



the inside track #31

Highlighting CSR Issues of the moment

Modern Slavery – time for action!

The Modern Slavery Act ¹ received Royal Assent in the final days of the coalition government. Initially focusing on human trafficking, Section 54 (“Transparency in Supply Chains etc,” - TISC) was introduced as an amendment at a late stage of the Bill passing through Parliament. The Home Office has conducted a consultation about how this section could be applied, and guidance ² has been published. Originally scheduled to be effective from 29th October 2015, transitional provisions mean the first reporting date is 31st March 2016 to allow organisations sufficient time to understand the requirement and comply.

All organisations (including those that are non corporate with trading arms) carrying out business in the UK with a total turnover in excess of £36m must prepare a “slavery and human trafficking statement” for each financial year. This statement “may include”:

- the organisation’s structure, its business and its supply chains;
- its policies in relation to slavery and human trafficking;
- its due diligence processes in relation to slavery and human trafficking in its business and supply chains;
- the parts of its business and supply chains where there is a risk of slavery and human trafficking taking place, and the steps it has taken to assess and manage that risk;
- its effectiveness in ensuring that slavery and human trafficking is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate;
- the training and capacity building about slavery and human trafficking available to its staff.

For companies, the parent may produce a statement that UK based subsidiaries can use to meet this requirement. The behaviour of subsidiaries not carrying out business in the UK (and not part of the UK supply chain) may be excluded from this statement, but the view is the parent should cover non UK subsidiaries in its statement as good practice.

The guidance is not prescriptive. An organisation may exclude parts from its statement, except it must include “the steps it has taken during the financial year to ensure slavery and human

trafficking is not taking place in its supply chains or in any part of its own business”. If no steps have been taken, this should be stated.

The reporting on the steps taken is critical to the statement. The statement does not indicate the organisation “guarantees” its supply chain is “slavery free” but that it is taking steps to ensure this is the case. The Home Office expects that the requirement for an annual statement will create “a race to the top” and drive up standards. If organisations fail to produce a statement, they will face an injunction, and failure to comply is punishable by an unlimited fine.

The annual statement must be approved by a senior person in the organisation. For a company, this means the statement must be approved by the board and signed by a director or equivalent. For those companies publishing on 31st March 2016, their statement should cover actions for the financial year, but if these commenced after the original effective date, this should be stated.

The statement must be published on an organisation’s website (if available), and a link should be featured prominently on the website’s front page. The statement may include links to published relevant material such as supply chain actions in its CR report, or policy documents.

Organisations need to start their planning now for their first annual statement.

¹ Section 54 can be found at:

<http://www.legislation.gov.uk/ukpga/2015/30/section/54/enacted>

² The guidance is available to upload:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/471996/Transparency_in_Supply_Chains_et_A_practical_guide_final_.pdf

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The guidance is in line with the consultation's outcome, but for companies, the question is not "what constitutes a statement" but "how do we deliver it"?

At one stage, it was suggested there would be a central database of statements. Instead "it will be for consumers, investors and non-governmental organisations to engage and/or apply pressure where they believe a business has not taken sufficient steps". Reference to "the race to the top" indicates continued government scrutiny.

Companies should consider supply chains and use of contractors or temporaries. Modern slavery encompasses slavery, servitude, forced or compulsory labour and human trafficking. Events prior to TISC were the Bangladesh factory collapse, and the Morecambe Bay Chinese cockle collectors. The latter were illegal immigrants controlled by criminal gangs. To effectively combat modern slavery, companies must ensure all staff are aware of modern slavery risks to enable mitigation and management.

Having an assessment of modern slavery risks is a company's first step. Once in place, training programmes can be developed and implemented. These may be targeted at different employee groups with detailed courses, and awareness raising for all employees. Detailed courses would be appropriate to supply chain management (such as procurement teams), contractor management (often an operational responsibility outside procurement) and senior managers, given the board sign off of the statement. The risk assessment should form part of the company's ongoing risk management process, and be dynamic, covering risks associated with countries, sectors and business partnerships.

Risk management and mitigation will require appropriate company policies. These may include a standalone modern day slavery policy; or a simple adaptation of an existing code of conduct (which may be beneficial as it is part of induction programmes). However, it is essential that the adaptation is effectively communicated to all parts of the organisation – not just new employees. All employees should understand the nature

of the change and the part they are expected to play. They should be clear on the minimum standards expected, the person responsible for implementation and reinforcement, and the actions if modern slavery is found within the business. Of equal importance is that supply chain organisations are aware of the company's expectations. This may require a supplier code of conduct incorporating modern slavery, and supplier contract clauses covering actions if breaches are established. The company should establish upfront what its policy is towards any victims of modern slavery within its supply chain (including remedy and compensation).

Due diligence procedures enforce the supplier code of conduct. These should be risk based, and address first tier suppliers, requiring these suppliers to address other tiers. Audit screening is common, but in high risk areas, use of external third parties may be advisable, together with effective workforce engagement including whistle blowing.

Establishing KPIs may be input based e.g. numbers of staff receiving modern slavery training but ideally KPIs should be outcome based e.g. numbers of suppliers audited, numbers found in breach, and numbers of breaches investigated.

The more a company plans to compile a satisfactory statement, the more it will demonstrate its progress over time in preventing modern slavery in its business or supply chains. However, the approach should be reviewed after year one – for many companies it will be a learning journey. But the preparation starts now!

If you would like to know more about The Virtuous Circle's work with clients on modern slavery, and would like an objective and impartial view, contact **Melissa Kittermaster or Tony Hoskins via mkittermaster@thevirtuouscircle.co.uk**