

Modern slavery and the role of internal audit



Modern Slavery Act 2015

This piece shines a spotlight on the regulatory requirements of the Modern Slavery Act and the role of internal audit. Amidst the strategic and operational pressures of the coronavirus pandemic, the management of risks with the potential to cause harm to others cannot be overlooked.

Is this relevant to my organisation?

In December 2020, UK Research and Innovation (a non-departmental public body sponsored by the Department for Business, Energy and Industrial Strategy) launched a project to examine the impact of the COVID-19 pandemic on the operation of the informal unregulated economy in the UK and the presence of modern slavery within it. Informal businesses, part of the overall supply chain, which are estimated to sustain 2.5 million workers equal to 9% of formal private sector workers, secure competitive advantage by labour exploitation, particularly migrant workers who tolerate insecure, irregular hours, wage underpayment and no holiday pay.

There are statutory obligations for an organisation operating in the UK, public or private, with a global turnover over £36m. This also applies to charities with a trading arm. Regardless of turnover, there is also a moral obligation to be aware of the legislation. There are no exclusions for public sector bodies or charities.

Please also bear in mind that even if your own organisation is not directly obligated under the Act, as a supplier of goods and/or services your customers will require compliance as part of their due diligence.

"We must focus our attention not only on the countries where slavery is perpetrated, but the global networks and systems that enable these crimes to be committed" was the message by the then President of the United Nations General Assembly, María Fernanda Espinosa, at the launch of the Measurement, Action, Freedom report in 2019.

Background

All member states of the United Nations abolished slavery many years ago, yet despite this, **according to Alliance 8.7**, there are currently 40 million people in modern slavery and 152 million children in child labour. Looking out of our windows it is comforting to imagine that this is an overseas issue where people are forced to live in intolerable conditions and children work in sweatshops. But modern slavery, an umbrella term that covers offences of human trafficking and slavery, servitude and forced or compulsory labour, also exists in the UK with estimates in the tens of thousands, according to human rights organisation, **Anti-Slavery**. Trafficking and poverty have led people into forced labour in industries such as construction, hospitality, agriculture, manufacturing, domestic service, car washes and nail bars.

Exploitative labour was the third highest concern that the public had over business behaviour in 2020 according to the Institute of Business Ethics.

The government published a **National Action Plan in 2013** in response to the adopted UN Guiding Principles on Business and Human Rights. The global leading Modern Slavery Act was developed as a result of this and the Financial Reporting Council has also required listed companies to **report on human rights matters** as part of their annual strategic report.

Modern Slavery Act and business

In March 2015, the Act came into force without any obligations on business as the government had decided that it was 'an additional burden' to ask business to audit and report on their organisation and supply chains.

This was met with intense criticism and quickly repealed. From 29 October 2015, Section 54, the Transparency in Supply Chain Provisions requires obligated organisations to publish an annual disclosure statement. The purpose of this is to compel business to prevent modern slavery from occurring in their supply chains and within their organisations.

Commercial organisations, supplying goods and/or services are obligated if they operate in the UK with a global annual turnover over £36m (subject to the discretion of the Secretary of State).

For organisations with robust corporate social responsibility activities and sound business ethics, the risks associated with modern slavery will most likely have been identified and actions underway long before the introduction of the Act.

Disclosure statement

What should it include?

The modern slavery statement should disclose the actions the organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place within business operations or across the supply chain. Technically it is also admissible to make a statement to say that no actions have been taken, however, given the unethical stance of such an approach the Chartered Institute does not endorse this approach.

The legislation advises that the statement may include information about:

- 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.
- Training about slavery and human trafficking available to its staff.

By promoting the subject of modern slavery and increasing transparency over business activities the government intends to compel organisations to be proactive in tackling ethical issues. This should be evident in an organisations code of ethics.

Regardless of the activities highlighted in the initial statements, over time they will need to show an ongoing programme of activity and improvement where necessary.

Approval

The Act states that the following authorities must be observed. In addition, the Chartered IIA advocates that the audit committee should have oversight of the statement. It is common practice for them to oversee or have sight of corporate governance and corporate social responsibility reports prior to publication.

Organisation	Approved	Signed
Non LLP	Board of directors	Director
LLP	Members	Designated member
Registered LLP	-	General partner

When and where must it be published?

If the organisation has a website, it must put the statement on the website with a link to it in a prominent place on the homepage.

Publication must be as soon as is reasonably practicable after the end of each financial year in which they are producing the statement. Organisations are encouraged for this to be within six months of a year end. Practically, it is being done as part of annual reporting and fitting with those processes and timescales.

If the organisation does not have a website, it must provide a copy of a statement to anyone who makes a written request for one, and must do so before the end of the period of 30 days beginning with the day on which the request is received.

Optional reporting

Whilst there is no central repository, a number of non-government organisations have developed open access registers of business statements. Organisations may elect to upload their statements to one or more of these registers. These are not officially endorsed registers though they are being used as common

reference points for statistics and generalisations on compliance, in the absence of formal data.

Enforcement

Despite authority being granted to the Secretary of State to take an organisation to court for not publishing a statement, in reality, the government has yet to set up a monitoring or enforcement mechanism for business compliance. It is more likely that stakeholder pressure will be the catalyst for acquiescence, referred to as nudge legislation by some commentators.

Examples

Statements published to date vary considerably from succinct paragraphs through to 10+ pages of detailed activities; too lengthy to reproduce here. One of the NGO registers, the [Modern Slavery Register](#), provides an easy to navigate link to thousands of statements by business sector.

Observations

Just over 10,000 potential victims of modern slavery in the UK were reported to the Home Office in 2020. It is a reminder to CAEs to be vigilant of domestic issues, although the risk is largely associated with overseas operations.

The National Audit Office was critical of the government's progress back in [2017](#) and, with figures continuing to rise, if a follow up is undertaken it would likely make interesting reading.

Whilst the Modern Slavery Act requires a formal statement to be made the requirements for business reporting in respect to the UN Guiding Principles on Business and Human Rights have been less clear. It is often subsumed within narrative on business ethics, supply chain risks or deemed not material for inclusion. According to the Business and Human Rights Centre the [first human rights report](#) was produced by Coca Cola in 2017.

Role of internal audit

As a CAE, this could be regarded as yet another regulatory requirement and incorporated into the audit plan process as such. It could also be viewed as another opportunity, as with the Bribery Act to explore corporate culture from a very tangible and value add standpoint. What have you done so far?

We would encourage you to take a moment to subjectively assess, if not already known, the potential exposure to modern slavery issues that exist in operations and geographies.

Consider the:

- Recruitment practices and diversity of employees.
- Complexity of supply chains for products and services, prioritising highest risks in terms of business criticality and legislative exposure.
- Maturity of sourcing processes.
- Due diligence arrangements.

- Obligations on suppliers in standard T&Cs.
- Geographies business operates in and does business with.
- Staff training and awareness.

Assurance activity

Validation of the statement is essential and if not completed annually by internal audit then the CAE must be confident in the process by which it is validated by the first and second line. **Guidance on undertaking** this has been produced by the Institute.

Useful **assurance guidance** produced by Mazars for human rights reporting also provides insights that can be applied to modern slavery.

Specific operational controls should be audited based on their risk profile as a matter of course, although the high profile of modern slavery may result in a need to provide more frequent or detailed assurance over controls in areas such as recruitment agency management, supplier due diligence, overseas activities and whistleblowing. For many organisations the risks associated with modern slavery will already be captured and addressed through corporate social responsibility activities and general business ethics.

It is worth noting that organisation unable to evidence that employees are paid at least the minimum wage would be in breach of both modern slavery and human rights legislation.

Consultancy activity

Education

CAEs are powerful advocates for improving controls in the systems and processes where organisations are exposed to the risks of modern slavery. Engaging in discussion with key stakeholders to raise the profile of this topic, from an informed position, is an important activity. The Independent Anti-Slavery Commissioner wrote an **open letter** to CEOs which may be a useful tool.

As part of standard control environment questions, either annually or ongoing, it would be pertinent to include reference to modern slavery alongside other corporate responsibility and regulatory matters.

Risk assessment

This is an area where internal audit can add value into the business either through facilitating risk identification by the business or adding risk insight on the subject into relevant audits.

Below are some initial thoughts and it may be beneficial that as an internal audit team this is used to generate a brainstorm on the risks that are relevant to your organisation, then assess and prioritise them to determine how as a function you can best support the business in addressing any material exposures. It may be as simple as a conversation with someone in a position of accountability or deploying a member of the team to design a control framework.

- Geographies where the business operates are hotspots for modern slavery leading to selection of suppliers/partners where operations expose the business to non-compliance.

According to the Global Slavery Index 58% of those living in slavery are in India, China, Pakistan,

Bangladesh and Uzbekistan. The [2017 Modern Slavery Index](#) notes that over 100,000 migrants entered Europe partly attributing to the increased risk profiles of activities in Romania, Greece and Italy. The Index also stated that the UK had increased from a low to medium risk country.

- Low cost service industries (catering, cleaning, repairs) exploit legal and/or illegal migrant workers resulting in the organisation being complicit to modern slavery practices.

According to the International Labour Organisation a high number of migrants are linked to modern slavery and in the UK whilst there are significant number of British nationals the most common countries of origin are Albania, Vietnam, Nigeria, Romania and Poland.

- Poor practices at recruitment agencies leads to forced labour being employed within the organisation.

In recent years, the media has reported a variety of cases and human rights organisation, [Anti-Slavery](#), notes risky industries to include agriculture, warehousing, food processing, construction, packaging, care/nursing, hospitality (hotels), nail bars, car washes and restaurant trade.

- Complexity of supply chains for products results in lack of transparency over raw materials and processing leading to the potential for modern slavery non-compliance.

Uzbekistan is the world's sixth largest producer of cotton. According to the Global Slavery Index, state sponsored forced labour at harvest time affects over one million people. Industry also notes that the top 9 and top 28 producers of rice and cocoa beans are in high and extreme risk countries; high risk nations are also the top producers of tin, tantalum, tungsten and gold used in the manufacture of technology and automotive parts. The DR Congo is ranked as the one of the worst nations for modern slavery and is the world's largest producer of cobalt used in the manufacture of mobile phones.

Closing thoughts

There are obvious reputational risks for organisations that condone modern slavery practice and yet there are also financial considerations in addressing known issues. For some organisations the cost of cleaning up a supply chain may be higher than the potential lost revenue if stakeholders were to become aware of issues, in such situations where the organisation has clearly stated its risk appetite for unethical behaviour, CAEs must continue to report and challenge.

It may be that your organisation has no exposure to the issues of modern slavery and in such instances we would encourage you to think again and think deeper to be sure...even down to which car wash expenses are authorised.

"People don't believe that anything exists until they start looking"

Gary Craig

Further reading

Chartered IIA guidance

[Modern Slavery Act 2015](#)

[Modern slavery and human trafficking annual statements](#)

[United Nations human rights reporting](#)

Technical blog

[Modern slavery statements: The deadline is looming](#)

[Modern slavery: Are you helping to protect your organisation's reputation](#)

Audit & Risk magazine

[The Modern Slavery Act: Is it working?](#)

[Lights on rights: new guidance on human rights assurance](#)

Other Modern Slavery Act reference material

[Slavery and human trafficking in supply chains: guidance for businesses](#)

[Letter to CEOs one year on from Section 54 of Modern Slavery Act](#)

Wider reporting, human rights and corporate responsibility

[UN Guiding Principles Assurance Guidance](#)

[Human rights due diligence: questions for boards to ask of their executive teams](#)

[Institute of Business Ethics website](#)

[United Nations: Guiding principles on business and human rights](#)

[Good Business: Implementing the UN Guiding Principles on Business and Human Rights](#)