposed to undertake to meet certain reasonable and necessary parts of the workers' legal disbursements, should the case proceed in Malaysia.

For numerous reasons, the Court of Appeal found these undertakings to be inherently flawed because:

- There was a clear conflict of interest between the parties, which would make it difficult to navigate the collaborative fee agreement. The court also rejected the assertion that there was any "spirit" to the undertakings that might oblige the Dyson companies to work in good faith with the workers as to any disagreements. The court observed that the undertakings "mean what they say and anyone with experience of commercial litigation knows that such undertakings are carefully crafted to define their extent".

- Disputes as to what disbursements would be covered would need to be determined before they were incurred, granting the Dyson companies a tactical advantage.

- Linked to the second flaw, these advance requests could risk the waiver of legal professional privilege, especially if there were debates regarding the reasonableness or necessity of the disbursements in question. Any forced waiver of privilege could risk the workers' effective preparation for trial and inherently undermine their right to confidentially liaise with their lawyers.

- There would be no satisfactory, formal mechanism to resolve questions of reasonableness or necessity. As the undertakings would be given to the English courts, it would be for the English courts to rule on their operation, which would not be appropriate while the trial otherwise took place in Malaysia.

- The nature of commercial litigation makes it hard to predict what expenses might be necessary. The undertaking, as drafted, could not be easily adapted to suit this unpredictable environment.

- There was another drafting flaw in that the undertakings were framed as being confined to "these claims", when it was a near-certainty that the claims would be updated from time to time as the case developed.

While the offer of undertakings was an interesting and novel line of argument, the court was not persuaded or influenced by them.

Parent company duty of care

The substantive trial in *Dyson* was anticipated to provide further clarity to duty of care questions in negligence; in particular, as to the circumstances in which the Dyson companies could be found liable in negligence for the acts of a third-party supplier within their supply chain.

The parties had framed the potential duty of care on the parent company duty of care principles that were identified in *Vedanta* and *Okpabi*. However, the third-party factory that was alleged to have committed the wrongs in *Dyson* was not a subsidiary of Dyson. Therefore, even if there were distinct principles of tort law applicable to parent-subsidiary relationships (which, as outlined above, there are not), liability for the actions of a third-party supplier would have been an expansion of such principles (*see "Negligence" above*). This may be why the Court of Appeal seemed to suggest that this was a "novel issue in English law".

In the authors' view, there is nothing legally novel about this issue. While it may have been the first factual instance of determining whether a company should be liable for the actions of a third party in its supply chain, the principles are clear. There is nothing special about duties of care that are owed for third-party actions and the central analysis of control, supervision and management is to be undertaken.

For the purpose of this analysis, one may turn to the non-exhaustive routes to establishing a duty of care in *Okpabi*, as suggested by the workers, but these are simply illustrative. The court would likely have analysed matters such as whether Dyson's policies were effectively adopted as a matter of course within the Malaysian factories and whether it undertook effective monitoring and audits of the factories.

This is inherently a question of substance over form. This has been recognised in, for example, *AAA and others v Unilever Plc and another,* where the Court of Appeal, commenting on whether a parent company could be liable for the actions of a subsidiary, noted that "it may be that on the facts of a particular case a parent company, having greater scope to intervene in the affairs of its subsidiary than another third party might have, has taken action of a kind which is capable of meeting the relevant test for imposition of a duty of care in respect of the parent" (*[2018] EWCA Civ 1532; see News brief "Parent company liability: a different formulation", www.practicallaw.com/w-015-8854*). The corollary to this is that actions of this kind might equally have not been taken and the focus remains on the scope to intervene.

In the authors' view, the scope to intervene could exist even in respect of third parties in a company's supply chain as the mere parent-subsidiary relationship, in line with existing case law, is not determinative and may not even be indicative, depending on the circumstances.

It should also be recognised that while *Dyson* would ultimately have been governed by Malaysian law, Malaysian law draws heavily on English decisions as well as other Commonwealth authorities. Any finding of the courts in a trial on the facts may therefore have provided helpful clarification to this area of law in England and Wales too and may have identified factors that might indicate the assumption of a duty of care in supply chains, which would have been useful for UK companies that operate multinational supply chains. This opportunity for elucidation would have been novel in a factual sense as recent case law, such as *BHP*, has applied foreign laws that bore no substantial connection to UK law. In *BHP*, the liability of BHP was based on strict liability under Brazilian law principles.

The settlement therefore brings an end to the proceedings in *Dyson* and leaves this duty of

care area in some obscurity. Nevertheless, as explained, it seems likely that well-established principles of tort law would have applied. Guidance may have been taken from the parent-subsidiary lines of case law but these cases are merely instances of the application of the underlying law, rather than any special variety of liability.

PRACTICAL TAKEAWAYS

Dyson offers some useful lessons for UK companies that operate multinational supply chains.

Jurisdictional challenges

While *Dyson* pertained to Malaysia and raised certain factors that made Malaysia the less appropriate forum for the specific claims, it also forms part of a broader trend of the English courts accepting jurisdiction in respect of alleged wrongdoing occurring overseas (*BHP; Vedanta; Okpabi*). It therefore has potentially broader ramifications as multinational organisations with a nexus to England, whether through their incorporation, headquarters, decision-making processes or even claims-handling processes, may increasingly find themselves defending claims before the English courts.

In addition, as the Supreme Court did not identify a point of law of general public importance that would necessitate it reviewing the Court of Appeal's decision, the potential for the English courts to be found to be the appropriate forum for international supply chain litigation remains.

In-house legal teams should therefore be alert to the possibility of claims of this kind being brought in the English courts, particularly where the alleged wrongdoing occurs in jurisdictions where access to justice may be limited.

Nevertheless, the concept of limited access to justice remains elusive. The courts will need to hold a careful line in order to ensure that they do not overreach into matters of public policy. A suggestion has been seen in recent cases that the English courts should not simply retain jurisdiction if the alternative forum does not offer the same "Rolls Royce" (or, as the High Court in *Dyson* framed it, the same "Tesla") service as one might receive in the UK.

In the authors' view, the cases have considered factors that are close to the line, such as the availability of group litigation procedures in *BHP* and conditional fee arrangements in *Dyson* (*see "Group litigation" below*). These are matters on which various legal systems diverge and on which legitimate differences of opinion can exist.

It may be that there is an increasing willingness to hold UK companies to account for actions overseas, in part due to increased regulation (*see "ESG legislation" below*). This increased regulation might be seen as an indication that Parliament deems it acceptable and, indeed, important for companies to be held accountable, easing the pathway for the English courts to reach the same conclusion.

The authors expect that forum non conveniens arguments will remain a key part of multinational supply chain claims and will continue to be given prominence in legal arguments. However, the novel approach seen in *Dyson*, whereby undertakings were offered to facilitate the attainment of justice in a foreign forum, is unlikely to gain wider traction given the court's clear disapproval of its substance (*see "Undertakings" above*).

As emphasised in *Vedanta*, "judicial restraint is of particular importance in relation to jurisdiction disputes" and, for now, the English courts will need to continue to walk a careful line.

Effective policies

In light of the issues discussed in this article, UK companies are well advised to revisit existing policies and procedures to ensure that they are appropriate and working as designed. These include, for example, policies guarding against modern slavery in supply chains and procedures used to perform due diligence on, and to audit, third-party suppliers, both at the onboarding stage and throughout the contractual relationship. In the current context, it is not only important to have policies in place, but also to ensure their effectiveness.

Attaining effectiveness involves embedding policies into everyday decisions. This may be achieved by ensuring that training is engaging and impactful as well as by conducting regular audits and maintaining logs of any compliance concerns (*see feature article "Effective compliance training: turning regulation into reality", www.practicallaw.com/w-048-3004*).

As emphasised above, a particularly striking feature of *Dyson* was that it concerned third-party suppliers, rather than subsidiaries within the Dyson corporate group (*see feature article "Supplier relationships: risks and opportunities", www.practicallaw.com/w-037-6473*). This is a departure from earlier supply chain litigation, which has typically focused on the relationship between parent companies and their overseas subsidiaries, and it highlights the requirement for robust supply chain due diligence in respect of third parties. Beyond internal policy reviews, it may also be advisable to secure supplier contractual undertakings to adhere to a wider corporate group's policies or to implement safeguards and procedures against matters such as modern slavery at the early stages of interactions with third parties (*see "ESG legislation" below*).

Even where effective precautions are in place, claims may still be brought. In the event of this happening, in-house legal teams and boards are well advised to take into consideration the following non-exhaustive matters to assess the potential merits of the claim:

- Whether there has been a taking over of management or joint management.
- Whether English companies provided advice or promulgated policies.
- Whether English companies were involved with the implementation of those policies.
- Whether English companies have exercised supervision or control over activities of the wrongdoer.

ESG legislation

Developments in case law should also be viewed in light of the wider regulatory environment in the UK and abroad, including the UK's Modern Slavery Act 2015 (2015 Act) and its linked statutory guidance. The 2015 Act extends in certain cases to supply chain oversight (*see feature articles "Modern slavery: mitigating the risks in global supply chains", www.practicallaw.com/w-047-4682 and "Supply chain reporting: complying with the Modern Slavery Act 2015", www.practicallaw.com/6-*

622-9282). For example, section 54 of the 2015 Act requires certain organisations to issue statements that they have taken steps to ensure that slavery and human trafficking is not taking place in any of their supply chains.

The Home Office's guidance on transparency in supply chains (the guidance) was last updated in December 2025, following extensive updates in March 2025, which provided more detail as to what modern slavery statements should contain, including encouraging descriptions of any remediation policies and processes (*www.gov.uk/government/publications/transparency-in-supply-chains-a-practical-guide; see News brief "Revised guidance on modern slavery statements: raising the bar for good practice", www.practicallaw.com/w-046-7245*).

The guidance makes clear that organisations should be striving for compliance with not only the letter of the law, but also its spirit. In order to reflect the guidance and increase the detail in these annual statements, a corresponding increase in focus on a company's supply chain will be necessary.

Meanwhile, the EU has recently confirmed specific changes to the forthcoming Corporate Sustainability Due Diligence Directive (*2024/1760/EU*) (CSDDD) through the Omnibus Directive (*2026/470/EU*) (*see News brief "Amending CSRD and CSDDD: narrowing the field", www.practicallaw.com/w-049-7103*). The Omnibus Directive came into force on 18 March 2026 and EU member states must implement its provisions by 19 March 2027 or 26 July 2028, as applicable. The CSDDD contains obligations that will require in-scope companies to diligence potential adverse human rights impacts in their operations and global supply chains (*see Briefing "Human rights due diligence: an evolving landscape", www.practicallaw.com/w-046-7240*). While the Omnibus Directive-related changes have reduced the number of companies in scope of the CSDDD, its core focus remains on risk-based supply chain due diligence (*see feature article "Sustainability in supply chains: due diligence in focus", www.practicallaw.com/w-035-5415*).

Individual member states are also increasingly adopting legislation that is focused on environmental, social and governance concerns (*see box "ESG legislation in Germany and France"*). These pieces of legislation signal a wider attitude shift by legislators that may make its way into supply chain litigation claims and, therefore, the courts. They place an increasing degree of responsibility on large corporate groups to oversee their supply chains and it follows that expanding the scope of the traditional tort of negligence to encompass them may arguably amount to an organic legal development rather than a public policy jump.

ESG legislation in Germany and France

Some EU member states, including Germany and France, are increasingly adopting legislation that is focused on environmental, social and governance (ESG) concerns.

In Germany, the Supply Chain Duty of Care Act, also known as the Lieferkettensorgfaltspflichtengesetz (LkSG), which entered into force in 2023, requires companies to implement adequate measures to identify, prevent and remedy human rights and environmental concerns within their supply chains, publish policy statements regarding their due diligence strategies and file annual reports with the Federal Office for Economic Affairs and Export Control.

In comparison, in France, the Duty of Vigilance Law, which entered into force in 2017, imposes a general duty on companies to guard against ESG-related risks associated with their activities and the activities of their subsidiaries and business partners, which is principally achieved by the publication of vigilance plans.

Both of these pieces of legislation helped to model the Corporate Sustainability Due Diligence Directive (*2024/1760/EU*). Member states' ESG-related legislation may surface in ESG-related litigation to underscore claims and to demonstrate a company's alleged failings. This may be the case whether the relevant legislation is primarily enforced by administrative supervision and fines, as with the LkSG, or if it also provides for civil liability, as with the French Duty of Vigilance Law. Indeed, in France, the legislation has already surfaced multiple times; for example, in a ruling on 12 March 2026 against the Yves Rocher Group for failings in relation to its vigilance plan (*Paris Judicial Court (34th Civil Chamber) No 22/04017*). Even in the case of regimes with primarily administrative supervision, such as Germany, the legislation may still facilitate the attainment of evidence that would not previously have been provided or published by companies, which can then be used in civil litigation.

Group litigation

There are certain takeaways to be gleaned from the way in which the English courts have approached several of the group litigation claims discussed in this article (*see feature article "Group litigation orders: only part of the picture 25 years on", www.practicallaw.com/w-046-8868*).

For example, before settlement, *Dyson* went through a case management conference in December 2025, resulting in various directions for the ongoing conduct of the case, including for there to be:

- An initial trial dealing with the claims of only six lead claimants, the findings from which could then be used to guide the determination of other claims or to guide settlement discussions.
- A split trial with regard to those lead claimants between matters of liability and questions of quantum, following the approach taken in *BHP*.

Given the often substantial cost that is associated with this form of litigation, the court also emphasised that it was of the utmost importance for the parties to work together and with the court to further the overriding objective to deal with cases justly and at proportionate cost (*Civil Procedure Rule 1.1*).

UK companies that are in the early stages of defending supply-chain claims, or are faced with the threat of these claims, should adopt a pragmatic and co-operative approach

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with claimants and potential claimants. The English courts are not likely to look favourably on parties that rely on narrow procedural technicalities or fail to disclose key documents without good cause.

Looking forward

While *Dyson* was settled, which closed the door on a further exploration of the specific factual circumstances that might have led to a duty of care being owed in those circumstances, the key cases of *BHP* and *Okpabi* remain before the courts. *BHP* is expected to reach the second stage of trial, to determine the quantum of recoverable losses in the second half of 2027, and the full trial for *Okpabi* is expected to commence in March 2027. In-house legal teams are well advised to monitor the progress of these cases for practical takeaways.

ADAPTING TO THE SHIFTS

In an ever-shifting regulatory environment, supply chain litigation claims may appear to be merely one moving part among many. However, liability is becoming increasingly easy to establish and English companies are likely to continue to face claims, both at home and abroad.

Preventive measures to protect a company's supply chain and the employees within it are increasingly expected, alongside robust supply chain due diligence.

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