



Modern Slavery Where Are We Now?

Over the past decade, legislation has begun to address modern slavery, with more people living enslaved today than at any other point in history [1]. There are currently an estimated 50 million people living in slavery, with around a quarter of these victims being children. All organisations are susceptible to modern slavery, but especially those with multi-national supply chains. The International Labour Organisation (ILO) define modern slavery to be work performed involuntarily and under the menace of a penalty (this includes factors like threat of violence, violence, coercion, deception, or abuse of power) [2].

For businesses, modern slavery can take several forms, including:

- Forced labour – All work conducted under menace of a penalty.
- Human trafficking – Transportation, harbouring or receipt persons by means of force/coercion.
- Child labour – Exploitation of children in slavery or slavery-like practices.
- Debt bondage – A pledge of labour or services for an unlimited or defined period.

The 2015 Modern Slavery Act was the first legislation on this issue in the UK. It was widely praised as legislation which at the time indicated a real commitment in tackling modern slavery. While not all of the Act is relevant to businesses, it included 'Section 54' (Transparency in Supply Chains – TISC). It applies to UK companies and subsidiaries with an annual turnover of £36 million and requires supply chain and business operations due diligence to eliminate modern-day slavery. Section 54 also requires a report to be submitted annually, within 6 months of business's year-end to cover the following areas:

- Policies in relation to slavery and human trafficking.
- 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 and capacity building about slavery and human

trafficking available to its staff.

Parent companies 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. However, best practise suggests that the parent company should cover non-UK subsidiaries in its statement.

The UK is ranked first globally in Government Response to Modern Slavery' by the organisation Walk Free on their Global Slavery Index 2023. It is legislation such as the Modern Slavery Act 2015 that has helped the UK achieve this ranking. However, it is close to a decade since the Act's release suggesting that it is time to reflect on its effectiveness.

The Progress Made by the Modern Slavery Act

An independent review of the Modern Slavery Act published in May 2019 assessed the Act's effectiveness and impact [3]. It revealed some interesting findings that were early indicators of what would go wrong. The report revealed that, even in 2019, many stakeholders were ubiquitous in their belief that the Act should have gone further in the implementation and enforcement of sanctions and minimum reporting standards for businesses. To achieve the required shift in culture, it was suggested that the Companies Act 2006 should be amended to include a requirement for companies to refer to their modern slavery statement in their annual reports. Stakeholders also suggested that the Government should have extended the section 54 requirements to the public sector, strengthened its public procurement processes, and should have embedded modern slavery reporting into business culture.

A 2021 Review assessing the Modern Slavery Act reaffirmed this point from the 2019 report [4]. In 2021, a third of the Government's budget was spent on goods and services from the private sector by public procurement, this equated to over £280 billion. But despite being identified in the 2019 report, the legal framework still did not cover modern slavery in public sector procurement.

The 2021 report also presented key shortcomings such as, only 60% of companies who have to report are doing so, but the majority of these are general statements that are not a high enough standard.

The 2021 report also found that over the previous 6 years, not a single penalty or injunction had been enforced to companies that failed to report.

Ultimately, the 2021 report also conferred with the opinions of the stakeholders from the 2019 report, that the Act should have been doing more to incentivise or enforce reporting standards and transparency.

During the release of the Act in 2015, the Home Office believed that the requirement for an annual statement would create “a race to the top” and drive standards higher. They believed that should organisations fail to produce a statement, they would face an injunction, and failure to comply would be punishable by an unlimited fine. However, looking at the reporting landscape now, we can see this has clearly not been the case.

A key factor you must consider during this period was the effect of COVID-19. Not only did this exacerbate the number of victims entering modern slavery due to a deterioration of working conditions and increases of debt bondage for vulnerable people, but reporting became heavily disrupted or ignored. Due to the unprecedented changes to the workplace landscape, companies naturally prioritised their own business and staff over impacts of modern slavery that may be occurring far down their supply chains.

Proposed Changes to UK Legislation

Considering the limitations of the current Act in reducing modern slavery in supply chains, an Amendment has been proposed. The Modern Slavery (Amendment) Bill was proposed as part of the 2022 Queen’s speech with the purpose, benefits and main elements included in the Queens Speech Lobby Pack. It is concerned with preventing the falsification of statements and reporting for modern slavery and establishing minimum standards

Asesoria’s Comment

The current legislation is not enough to create real change in the reporting landscape; enough time has passed since the original Act to confidently say the ‘nudge’ approach has not achieved the desired outcomes. Regardless of the current political focus, having robust policies and practices in place to contribute to the development of strong reporting is both good practice and reflect a key area of our ESG strategic approach. Best practise reporting on Modern Slavery should include the following:

1. Cover the six basic areas in reporting:

1. Organisation structure and supply chains
2. Policies in relation to slavery and human trafficking
3. Due diligence processes
4. Risk assessment and management
5. Key performance indicators to measure effectiveness of steps being taken
6. Training on modern slavery and trafficking

2. KPIs and a balance of long and short-term goals:

Setting ambitious goals to end modern slavery in 10-years sounds heroic, but the challenge is far more complex than most businesses realise.. It is far therefore much more effective to provide a clear roadmap with realistic targets along the way.

3. Action over reputation:

Reflect on the strategies currently in place, an honest assessment of the impact they have should be considered. Stakeholders are more aware of performative activism and want to see real efforts to make a change as opposed to things which look great in a headline.

4. Work with your supply chain:

Businesses should ensure that they have a strong supplier

of transparency in supply chains [5]. Importantly, the Amendment will introduce sanctions in the event of compliance failure.

If found guilty of the following:

- False information in relation to slavery and human trafficking statements (the guilty party is aware or reckless).
- Penalty: Imprisonment for a term not exceeding 2 years, to a fine amounting to 4% of global turnover of their commercial organisation, to a maximum of £20 million, or to both.
- Failure to meet minimum standards of disclosure and transparency (after having been issued a formal warning).
- Penalty: A fine amounting to 4% of global turnover of their commercial organisation, to a maximum of £20 million.

However, as of January 2024, this bill is still in the House of Lords with no clear indication of any progress being made. In fact, recent events appear to be undermining the positive things which the Modern Slavery Act is in place to prevent. For example, the recent Illegal Migration Bill which was introduced to Parliament in March 2023 means than refugees who arrive ‘irregularly’ (i.e. by small boat/) will have their asylum claim deemed as ‘inadmissible’, removing the individual’s right to seek ‘safety in a third country [6].

A recent talk from former UK Prime Minister Theresa May at the World Economic Forum in Davos also revealed that ‘Modern Slavery’ is slipping down the agenda among world leaders... with a clear increase in the number of people in slavery across the world. She went on call for action from companies to ‘pay attention to supply chains’ as well as a call for international governments to do more. [7].

contract in place that asks potential suppliers to sign up to a code of conduct before they are appointed. Frequent audits of their supply chain are also a preventative measure. It is important for businesses to communicate with their suppliers to layout expectations around integrity and human rights. Should an organisation become aware modern slavery is occurring in their supply chain, guidance suggests that they should not cease using them immediately as this will only push the problem elsewhere. Instead, organisations should consider how they can work with the supplier to address the problem such as ensuring that they are not imposing unreasonable demands (such as excessive production targets), appoint local champions, or increase auditing.

5. Employee engagement:

Employees are often the first line of defence in identifying and reporting modern slavery. Training and awareness need to be implemented to create an environment with the tools to identify and end modern slavery.

References:

- 1 – Home Office, ‘Modern Slavery: National Referral Mechanism and Duty to Notify Statistics UK’ - 2023
- 2 – International Labour Organization, ‘What are forced labour, modern slavery and human trafficking?’, November 2023
- 3 – Secretary of State for the Home Department, ‘Independent Review of the Modern Slavery Act 2015: Final Report’, May 2019
- 4 – Business & Human Rights Resource Centre, ‘Modern Slavery Act: Five years of reporting’, February 2021
- 5 – Modern Slavery (Amendment) Bill [HL], November 2023
- 6 – Refugee Council, ‘What is the Illegal Migration Act?’, 2023
- 7 – the Guardian, ‘Government failing to properly tackle modern slavery, says Theresa may’ - 2024