



The new reporting obligations under the Modern Slavery Act 2015

Briefing

November 2015

On 29 October 2015 section 54 of the Modern Slavery Act 2015 relating to transparency in supply chains became effective. At the same time the Government published a practical guide explaining the concepts relevant to section 54 and describing how businesses should approach the preparation of their slavery and human trafficking statement.

Commercial organisations supplying goods or services which carry on a business or a part of their business in the UK and which have a total turnover of £36 million or more in any financial year will be required to publish a slavery and human trafficking statement setting out the steps they have taken to eradicate slavery and human trafficking in their own business and in its supply chains. The statement may include information about the organisation and its supply chains, policies in relation to slavery and human trafficking, due diligence processes, location of risk and risk management steps, performance tracking and training. A six month transition period means that businesses with a 31 March 2016 year-end will be the first required to publish a statement covering the full financial year commencing on 1 April 2015. We summarise the reporting obligations on the next two pages.

The Government has emphasised that its strategy is to rely on ‘competition between businesses to drive up standards’. Whilst businesses can report in their statements that no steps have been taken to tackle slavery and human trafficking, many organisations may not find this option viable given increasing consumer, investor and other stakeholder expectations in this area. The [practical guide](#) states that those yet to take any action to date may want to indicate that any steps disclosed in their statements relate only to the period from October 2015.

The practical guide makes clear that no work needs to be repeated, so any pre-existing or ongoing processes which businesses have been undertaking to date may be just described, consolidated or elaborated on. This recognises that many businesses are already working to address their adverse human rights impacts, either to comply with similar legislation such as the California Transparency in Supply Chains Act 2010, or international standards such as the UN Guiding Principles on Business and Human Rights and OECD Guidelines for Multinational Enterprises. Indeed, the practical guide references the concept of human rights due diligence in the UN Guiding Principles, which emphasises the importance of assessing, mitigating and communicating on human rights impacts, when describing how due diligence might be approached for the purposes of section 54.

The right thing to do



Development of human rights related reporting obligations for businesses operating in the UK*



*Note: Laws listed have different jurisdictional criteria

Quick reference guide to the MSA reporting framework



Modern slavery offences

slavery: condition of a person over whom all or any powers attaching to the right of ownership are exercised

key: behaviour which deprives the victim of their freedom

servitude: obligation to provide services through coercion

forced or compulsory labour: work or service exacted under the menace of penalty or performed unvoluntarily

human trafficking: arranging or facilitating travel of another person with a view to exploiting that person



Applicability of reporting obligations

body corporate or partnership wherever incorporated

carries on any part of its business in the UK

supplies goods or services

annual total turnover of £36m or more (including subsidiaries)

financial statements published for financial years ending on or after 31 March 2016



Suggested statement content

organisational structure of business and supply chains

policies on slavery and human trafficking

due diligence

location of risks and steps taken to assess and manage risks

measuring effectiveness using performance indicators

training



Approval of slavery and human trafficking statement

companies:

approval by board of directors

signature by a director

partnerships:

approval by members

signature by a designated member



Logistics

statement to be published on website within six months of year end

link to statement from a prominent place on homepage

if no website copy to be provided to applicant within 30 days



Enforcement

non-compliance with reporting obligations

injunction by the Secretary of State requiring the organisation to comply if no response – contempt of court – unlimited fine

wider issues

criminal penalties for substantive offences under MSA

National Contact Point: requirement to respond and possibly engage in mediation following complaints of non-compliance with OECD Guidelines; if no settlement, public dissemination

potential for civil claims

forfeiture of vessels, vehicles or aircraft used or intended to be used in human trafficking

proceeds of crime issues arising from receipt of benefits from modern slavery

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