

The UK Modern slavery act: Progress to date and lessons learned



This knowledge guidance provides an overview of how have firms responded to the Modern Slavery Act.

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Introduction

Since 2016 firms carrying on businesses activity in the UK and with revenues in excess of £36 million have had to publish a modern slavery statement at the end of each financial year (see Fig. 1) This reporting requirement was introduced as part of the UK Modern Slavery Act 2015 (the “Act”). The intention behind the Act is to get firms to be more open and transparent about what they are doing to combat modern slavery in their operations and supply chains. Ultimately, the UK government hopes to bring about a “race to the top” in supply chain standards and ethical conduct. All of this has come about against a backdrop of cases of human trafficking and forced labour in the supply chains of UK firms, and a desire on the part of stakeholders across business and society to stamp it out.

Fig. 1 Reporting Obligations for Firms



How have firms responded to the Act and what actions are they taking to combat modern slavery in their operations and supply chains? To answer this question I have spent the last year analysing modern slavery statements from some of the largest firms operating in the UK. The findings show that modern slavery concerns are starting to be reflected in organisational policies and practices, although we are still at the early stages of this process of adjustment. In the sections below I discuss the main learning points to emerge from the analysis. The aim of this paper is to give procurement professionals a clearer sense of industry-wide practices for tackling modern slavery since the Act was signed into law.

Research Design

The population sample used for analysis was the FTSE 350, which comprises the 350 largest publicly listed firms in the UK. All major industries are represented in this sample. Given their size and international reach, I expected these firms to be to the fore in combating modern slavery. In the case of each firm I searched for their first published modern slavery statement (FY 2016). This was made easy as the Act requires companies to have a link to their statement displayed on the home page of their website. I located statements for over 300 of the 350 FTSE firms or 88% of the sample, indicating a high level of compliance with the Act. I then set about coding each statement and entering observations into a SPSS database.

Initial Observations

Approximately 78% of firms with a statement had a link to it on the homepage of their website. In the remaining 22% of cases there was no homepage link. Instead, the statement was housed within the firm’s document library. Not having a homepage link goes against the legal requirements and spirit of the Act, which is designed to give any interested party access to a firm’s modern slavery statement. Moreover, firms are doing themselves a disservice by putting their statements out of easy reach. In such situations it could be assumed that the firm does not have a modern slavery statement. Hence, after going to the effort of compiling a statement it is important that firms make it publicly visible.

Another observation relates to statement sign-off and Board approval. In line with the requirements of the Act, the majority of firms have their statements signed by a Director or equivalent (90%). In most cases statements carry the signature of the company CEO rather than a Director. Firms have been less assiduous in including a declaration to the effect that

their statement has been approved by the Board of Directors. Approximately 69% of firms have this acknowledgement of Board Approval, with the remainder failing to mention it. Based on these initial observations, here are some points that firms should consider going forward.

- Ensure that the homepage of your corporate website has a link to the modern slavery statement and that any interested party can easily access the statement
- Remember that your statement should have the name or signature of a Director or equivalent
- A sentence to the effect that the statement has been approved by the Board of Directors also needs to be inserted at the beginning or end of the statement
- Think about maintaining public access to historical statements. As firms have moved on to their second statements (FY 2017), they have tended to remove their first statements from public view. Ideally, firms should maintain access to every statement they produce

Background Information

Most statements begin with an overview of the firm. While this may seem obvious, it is important that firms clarify what they do, which industry they compete in and the geographic span of their operations. After all, individuals may well be reading modern slavery statements without having any prior knowledge of the firm and will therefore need some contextual information. The same can be said of firms' supply chains. The level of supply chain information that firms provide in their statements varies across the sample. Some firms profile their supply chains in terms of supply categories, spend analysis, supplier locations, supplier numbers and total procurement spend in any given year. Pie charts and infographics are used to illustrate this data in certain cases, making for a user-friendly statement.

By contrast, other firms offer little or no information on what it is they purchase, who or where they purchase from, the size of their supply base or their annual procurement budget. Indicative of this, 40% of firms did not provide any information on the categories of products or services they purchase and 60% did not identify the location of their suppliers, even by region. This lack of detail on supply chain characteristics is surprising given that it is these same characteristics that influence modern slavery risks. For instance, supplier location has a direct bearing on the likelihood of modern slavery incidents affecting the firm. So too does the sector in which the supplier operates. Based on these observations, here are some points that firms should consider going forward.

- Include information on your supply chain, paying attention to such areas as:
 - Categories of products or services purchased
 - Geographic spread of supply base
 - Total number of suppliers
 - Spend analysis
 - Total procurement spend
- Consider producing an infographic depicting your supply chain. Some of the most impressive statements include an infographic that enables readers to visualise the size and relative complexity of the firm's supply chain and how this relates to modern slavery risks

Policies

Among the areas which the Act recommends firms should elaborate on in their statements is organisational policies relevant to modern slavery. Most firms follow this recommendation by explaining how their internal and external policies contribute to reducing the risk of modern slavery in their operations and supply chains. A number of points can be made here. The first is

that a growing number of firms have instituted standalone modern slavery or human rights policies – approximately 20% in each case. While large corporations have had human rights policies for some time, modern slavery policies are a more recent development. From analysing the statements it is clear that these standalone modern slavery policies have been adopted on foot on the Act and are no more than 1-2 years old. The fact that firms are starting to implement such policies gives an indication of how serious an issue modern slavery is becoming for the corporate world.

As well as standalone policies, many firms have updated their existing corporate codes of conduct, supplier codes of conduct, procurement policies and employment policies so as to directly reference forced labour, child labour, inhumane treatment of workers and human trafficking. This is reflected in the examples below. It is more common for firms to adopt this stance than to have standalone modern slavery or human rights policies. Interestingly, some firms have adjusted their existing codes to reflect modern slavery at the same time as implementing a dedicated modern slavery policy.

“Our Code of Conduct was revised during 2016 to strengthen the principles on modern slavery and human trafficking”

“Our Supplier Code of Conduct makes specific reference to the Modern Slavery Act”

“Our Procurement Code includes provisions against labour abuses, such as forced labour, slavery and child labour”

“The revised version of our code includes more detail of our expectations and suppliers’ obligations with reference to the prohibition of child labour, forced labour (including human trafficking), physical disciplinary abuse and any infraction of an associated law”

Apart from the above, firms also list policies that have a tangential role to play in combating modern slavery. Relevant here are anti-bribery and corruption policies, anti-fraud policies, equality and non-discrimination policies, health and safety policies and sustainability policies. For example, 12% of firms mention anti-bribery policies and 7% mention health and safety policies as supportive of their attempts to prevent modern slavery from happening in their operations and supply chains. These policies variously help to safeguard the firm’s commercial interests when dealing with third parties, create a positive organisational climate wherein every employee is respected, and maintain working conditions that satisfy minimum regulatory and industry standards. Based on these observations about organisational policies, here are some points that firms should consider going forward.

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| <ul style="list-style-type: none">➤ Include all internal and external corporate policies that are relevant to combating modern slavery in the statement➤ Provide an overview of each policy and its role in combating modern slavery. Better statements elaborate on their policies and what they mean in the context of modern slavery rather than simply listing them out➤ Consider embedding web links to existing corporate policies in your modern slavery statement. Some firms are already doing this, which gives readers the opportunity to learn more about the firm’s policy overarching strategy on corporate social responsibility |
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Supply Chain Practices

A significant portion of the statements is given over to describing supply chain practices for addressing modern slavery. These practices range from risk assessments through to risk management and due diligence through to certification. As with the other sections, the level of

reporting and detail on supply chain practices varies substantially across the population sample. Among some firms there is evidence of a whole suite of practices designed to mitigate modern slavery risks. Others take a more minimalist approach. Such differences may be attributable to the risk profile of the firm's operations (e.g. financial services versus construction) and/or the geographical scope and complexity of the firm's value chain (e.g. UK-based supply base versus global supply base with multiple tiers). The main categories of supply chain practices for managing modern slavery risks are covered below.

Risk Assessment

Over four out of five firms give some indication that they have risk assessed their operations and supply chain for modern slavery. Risk assessments are typically carried out by reference to some or all of the following factors: the nature of the firm's operations, the geographic location of its suppliers, the categories of products and services it sources, the length of its supply chain, and the use of migrant labour. In a small number of cases materiality matrixes are included as part of the risk assessment, which add credibility and rigour to the process. Indicative approaches to risk assessment for modern slavery are quoted underneath.

"All of our Group's suppliers are reviewed based on the outcome of due diligence analysis, the supplier's location and the slavery index of the country in which they operate."

"We have conducted analysis of our supply chain and identified the place of manufacture. We have broken this down by spend and geographical area, thereby focusing on countries which could potentially have the greatest risk."

The majority of firms appear to rely on their own knowledge and expertise to conduct risk assessments. There are two markers of this trend. The first is the quite limited use of authoritative reference guides for modern slavery. Only 15% of firms mention the use of reference guides such as the "Global Slavery Index" produced by the Walk Free Foundation, "Corruption Index" produced by Transparency International, and "Trafficking in Labor Report" produced by the US State Department. The second marker is the low engagement of third party consultants to assist in the conducting of risk assessments. Only 12% of firms say that they employ third party consultants for this purpose.

Due Diligence

Carrying out due diligence on suppliers is a focal point in the statements. Due diligence takes a number of forms in the context of modern slavery, including:

- ❖ candidate screening
- ❖ surveying suppliers
- ❖ auditing suppliers
- ❖ using information sharing platforms like SEDEX and EcoVadis to access data on suppliers' ethical standards

The use of candidate screening is an obvious starting point for firms in protecting themselves against modern slavery, although only 20% mention it in their statements. Those who do include it talk about vetting prospective hires to establish that they have the legal right to work in the UK and that they are not being controlled by a third party. It is normal for firms to extend this requirement to recruiters and agencies acting on their behalf, as captured below.

"We conduct pre-employment background checks, including references and the right to work"

“We expect all agency providers to be able to satisfy us that staff all have written employment contracts, have not had to pay for the opportunity to work, and are legally able to work within the UK”

Staying with due diligence, one in three firms refer to surveying suppliers on aspects related to modern slavery and human rights. Surveying suppliers can take place before the firm ever enters into a contractual arrangement with a supplier and/or over the duration of a contract. It is obvious from the statements that the Act has prompted firms to issue questionnaires to their existing supply base and discover more about their ethical standards and performance. This comes across in the quotes below.

“We selected over 300 suppliers which were then engaged through a survey which included questions relevant to assessing the risks of modern slavery. The results of this survey will inform our engagement with suppliers in 2017”

“Contractors will be surveyed on the measures that they are undertaking to combat the risk of modern slavery and child labour in the supply chain and their views on the associated risks. The responses from this will be used as part of a Group wide formal process to assess the risk across the whole supply chain”

“During 2016/17, we included additional questions on ethical sourcing in our assessment questionnaires”

Even more so that surveying, firms use auditing to detect the likelihood of modern slavery in their own operations and among their suppliers. Over half of all firms stated that their own compliance team or a consultancy acting on their behalf regularly audit plants and sites in their supply chain. Audits cover a range of issues pertinent to modern slavery, from health and safety in the workplace to employment rights and financial probity to quality standards. Of firms who mention auditing, approximately one in three use the services of an outside consultancy.

The advent of collaborative information sharing platforms like SEDEX has meant that firms do not have to survey or audit suppliers to determine their ethical standards and performance levels. Instead, they can avail of pre-existing survey and audit data uploaded by suppliers. This arrangement benefits suppliers too to the extent that it reduces their administrative burden and lessens survey and audit fatigue. That said, only 12% of firms say that they are making use of information sharing platforms. Uptake is likely to increase in the coming years as firms look for efficient ways to collate data on new and existing suppliers.

Contractual Obligations

Imposing contractual obligations on suppliers as a means of managing modern slavery risks features strongly in the statements. Proof of this, over half of firms insert clauses or terms and conditions into supplier contracts that prohibit forced labour, child labour, inhumane treatment and human trafficking. This is among the most powerful and enforceable ways that firms can protect themselves against modern slavery. The examples below give some idea of how firms are dealing with this issue.

“Our Supplier Code of Conduct defines the minimum standards required of all our suppliers, including respect of human rights and is incorporated into our contractual arrangements with suppliers.”

“We have drafted template wording for supplier contracts that expressly covers labour rights, including modern slavery, and have started its implementation”

“Key suppliers contracts already include a clause requiring compliance with internationally recognised standards relating to human rights”

“As part of our contracting processes, during the course of 2017 modern slavery contract clauses are being included in all new purchasing contracts”

It is also common for firms to compel suppliers to formally declare or sign-up to a company-specific code or even the provisions of the Act. One in three firms are adhering to this approach. Some firms also get their own employees, whether section managers or country managers, to make declarations of ethical compliance, as can be discerned from the examples below.

“Suppliers are given a copy of our Code of Ethics and agree in writing to comply with it”

“Suppliers are required to sign up to and confirm that they shall not use any form of slavery, bonded, forced, involuntary prison labour or engage in human trafficking or exploitation”

“Suppliers are required to certify that they follow our Supplier Principles”

“Our annual compliance certification process requires the MD of each operating company to confirm implementation and compliance with our code of business conduct and its underlying policies”

Risk Management

As well as problem prevention, firms discuss their approaches for managing modern slavery when it is alleged to have occurred. A fundamental part of this process is having a whistleblowing facility. Three out of every four firms have such a facility, which allows their employees as well as suppliers or any other stakeholder group to report modern slavery concerns that they may have. In some cases the whistleblowing or speak-up facility is managed in-house while in other cases it is managed by an external party.

When labour rights violations or instances of modern slavery are uncovered, close to 40% of firms say they actively work to remediate them. This ordinarily involves working with the supplier to devise a corrective action plan. In situations where the supplier cannot or will not remediate the problem, approximately 30% of firms state that they move to terminate the contract. The extracts below typify firms’ two-phase response to these situations.

“Where factories fall beneath the required standards, corrective action plans are created and timescales for improvements agreed. A second audit will follow to ensure agreed standards are then being met; failure of a second audit will automatically delist the supplier”

“We will support our suppliers to deliver meaningful corrective action and remediation where an audit identifies any areas of concern.....however, if a supplier does not demonstrate any commitment to engage and comply with our Ethical Code, our ultimate sanction is to cease trading with them”

Certification

Certification is another tactic for mitigating modern slavery risks. Evidence of certification can be found across sectors, including paper e.g. *FSC or PEFC certification*, construction e.g. *Construction Skills Certification Scheme*, international shipping and transport e.g. *Maritime Labour Certification*, recruitment agencies and labour providers e.g. *Clearview, GLA registered*, travel and tourism e.g. *Travelife Gold Standard* and retail products e.g. *FairTrade, Better Cotton Initiative*. Admittedly, guarding against modern slavery through the use of certified products or services is more the exception than the rule as less than one in ten firms specify a named standard or certification type in their statement. Those that do claim that it contributes to their sustainability and corporate social responsibility, as can be seen from the extracts below.

“Through our commitment to responsible sourcing of wood and paper, most of our wood and paper products are FSC or PEFC certified”

“We require our hotels to implement credible sustainability 3rd party certifications recognised or approved by the Global Sustainable Tourism Council”

“Ships must be certified for compliance with the requirements for seafarers’ working and living conditions that are set out within the Maritime Labour Convention”

Other Supply Chain Practices

A number of other supply chain practices relevant to modern slavery are noteworthy, although these are less commonly used than the aforementioned practices. Expecting suppliers to have in place their own modern slavery policy is one of them. This is interesting as it means that firms that do not come under the remit of the Act, including small and medium size enterprises (SMEs), might still have to publish a modern slavery statement at the behest of their customer. This is captured in the extracts below.

“Suppliers and subcontractors are expected to maintain their own ethical sourcing policy, and apply these standards to their own business”

“We require suppliers to warrant they have suitable practices and procedures in place to ensure that human trafficking and slavery does not take place in their organisations”

Relatedly, many firms are now requesting that their tier one suppliers hold their suppliers to the standards of the Act – a practice labelled “cascading” or “end-to-end responsibility”. Firms are assuming this stance as it is impossible for them to police the entire supply chain; hence they are starting to put greater onus on their supply partners to help them police it. This is evident from the statements below.

“We have also included an End-to-End responsibility statement in Partnering with Suppliers Standard, setting out the expectation of our suppliers to promote the principles of the Standard throughout their own supply chain.”

“We have flow-down provisions to ensure that the obligations are passed on down the supply chain and not restricted to the first link in the chain”

“During the year we reviewed the content of our Supplier Code of Conduct and updated it to include an explicit requirement to cascade our expectations down the supply chain.”

Taking all of these observations about supply chain practices together, here are some points that firms should consider going forward.

- Provide detail on risk assessments. Some assessments provide a detailed breakdown on risk exposure by sector or geographic region, even presenting heat maps for modern slavery risks. Many others, however, are short on specifics and give little idea as to how the risk assessment was carried out or the risk determination made
- Remember that due diligence applies not only to potential employees and suppliers, but also to customers and clients. This is particularly relevant to firms in the financial and insurance sector where conducting due diligence on customers and the source of their wealth is imperative
- Screening processes for job candidates and potential suppliers should be referred to in the statement as they are materially relevant to modern slavery. While such processes are common across industry, only a minority of firms mention them in their statements
- The legal dimension of supply contracts is fundamental to upholding ethical standards and

preventing labour exploitation in supply chains. As such, firms should examine how their existing contractual arrangements match up to modern slavery risks and what they can do to strengthen them

- Clarify what the firm's position is in situations where reports of modern slavery are made
- Consider not only the firm's direct relationships with tier 1 suppliers but also its indirect relationships with upstream and downstream suppliers

Training for Modern Slavery

Raising employee awareness and knowledge of modern slavery is essential if firms are to be effective in combating it. In recognition of this, the Act prompts firms to discuss any training initiatives relevant to modern slavery. Over four out of five firms make reference to some type of modern slavery training for their employees. There is variation in the quality of training provision, however. In some cases the training programme is substantive, encompassing some of all of the following aspects:

- ❖ e-learning modules
- ❖ creation of learning materials
- ❖ workshops hosted by non-governmental organisations (NGOs) or specialist training provider
- ❖ external accreditation from CIPS

In other cases training is more basic in form involving, for example, the issuing of guidance to staff on what the Act entails and what they are expected to do to give effect to it. A minority of firms (13%) offer training to suppliers on the implications of the Act for the buyer-supplier relationship. Notably, less than one in ten firms engage consultants to deliver training interventions for either their employees or suppliers. Based on these observations about training, here are some points that firms should consider going forward.

- Furnish information on what training for modern slavery involves in your firm, paying particular attention to the following questions:
 - Which employee categories have received training?
 - What did the training involve?
 - Who delivered the training?
 - Is the training externally accredited?
- Consider the training needs not only of direct employees but also contractors, suppliers and other relevant parties
- Be aware that there are many specialist providers who offer modern slavery training

Key Performance Indicators (KPIs) for Modern Slavery

The final area to be discussed is KPIs for modern slavery. In line with the Act, firms are expected to outline any of their KPIs that are germane to modern slavery. Given the recency of the Act, it is perhaps not surprising that the majority of firms have yet to report on or even develop KPIs for modern slavery. Nonetheless, there is evidence that some firms are measuring their performance and progress in this area. The two most commonly cited KPIs in this regard are (i) reported incidents of labour law infractions/modern slavery incidents and (ii) completion or coverage rates for modern slavery training. These KPIs can be found among 14% of the firms sampled. Other KPIs that are reported on by firms include:

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- ❖ Risk assessments
 - ❖ Supplier conformance
 - ❖ Audits
 - ❖ Audit follow-up
 - ❖ Sustainability certification
 - ❖ Employee engagement

Conclusion

There is much that can be taken from firms' first published modern slavery statements. Without doubt, modern slavery pressures at the institutional level are starting to filter down to the organisational level. We see this in the adoption by firms of modern slavery policies and/or the recent updating of existing corporate and supplier codes to reflect forced labour, child labour and human trafficking. We see it too in the various risk assessment, due diligence and risk management practices that firms are now putting in place to reduce the probability of modern slavery occurring in their operations and supply chains. Some firms have even started to develop KPIs to communicate their effectiveness in mitigating and managing modern slavery risks.

At the same time it is reasonable to conclude that the corporate world is still adjusting to stakeholder demands for more proactivity on their part in dealing with modern slavery. The analysis leaves little doubt that many firms are only beginning to figure out what modern slavery means for their operations and supply chains, and what they should do to combat it. Many of the first statements are short on detail and specifics, suggesting that firms have yet to devise a formal strategy to deal with modern slavery. On a more positive note, while not reported in this paper preliminary analysis shows that firms' second annual modern slavery statements (FY 2017) are lengthier and more comprehensive than their first. With time firms are likely to become more aware of modern slavery risks and more capable and confident of taking actions to address them.

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