

UK Modern Slavery Act Three Years On: Home Office and NGOs Driving for Change



The UK Modern Slavery Act 2015 ('MSA' or 'the Act') came into effect in 2015, and was designed to address the risks of human rights abuses and human trafficking. Section 54 of the Act (Transparency in Supply Chains) specifically focussed on the business response to mitigating modern slavery risks in companies and their supply chains, with the expectation that big business would take the lead in working to eradicate modern slavery. Three years on, the initial praise for a leading approach to the issue has waned as the reality of uptake by businesses has emerged as a mixed bag of effort.



With an estimated 19,000 businesses obligated to comply with the MSA, the majority of businesses focused on putting in place only the basic compliance measures. Only 50 per cent of businesses have provided a modern slavery statement, according to Transparency in Supply Chains (TISC). The Modern Slavery Registry reported that of those companies who have issued statements, only 20 per cent have met the minimum compliance criteria outlined in the MSA, and the NGO Business & Human Rights Resource Centre revealed that 43 FTSE100 firms have not met the legislated MSA requirements in 2017.

These figures highlight the difficulty of addressing modern slavery, but they also demonstrate that companies are struggling to gauge modern slavery and other integrity risk in their businesses and supply chains. But the continuously evolving risk landscape, shaped by existing and emerging regulations, means there will be fewer opportunities to feign ignorance in the coming months and years; companies will have no choice but to rethink how they tackle the MSA and integrity risks more meaningfully. In addition to regulatory incentives, the impact of reputational costs resulting from human rights abuses and misconduct scandals and increased pressure from consumers, investors and employees for businesses to act ethically will be key drivers in shaping the new risk environment.

UK Government plans to name and shame non-compliant businesses

In October 2018, the UK Home Office wrote to Chief Executives of all businesses who are subject to the MSA, reiterating their obligation to provide an annual modern slavery and human trafficking statement. The Home Office set a deadline of 31 March 2019 for companies to get their statements completed, or risk being named by the government as non-compliant.

The government's actions are, in part, shaped by recent criticism levied on its anti-modern slavery approach by the former anti-slavery commissioner and leading NGOs who believe that the Act has little real power and that the government has taken no steps to enhance it.*



The growing criticism of the government in relation to the MSA led to the launch of a parliamentary inquiry into the Act in July 2018. At the time of writing, the inquiry has heard from a number of key experts and has received over 120 pieces of written evidence from businesses, business associations, NGOs, academics, civil society participants, police, etc. Based on information available through existing submissions, the inquiry is likely to provide comprehensive recommendations for the improvement of the MSA and will most likely suggest some of the following:



For the government to maintain a public registry of businesses that need to report;



Making the six existing guiding principles of reporting into legal requirements;



Providing a mechanism for holding businesses to account – including potential fines;



Increased focus on human rights due diligence.

It is also possible that the revision of the MSA may lead to government-issued fines for companies that don't publish statements and fulfil basic compliance requirements.

**Source: The Guardian: Home Office under fire over muddled strategy on slavery that fails victims*

Why 'doing just enough' is no longer sustainable

While a number of companies are leading the field in terms of tackling modern slavery, the majority of businesses have focussed on the core minimum requirements of the Act. Going forward, this approach will become difficult to justify. The reality is that eliminating modern slavery is a long-term undertaking; in the short term, for businesses to tackle it successfully means being open and honest about the reality of modern slavery and the steps that can be taken to confront it in their business and supply chain.



With the potential changes looming for the MSA, as well as the introduction of other modern slavery legislation elsewhere around the globe (with Australia passing its own legislation on 29 November 2018), businesses need to address the issue head on. Below are some steps that you can take:

1

Make sure that you have covered off the basic aspects of MSA compliance to avoid being named by the government in March 2019.

- i. Has your statement been approved by your board (or equivalent)?
- ii. Has it been signed by a director or equivalent?
- iii. Have you updated it every year that you have been eligible to report?
- iv. Have you published the statement on your UK website?

2

Turn compliance to your advantage.

- i. Optimise your regulatory requirements, and turn them to your advantage, by stepping away from the single issue of MSA and thinking about a broader conduct and integrity perspective.
- ii. Capture the opportunity of the MSA requirements to use resource and momentum for overlapping integrity projects, trading the tactical fix for a strategic approach that addresses broader business challenges.

3

Align your KPIs and KRIs against your business objectives – regulatory change should not be about compliance, but a driver for overall change and cost efficiency.

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