

# TRANSPARENCY IN SUPPLY CHAINS REPORTING

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## Where are we now?



31 March 2016 was a key date in the life of the Modern Slavery Act 2015. Businesses whose financial year ended on that date are the first who are required to publish an annual supply chain transparency statement.

The legal requirement – as set out in Section 54 of the Act – seems straightforward: every business trading in the UK which has a turnover of at least £36m must publish an annual statement setting out the steps it has taken to ensure that modern slavery and human trafficking are not taking place in its business or supply chains. The statement must be approved by the board and signed by a director (or equivalent) and published on the business's website, with a prominent link on its homepage.

## What should the statement look like?

The UK Government chose not to prescribe any particular format or length of the statement; neither has it legislated to impose a fine or other penalty on non-compliant businesses. In fact, the risks of non-compliance are perceived as being largely reputational. Rather, Section 54 specifies that a business may wish to include information on the following in its statement:

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

## What are businesses doing to comply?

As we would expect, charities and campaign groups working in this area are keen to identify and analyse statements as they become available. For example, the organisation Business & Human Rights Resource Centre (the **BHRCC**) is developing an online database of statements which it has collected from Internet searches<sup>1</sup>.

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<sup>1</sup> <http://business-humanrights.org/en/registry-of-slavery-human-trafficking-statements-under-uk-modern-slavery-act>

The BHRCC calculated that, by early March 2016, around 75 supply chain transparency statements had been published. Although this represents a tiny fraction of the total number of statements we expect to see, it is possible to identify some trends. For example, some of the most detailed and informative statements come from multi-nationals (including Ford and Intel). This is not surprising. Many of these companies will already be obliged to report on supply chain transparency in California, under the California Supply Chains Act 2010 (for more on this, see below) and, aside from any legal requirement, will be familiar with the reputational risks inherent in managing a complex global supply chain.

However, the BHRCC has also identified a general lack of compliance with administrative requirements. For example, statements which do not appear to have been signed by a director, and where no clear link appears on the business's homepage.

## Lessons from California

Businesses in California have been required to report on supply chain transparency since 2012. No enforcement actions have yet been brought against non-compliant businesses. Crucially, though, there are indications that modern slavery, forced labour and human trafficking issues are rising up the public agenda and play an increasing part in consumer decision-making. Read more about this from US law firm Mintz Levin [here](#).

## Getting the basics right

So, what can we learn from the statements that have been published so far and the reaction to them? We are yet to see any major players announce market-leading initiatives specifically in response to the Modern Slavery Act. Rather, businesses seem unclear as to what exactly is required of them and are perhaps waiting to see how market practice develops.

However, a key message so far is: get the basics right. This helps avoid any suggestion that the business is not approaching this issue with the seriousness it merits. In particular:

- ▶ ensure that a link to the statement appears on your homepage. Give the link an unambiguous title, such as "Modern Slavery Act Transparency Statement".
- ▶ Make sure that the statement – as it appears on your website – includes the name and title of the director who signed the original. This demonstrates accountability at the highest level.
- ▶ Wherever possible, mirror the wording of Section 54 by referring to the six suggested areas of content (see above).
- ▶ Be open: there is no requirement to guarantee that your business or supply chain is totally free of slavery. Explaining how and where the business aims to improve falls firmly within the spirit of the legislation.

We actively track supply chain statements as they are published and will continue to report on emerging market practice.

## How can we help?

Drawing on our experience of advising businesses across all sectors in relation to supply chain and compliance issues, we have developed a Supply Chain Transparency Reporting - Compliance Pack. The pack includes materials such as model MSA clauses, due diligence wording for tenders and compliance checklists, and is hosted on a dedicated secure extranet site. If you would like to know more about the pack or about how we can assist you generally with supply chain transparency reporting, please get in touch: Katie Kinloch: [katie.kinloch@addleshawgoddard.com](mailto:katie.kinloch@addleshawgoddard.com)

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