



Beyond The Modern Slavery Act: What should businesses do next ?

Overview:

The issue of modern slavery came to widespread public attention in 2004 when 23 Chinese cockle pickers drowned while working in Morecambe Bay, Lancashire. Since then, the UK government has looked to address modern slavery in all its various different forms both in the UK and overseas, culminating in the 2015 Modern Slavery Act.

The Act requires businesses with any part of their operations in the UK and a turnover of over £36 million to produce a modern slavery statement detailing the steps they are taking to ensure that slavery and human trafficking are not taking place in their own operations or supply chain.

There are already question marks around the impact, enforcement and awareness of the Act, as well as the role that employees, customers and investors might have on corporate behaviour. Campaigner expectations are growing for businesses to take increasingly proactive steps to stamp modern slavery out in the countries where they operate, where until recently have been considered the exclusive responsibility of the national government in question.

In the event of future incidents, companies will need to demonstrate that they understand and are actively addressing the complexities of the risks in their supply chains in order to defend both their reputations and avoid potential disruption to their operations.

Steps they might take include the following:

1. Improved **Due Diligence** into areas of the supply chain that pose the greatest slavery risk – often where transparency and influence are weakest.
2. Improved training throughout the **workforce**, built around clear KPIs that reflect the organisation's geographical scope, operations and level of exposure
3. Coherent and **consistent communications** both externally to investor and stakeholder audiences and internally to the various departments of the business that are affected.
4. A willingness to **collaborate** with competitors and other players to demonstrate to their supply chain a market scale, shared approach, common language
5. Efforts to influence the **broader societal framework** that enables modern slavery to take place in the countries in which they operate – including efforts to promote education, emancipation and equality.
6. An understanding of the broader **financial and operational benefits** that an improved understanding of a company's supply chain can bring to its bottom line.

“I mean not to accuse any one, but to take the shame upon myself, in common, indeed, with the whole parliament of Great Britain, for having suffered this horrid trade to be carried on under their authority. We are all guilty – we ought all to plead guilty, and not to exculpate ourselves by throwing the blame on others.”

1. Background

- Modern Slavery is gradually creeping to the top of the global political agenda. Target 8.7 of the UN's Sustainable Development Goals calls for signatories to *Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour.*
- Other relevant legal and political instruments include: The Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, Convention on the Elimination of All Forms of Discrimination Against Women.
- Governments around the world are starting to legislate for greater responsibility from businesses, calling on them to recognise and address the risks of modern slavery in their own activities and those of their supply chain. The most extensive of these laws is the 2015 UK's Modern Slavery Act which consolidated existing slavery-related slavery into a single statute.
- Of most importance to businesses is Section 54 of the Act which imposes a legal requirement on any commercial organisation with an annual turnover of £36m or above (and that carries on any part of their businesses in the UK) to publish a slavery and human trafficking statement.
- If a business fails to produce a statement, it can be subject to a high court injunction requiring it to do so and, potentially, an unlimited fine. The Government can also force an organisation to disclose the statement through an injunction, but hopes that stakeholder pressure will be enough to make organisations comply.
- The Business & Human Rights Resource Centre has created a central registry to allow comparison and benchmarking of companies' policy allowing investors to assess company risk and help consumers and activists reward leading companies. As of February 2017 1,518 businesses had registered it is estimated that the Act applies to at least 12,000.

Section 54 of the MSA states that the organisations should make a considered statement on the following:

1. Its structure, business and supply chains;
2. Its policies in relation to slavery and human trafficking;
3. Its due diligence processes in relation to slavery and human trafficking in its business and supply chains;
4. Steps taken to assess and manage the risk in parts of its business and supply chains
5. 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;
6. Training about slavery and human trafficking to its staff;
7. The statement approved at the highest level of an organisation
8. Publish the statement on its website and include a link to the statement in a prominent place on the homepage

2. Observations

- Given that the UK MSA is just over a year old, it is still too early to appraise its impact. Knowledge of the Act is not widespread, and few businesses have the procedures in place to paint an accurate picture of their activities.
- Nevertheless, there are clear weaknesses – most obviously the lack of regulatory teeth. For example, an organisation can publish a statement saying that it has not taken any steps without any fear of sanctions – it will still have discharged its legal reporting requirement.
- So far there is little evidence of government pressure to force businesses to submit. As with other policies, a fundamental lack of resource hampers the government's ability – and willingness - to pursue prosecutions. However, governments are moving towards taking a more active and demanding role in

regulating companies' behaviour, reflecting a shift in social views of the corporate sector that has accelerated post the 2008 global financial crisis.

- There is a sliding scale of engagement with the MS agenda. Some leading organisations (generally large, FMCG businesses) have linked existing policy and procedures producing detailed statements while others have produced single page statements.
- A significant challenge for willing businesses is supply-chain transparency, and the difficulty of obtaining the necessary information from suppliers because of the complex layers of sub-contract as well as the politics of the countries they supply from where exploitation is culturally and economically embedded.
- Corporate Reputational risk is arguably the most important driver for companies to improve their records on issues like modern slavery. Recent analysis by investment firm Schrodgers showed that consumer companies (especially food and clothing) are the most exposed to the risk of slavery given the degree to which manufacturing is often outsourced and nature of the products involved. High risk goods include rice, spices, tea, coffee, cocoa and cotton.
- That said, Consumer concern is not yet being reflected in purchasing decisions and so is not an important driver of change. For example, Primark sales increased by 20% in the quarter immediately following the fire at one of their suppliers' factories (Rana Plaza) in Bangladesh¹.
- Investor leverage will be an important factor. MS mitigation processes that companies have (or do not have) in place can be a very effective way of determining commitment to anti-human trafficking activities and bringing positive changes within company operations.
- Brexit risks undermining the MS agenda because of the possibility it would lead to a 'race to the bottom' in standards across the board in pursuit of competitiveness. Similarly, Trumpist isolationism would weaken the potential to raise global standards through trade deals and cross-border collaboration.

Modern Slavery in numbers:

Around 21 million men, women and children around the world are in a form of slavery (international Labour organisation).

Of those, around 58 per cent live in five countries: India, China, Pakistan, Bangladesh and Uzbekistan.

The government estimates that there are around 11,700 people in modern slavery in the UK, (that is the size of small town like Henley-on-Thames

Over a third [36%] of reported victims of Modern Slavery are subject to forced labour. One fifth of all reported forced labour victims are children, an increase of 24% since 2012.

Modern Slavery generates \$150 billion in profits per year, second only to the trade in illicit drugs.

3. Conclusions

- The issue of modern slavery is on the cusp of becoming the most sensitive corporate issue of the 21st century, a potential reputational time-bomb for those businesses who don't get their act – and that of their supply chain in order.
- The challenge is knowing where to act. The regulatory framework is in its infancy as governments (already under-resourced) struggle to come to terms with what is a cross-border issue, at a time of global introspection. Pressure from consumers, employees, civil society, investors and other institutions is piecemeal and external pressure has its limits.
- Because the regulatory requirements are so weak, businesses cannot rely on them. In the event that serious incidents of MS are identified in their supply chain, their compliance with the Act will not protect

¹ <https://www.theguardian.com/business/2013/jul/11/primark-sales-rise-despite-bangladesh-factory>

them from reputational damage. The answer for businesses is to go beyond the legislation, develop their own policies, standards, training and policy mechanisms that will stand up to public scrutiny.

1. SixButterflies Recommendations

Companies which are able to demonstrate that they understand and are actively addressing the complexities of the risks in their supply chains will be better placed in managing both their reputation and disruptions to their operations.

In view of the above, we have the following advice for businesses looking to make their own modern slavery practises fit for purpose:

1. Supply Chain due diligence

The size and complexity of modern supply chains will require supply chain due diligence that is fit for purpose, and in particular capable of scrutinising several tiers down the value chain to the areas that pose the greatest slavery risk – often where transparency and influence are weakest.

This may require designing new processes or the enhancement of existing policies, standards and procedures. An interesting model might be that of the insurance industry whose business model has long since required a tool able to scrutinise the supply chain to a similar level of detail to inform and implement the necessary exclusion policies.

2. Training

An engaged workforce is key to rooting out and addressing modern slavery, requiring not just training but a targeted and comprehensive programme to raise awareness, develop skills and change attitudes.

This might be built around clear KPIs that reflect the organisation's geographical scope, operations and level of exposure. As part of this, technology (e.g. reporting apps) should be harnessed as a means to drive improvements and monitor and understand the situation on the ground.

3. Consistent communication

Explanations of a business's efforts to combat modern slavery need to be consistent between its stakeholder-facing Corporate Social Responsibility (CSR) reports and its investor-facing ESG (Environmental and Social Governance) statements. Whilst this is theoretically true of all such ethical declarations, the need for board-level sign-off on modern slavery statements any inconsistency could be particularly damaging.

Sample Modern slavery training KPIs

- o 100% employees working in (specific roles and countries) to have completed MSA coaching and training module on modern slavery;
- o 100% potential suppliers are evaluated on MSA before they enter the supply chain;
- o Annual verification of system for supply chain on MSA compliance (with deadline)
- o Annual Management review of the existing supply chains by the Board (with deadline)
- o The existence of a whistle-blowing mechanism enabling employees throughout the supply chain to (discreetly and anonymously) call out incidents of abuse.

Board-level scrutiny amplifies the need for a coherent and integrated approach throughout the business and one that aligns the behaviours of a variety of departments e.g. legal, purchasing, sourcing teams, HR, sustainability and quality as well as internal and external communications.

4. Collaboration

Modern slavery is not a competitiveness issue so there is no reason why businesses sourcing from a specific area shouldn't align behind a single vision/expectation. The basis for this should be a shared

common language built around the UN Sustainable Development Goals for insertion into contracts. That will ensure consistency and ensure political clout to commercial decisions.

5. Prevention

Any organisation that is serious about preventing MS in the long term must acknowledge that it is much about stopping people from falling into it as it is about bringing people out. In many countries this will require improving education, jobs training, and equality policies. Since in many instances these require ambitious, societal reforms, businesses should support the grassroots government lobbying for improved social resilience.

6. Understand the broader impact

The benefits of an improved understanding of a company's supply chains and its practises extend beyond the purely reputational. Indeed the Schroders analysis gave examples of where improved knowledge and transparency might act as a catalyst for increased efficiency gains - especially if they lead to operational changes (e.g. on-shoring or supply chain consolidation).

These side-benefits should be communicated internally and externally (especially shareholders) to demonstrate how engagement with the MS agenda can lead to improvements for a business's bottom line as well as society.

5. Useful links

We recommend The following links have been used in this briefing documents and are a good source for developing guidelines and policies.

- www.legislation.gov.uk/ukpga/2015/30/pdfs/ukpga_20150030_en.pdf
- www.ford.co.uk/experience-ford/SlaveryStatement
- www.nortonrosefulbright.com/modern-slavery-act-statement/
- www.westbrom.co.uk/your-society/news/2016/9/29/modern-slavery-and-human-trafficking-statement
- www.business-humanrights.org/
- www.modernslaveryhelpline.org/

This briefing note was drafted on the basis of research carried out by the Sixbutterflies team and the conclusions of an informal (Chatham House) discussion with sustainability and legal experts from a variety of sectors. Opinions are our own.

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