

# *Responsible business*

What are companies doing  
to respond to The Modern  
Slavery Act?

Summer 2016



# ***Business is being criticised for not responding to the Act***

## ***We understand the challenges they face and their reactions***

### ***Introduction***

The Modern Slavery Act 2015 (the Act) is now in full swing. After many months of consultations and 'transitional provisions' to ease companies into the requirements, all obligated companies now need to comply with the relevant section of the Act for their current financial year (i.e. all years ending on or after 31 March 2016).

However, in January 2016, the Chartered Institute of Procurement and Supply (CIPS) claimed that businesses were 'woefully unprepared' for the slavery and human trafficking Statement required by the Act. Mainstream media has also struck a negative tone, with the Financial Times describing the early slavery and human trafficking Statements as 'lacklustre'. Are companies really performing this badly and if so, what are they struggling with?

Human rights specialists from our Sustainability and Climate Change team have been involved in the Act from the beginning. We responded to the early consultation, were named as a key contributor in the Home Office's 'Practical Guide' for companies and have been working with clients (of varying sizes and from a range of sectors) on the Act for over six months.

This document outlines our understanding of the current position of business based on discussions with a number of companies. We hope it will help those people driving activities in their organisations to see that many of their challenges are shared and to understand how peers are dealing with these issues.

### ***Summary of the Act***

Broadly speaking, it is likely that your business will be obligated under the Act if it fulfils the following four conditions:

- It is a commercial organisation;
- It has a global turnover of over £36mn;
- It carries on a business, or part of a business, in any part of the United Kingdom;
- It supplies goods or services.

Obligated entities need to publish a 'slavery and human trafficking Statement' for each financial year, disclosing the steps they have taken to ensure that slavery and human trafficking is not taking place in their own operations and supply chains (or a Statement stating that they have taken no such steps).

The Statement must be approved by the Board of the company, signed by a Director (or equivalent) and prominently linked on the company's homepage.

The 'Practical Guide', released by the Home Office, highlights six areas that companies could consider covering in their Statements.

For more information on the requirements of the Act, please see our briefing document: <http://www.pwc.co.uk/services/sustainability-climate-change/supply-chain/the-modern-slavery-act.html>



# ***Companies need to work out the scope of their efforts before they can draft their Statement***

## ***Do I need to tackle everything in the first year?***

As we enter the first year of mandatory reporting, most companies are uncertain as to how much detail their Statements should include, and how far reaching their modern slavery actions should be. One observation is that many companies are ‘starting small’, with a view to building their activities over the coming years. For example, many companies are only considering their first tier suppliers (i.e. the suppliers that they source from directly) as they develop their initial risk assessment and activities. Future work on combatting modern slavery in their supply chains will delve deeper to include further tiers, and activities will increasingly apply to suppliers outside the highest-risk groups.

Another example of this approach, commonly seen in the financial services sector, is to focus on suppliers in the first instance, in order to comply with the Act, despite the risks being relatively low. However, these companies are already thinking about how they will broaden their activities out to higher-risk groups, i.e. their customers, in due course.

This idea of ‘starting small’ means that businesses are acknowledging the fact that their first Statement will largely be reporting on steps which are still being implemented or which will be delivered in the near future, as opposed to solely focusing on what has been completed.

This is a complex topic and companies will need time to get to grips with it. While companies will need to be able to demonstrate positive early steps to stakeholders, it may be justifiable for companies to explain that a comprehensive, proportional response to the Act may take months or years to develop and fully integrate, and hence that they are adopting a phased approach.

## ***How should I apply the Act across my group of companies?***

Many of the larger companies impacted by the Act have more than one obligated entity and are unsure how they should consider the Act across the whole group. In these situations, most companies we have spoken to are planning to produce one Statement at the group level which will cover all the obligated entities (and often various non-obligated entities too, including the overseas group parent, where relevant). This seems to make sense for two reasons. Firstly, developing different approaches for different parts of the group can lead to incoherence and inefficiencies, which may increase as similar laws emerge in other countries over the coming years. And secondly, stakeholders may expect companies to implement their activities as widely as possible across their group, i.e. there is a reputational risk with being perceived to be doing the bare minimum. However, some companies are still struggling to understand where their obligations lie, particularly with respect to complex ownership models such as joint ventures.

Where a group decides to develop one group-level Statement, it is critical that it remembers that each obligated entity needs to fulfil its own requirement to have a Statement approved by its Board. Therefore, we are recommending to our clients that the Board minutes of every obligated entity:

- Contain evidence that the Board confirms that the group’s Statement is accurate and relevant to their entity;
- Include the name of a Director who supports this.

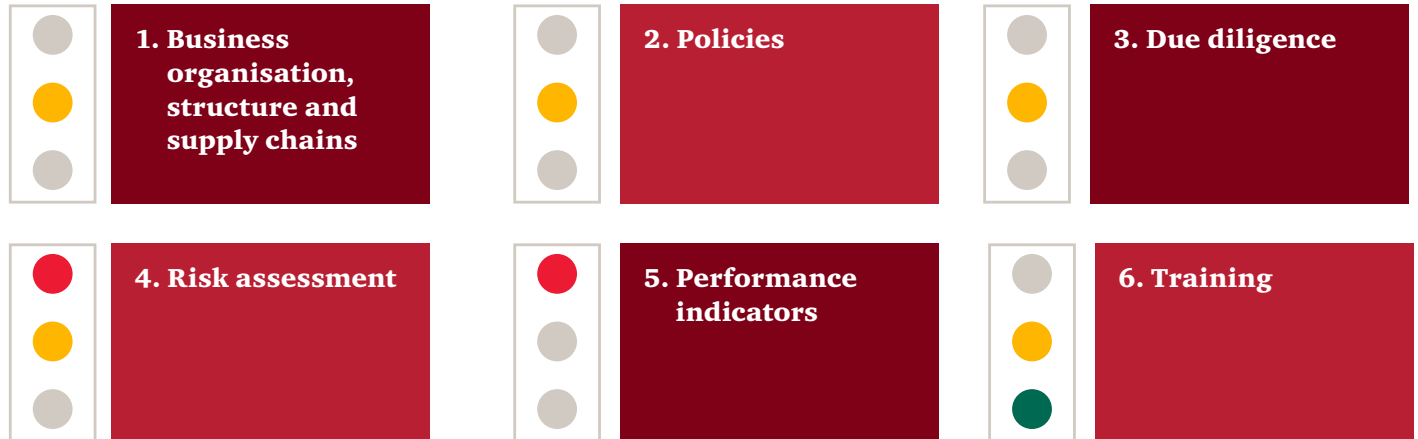
The public, group-level Statement should be approved by the group’s Board and should include:

- A named Director from the group’s Board – the CEO or Chairman are commonly the ‘signatories’;
- An explanation of which entities are covered by the group Statement (without needing to list them);
- Confirmation that the group Statement has been approved by each obligated entity’s Board and ‘signed’ by the relevant Directors.



# Although it's only a short document, drafting the Statement is not always straight-forward

## What areas should I cover in my Statement?



Our assessment of the quality of the early Statements against each of the six areas shows that coverage has been patchy. Results show that training is the best reported area, whilst performance indicators is the weakest reported area.

The Home Office's guidance and the Act suggest that Statements may cover the six areas shown above.

We have reviewed over 130 Statements and our research shows that around 70% of Statements have missed out at least one of the recommended areas. Whilst the six areas are guidance rather than requirements, they provide a good framework for activity and reporting. We recommend that Statements cover all these areas, to avoid the reputational risk associated with the perception that a Statement is 'incomplete'.

## What are the trends in current Statements?

### Length



Of the early Statements that cover all six areas, the majority are less than 1,000 words long (although some are more than 2,000 words long). This suggests that companies' Statements may not be particularly detailed, at least in the first year.

### Risk assessment



Reporting on risk assessments has been one of the weakest areas. Few of the early Statements refer to risk assessments, and those that do rarely give details, such as how the risk assessments were conducted, what criteria were used, or what actions will be taken based on the results. This could be because companies are still unsure of their approach and are wary of disclosing activities that are not aligned to their peers. However, as risk assessments are essential in developing activities to combat modern slavery risk, we expect stakeholders (such as civil society groups) to be particularly focused on this part of the Statement.

### Performance



Performance, including key performance indicators (KPIs), is another area which is generally poorly reported. Few Statements refer to the effectiveness of the company's activities, and only a handful give examples of its KPIs. Of those that do mention KPIs, they are usually pre-existing KPIs that are relevant to modern slavery – for example, KPIs around staff training may be relevant if this training is adapted to include modern slavery issues. While some pre-existing KPIs can be tailored to focus on modern slavery, there may be cases where it will be necessary for companies to develop new KPIs.

The Practical Guide also sets out another type of KPI that companies could consider in their Statements – the extent to which existing KPIs increase the vulnerability of individuals to modern slavery. As the guidance explains, 'KPIs to increase production or shipment 'turn-around' time, for example, may unintentionally increase pressure on those who are producing the goods on production lines'.

### Training



Training is the best reported area in the early Statements. Most companies mention some form of training for staff regarding ethics and/or human rights, although there are very few which mention specific modern slavery-related training. It is frequently unclear as to who are the recipients of the training.



## ***Aside from the content, what else do I need to think about when preparing my Statement?***

### ***Interim disclosures***

We expect that over the next few months, almost all companies will be asked by stakeholders for information regarding its approach to modern slavery. Indeed, we have heard that some companies have already received requests from their customers. For companies who are not due to publish their Statement until the end of this year or into 2017, producing an 'interim disclosure' is an option. These interim disclosures are generally 'holding responses' which simply demonstrate that the company is responding to the Act and taking the issue seriously, whilst not revealing much detail about the company's actions.

### ***The team producing the Statement***

Whether it's the Legal or Compliance team, or even the Sustainability or Procurement teams producing the Statement, it is important that all relevant teams are consulted so that the actions undertaken are applicable across the whole business and there is broad support for implementation.

### ***Publishing the Statement***

It often makes sense to release the Statement at the same time as the annual report and accounts, not least so that the two documents can follow the same governance approval process. However, we suggest that the documents are kept separate – they are intended to do different jobs with different audiences and so combining them risks unnecessary confusion.

The requirement to link the Statement to the company's homepage is also raising questions, particularly where a company has a customer-facing, or 'retail', homepage as separate from an investor-facing, or 'corporate', homepage. In this case, companies may look to use their corporate homepage – not least to avoid resistance from marketers wanting to avoid non-sales focused content on the retail page. However, the guidance clearly recommends that a copy of, or link to, the Statement is placed on all relevant homepages to increase transparency.



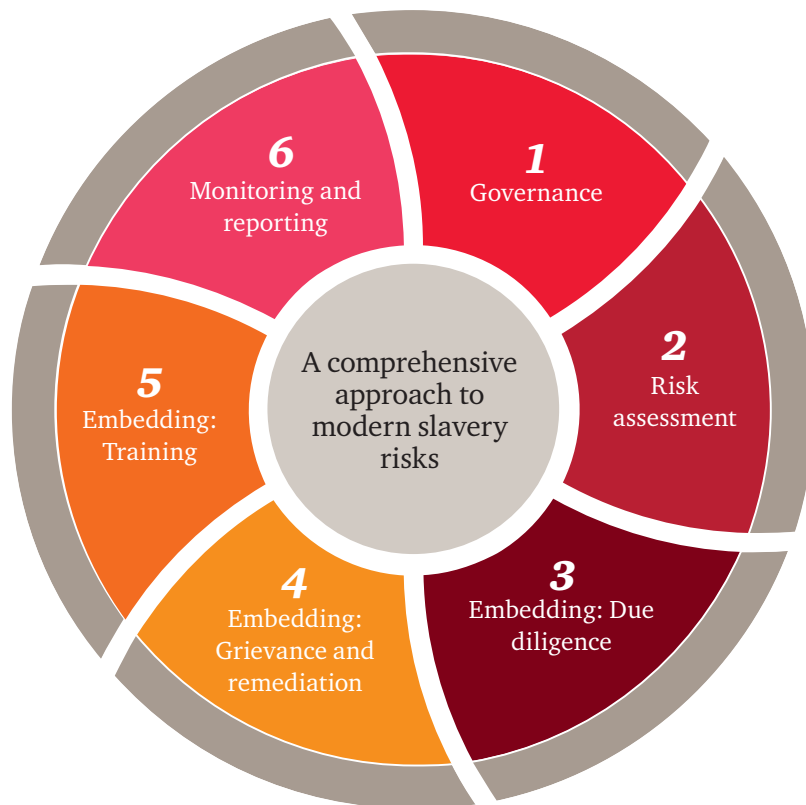


# *The Statement reports the underlying activities that a company is implementing – and consensus is emerging over the first steps*

## *What activities should I do first?*

As the ‘wheel’ shows, a robust approach to managing modern slavery risks involves activities across various areas. Few companies have implemented mature, detailed activities across all these areas. We have seen that the following activities are the ones where companies are initially focusing their efforts:

- Governance – Developing new, modern slavery-specific policies or redrafting existing policies (e.g. supplier codes of conducts);
- Risk assessment – Performing a high level risk assessment;
- Embedding: Due diligence – Enhancing supplier processes;
- Embedding: Training – Training their employees, normally targeted within their human resources and supply chain teams.



**Good practice in the management of modern slavery risks includes a range of activities – but any response should be proportional to the company’s risks and resources**



## ***How should I perform due diligence on my suppliers?***

Companies are often uncertain as to the extent to which they should build the issue of slavery into supplier processes. Having categorised their suppliers using their risk assessment, many companies are planning to integrate relevant legal conditions into supplier agreements, where possible (e.g. at re-tendering).

Some companies are also planning to review the Statements released by their suppliers (to the extent that they are obligated) and/or add relevant questions to existing supplier due diligence questionnaires. However, this raises the difficult question: 'Who in the business has the expertise to assess whether the activities described in a supplier's Statement/questionnaire responses are sufficient?'. What is clear is that if a company asks its suppliers for more information, it creates an expectation (amongst the suppliers themselves but also other stakeholders) that the company will review them and take actions accordingly.

In addition to this 'top-down', governance due diligence of suppliers, many companies are using the latest techniques, such as our RADAR tool<sup>1</sup>, to 'scrape' 10,000s databases on the internet, e.g. local media, as part of a 'bottom-up' due diligence approach. They are looking to see if supply chains have been linked to modern slavery, irrespective of the quality of the suppliers' governance. When combined with strong grievance mechanisms and engagement with stakeholder groups, such as non-governmental organisations (NGOs), companies are more comfortable that there are no 'skeletons in the closet'.

Supplier audits can provide a bridge between the high-level, governance-focused approach and the detailed, 'in reality' approach – they give a company a view on the extent to which policies and processes are being implemented at suppliers' sites. However, we have noticed supplier audits are no longer held in such high regard, with critics often citing the audit history of the buildings in Rana Plaza as an example of the failures of auditing. Lessons from other compliance areas suggest that some suppliers will exploit weaknesses in audit plans, such as reliance on document review or pre-announced site visits, to manufacture evidence of good practice and tell auditors what the suppliers want their customers to hear. We believe that audits have a valuable role to play, but that this must be part of a broader supplier risk management approach rather than as the 'silver bullet'.

Whatever approach is taken, most companies agree that where risks are identified, it is best to engage with suppliers and work together to manage risks and build capacity – the termination of supplier contracts is generally seen as last resort (but nevertheless a good 'stick' to have to encourage compliance).

Analysis of supply chains and associated parties is not a new development under UK law. For example, under the UK Bribery Act 2010 companies are advised to manage their bribery risk by managing associated parties. This includes using many of the compliance and governance tools referred to above in respect of managing the modern slavery risk in supply chains. Therefore, in the first instance it may be advisable that companies assess their existing systems and controls, adapting them as required to support compliance with the Act.

<sup>1</sup><https://www.youtube.com/watch?v=U4jUI5I2ngc>





## ***How should I do a risk assessment?***

Companies are often basing their risk assessment on sector (i.e. the type of activity, type of product bought) and on geography (normally at a country level). Some companies are also including the value of their spend, as a proxy for the influence they have over a supplier. However, we are often asked the following questions, particularly in relation to risks in the supply chain:

- How can I assess risks beyond the first tier of my supply chain, particularly where I don't have good visibility of the other tiers, as I suspect that is where the biggest risks are?

- Should I focus my efforts where I spend a lot in a relatively low risk sector/geography or where I spend little in a higher risk sector/geography?
- How do I get around the fact that some publicly-available country risk indices are heavily skewed by data related to domestic servitude or state-imposed forced labour, which are less relevant to my corporate supply chain?
- Is there an index I can use to assess risks by sector?

Several companies are also concerned about using risk assessment frameworks that define the UK as 'low risk' – recent scandals have shown the reputational impact when slavery is found in UK supply chains can be more damaging than when slavery is found in other countries.

### **Our tool can help companies look through their supply chains and prioritise activities based on a robust analysis specific to them.**

For over 5 years, PwC has been using economic models to understand the sustainability impact that a company has in its supply chains. These 'input-output' models are the basis of our ground-breaking 'Total Impact Measurement and Management' technique – for more information, see <http://www.pwc.com/gx/en/services/sustainability/publications/total-impact-measurement-management.html>

We have now evolved this technique to develop a tool to assess the risk of modern slavery across the multiple tiers of a company's supply chains.

Therefore, we can provide you with a 'hot-spot' analysis of slavery risk at both your first tier and deeper into the supply chain. Our tool provides you with the information you need to develop a targeted, proportional management response based on quantitative analysis that is specific to your company.





## Modern slavery act tool

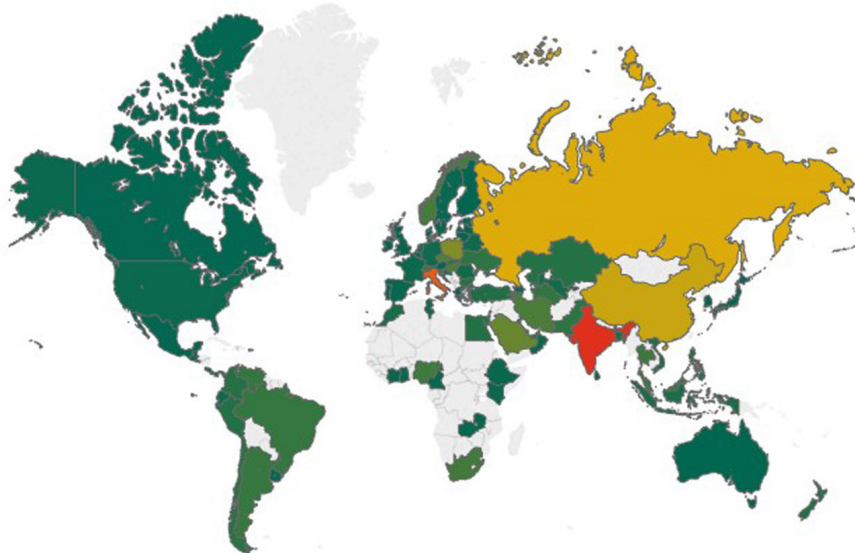
Persons at risk from slavery per company procurement spend

Total persons at risk from slavery:

10.907

0.000

1.486



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Indicative results only

Spend (\$m)

200

SpendCountry

ITA

SpendSector

Pulp, Paper, Paper, Printing and Publishing

ImpactCountry

(All)

ImpactSector

(All)

Split by ImpactSector

Agriculture, Hunting, Forestry and Fishing

Mining and Quarrying

Pulp, Paper, Paper, Printing and Publishing

Basic Metals and

### An example:

Your company sources cardboard boxes from Italy, a relatively low risk product from a relatively low risk country, meaning that you might stop there. However, our tool shows that there are modern slavery risks deeper in this supply chain – specifically in Russia and India, and in the forestry and mining sectors.





# *Some companies are using the Act to address broader human rights issues, with an eye on future pressures*

## *How can I maximise the support from the business?*

Some companies are concerned that the business case for action on the Act still relies on the regulatory driver – rather than the broader value creation and value protection impacts too. If modern slavery is seen purely as a compliance issue, this may limit the resources made available by senior management. This can constrain the extent to which companies can eradicate slavery in their operations and supply chains. Therefore, the team leading the response needs to set out a compelling business case, e.g. explaining impacts on employee engagement, supply chain efficiency, brand enhancement and perceived compliance more broadly. Further, weak supply chain management can affect the bottom line – for example, seizure orders have been used to impound goods imported into the U.S. which have slavery in their supply chains, disrupting companies' production and subsequent sales.

## *What does the future hold?*

The leading companies are using the Act as a catalyst to develop a broader approach to human rights risks. This is a good idea, considering that the wider topic of human rights is likely to re-emerge after the initial furore around the Act has died down. The Corporate Human Rights Benchmark and the EU non-financial reporting directive are just two changes which will push human rights back up the agenda later this year.



### ***Sustainability:***

All parts of the sustainability agenda including environmental and business ethics issues

### ***Social issues:***

The full breadth of social issues including impacts like employee engagement and community development

### ***Human rights:***

All 32 of the recognised human rights, such as right to privacy and right to education

### ***Labour rights:***

All of the key internationally-recognised labour rights issues, i.e. child labour, unionisation and discrimination, in addition to slavery

### ***Modern slavery:***

The specific issue of modern slavery, including human trafficking, forced labour and debt bondage

*Slavery is just one issue within a broader human rights agenda – the Act can be used as a catalyst for action across these wider issues.*



# How can we help you?

Our team understands the legal requirements and Government's expectations of the Act, having worked with the Home Office to contribute to the development of the Practical Guide. We will work alongside our experts on human rights, including on the UN Guiding Principles on Business and Human Rights, to develop a proportional response to the Act that is tailored to you. We will draw on our experience of third party management as a result of the UK Bribery Act 2010 and our assurance expertise, where needed.

*Our services include the following. Where italics are used, these directly relate to the areas suggested by the Government's Practical Guide:*



## **Governance**

- Formal legal advice on the application of Act across your group;
- *Development or enhancement of new or existing policies, e.g. a modern slavery or human rights policy;*
- Insight into how other companies are responding to the Act's requirements.



## **Risk assessment**

- *Risk assessment and validation, from the high-level tool described on page 8 to detailed site visits;*
- Integration of your slavery and human rights risk assessment approach into broader, existing risk frameworks;
- On-the-ground information gathering all the way down the individual producer level through our subsidiary, GeoTraceability.



## **Embedding: Due diligence**

- Assessment and strengthening of slavery and human rights obligations in supplier contracts;
- *Due diligence, third party reviews and investigations (under legal privilege, where necessary) including using RADAR as discussed on page 7;*
- Development of audit strategies and protocols, including supplier contract review.



## **Embedding: Grievance and remediation**

- Development of contractual compliance clauses and advising on dispute resolution, if required – all under legal privilege;
- Embedding modern slavery considerations in 'speak up' channels and the corporate culture;
- Convening and facilitating multi-stakeholder dialogues.



## **Embedding: Training**

- Development of training needs analysis for slavery and human rights;
- Training content design, targeted at the specific audience;
- *Delivering training to your staff and, where appropriate, into your supply chain.*



## **Monitoring and reporting**

- *Development of KPIs and internal reporting frameworks, and performance of third party audits to monitor on-going performance;*
- Drafting the required Statement, positioning it against your ambition and your peers' Statements;
- Engagement of your key stakeholders to understand their expectations of the Statement and underlying activities.

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