

HE Briefing Note Modern Slavery Act 2015

May 2022

Introduction

The Modern Slavery Act (2015) obliges all organisations, including universities, whose annual turnover exceeds £36 million, to produce an annual statement that describes the steps they have taken to ensure that there is no modern slavery in their own business and their supply chains.

Modern slavery in the context of the 2015 Act includes slavery, servitude and forced or compulsory labour, and human trafficking. Home Office guidance argues that, rather than focusing on precise definitions, businesses have a moral duty to influence and incentivise continuous improvements in supply chains and a responsibility to ensure that workers are not being exploited, that they are safe and that relevant employment laws (including wages and working hours), health and safety and human rights laws and international standards are adhered to, including freedom of movement and communication.

Non-compliance with the Act could result in legal enforcement; however, it is more likely to cause reputational damage.

The Government launched an online modern slavery statement registry on 11 March 2021. Whilst all organisations are strongly encouraged to submit their most recently published statement on the registry to demonstrate they have reported, in future it will be mandatory to submit statements to the registry. This forms part of the proposed changes to strengthen the reporting requirements of the Act, including mandating the six reported areas contained in a statement as per the currently recommended areas to include under the Home Office's statutory guidance (see relevant section below).

Given it is six years since the requirements of the Act came into force and the proposed changes described above, it is timely to review institutions progress in this area.

Demonstrating compliance with the minimum legal requirements

Whilst the Act does not prescribe the structure and content of annual statements in detail, the only absolute requirements are that:

- **a statement must be made** (*the statement should be updated every year and published within six months of the end of the financial year*);
- **it must be an accurate description of the steps that have been taken to identify modern slavery in the organisation and its supply chain** (*the statement should refer to work carried out in the previous year as well as clear action for the coming years to identify and mitigate risk*);
- **the statement must be published on the organisation's website** (*the statement should be visible in a prominent place on the organisation's website - for example, the home page or obvious drop-down menu*);

- **the statement must be approved by the governing body** (*the statement should be approved at the highest level of governance, including date of approval*); and
- **the statement must be signed off by the Vice-Chancellor or equivalent** (*the statement should be signed off by someone at the most senior level*).

Home Office guidance

The Home Office's statutory guidance recommends that annual statements include descriptions of:

- **the organisation's structure, its business and its supply chains** (*provide relevant information that creates a picture of the structure of the organisation's business and its supply chains*);
- **organisational policies in relation to slavery and human trafficking** (*provide a link between an organisation's existing policies and modern slavery*);
- **due diligence processes in relation to slavery and human trafficking in its business and supply chains** (*due diligence processes, risk assessment and management; identify high risk suppliers in supply chains to help prioritise actions. Engaging with suppliers and being clear about the organisation's expectations from them*);
- **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** (*identify and recognise what specific risks exist in their supply chains and explain the steps taken to prioritise and address higher risks*);
- **its effectiveness in ensuring slavery and human trafficking is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate** (*ensure the organisation has goals and Key Performance Indicators (KPIs) to measure the effectiveness of the organisation's actions and track short, medium and long term progress, reviewed at least annually*); and
- **the training about slavery and human trafficking available to its staff** (*provide appropriate modern slavery training to all employees targeted in relation to each department, e.g., human resources, procurement and legal etc.*).

Benchmarking

Uniac has undertaken an exercise to compare and contrast the annual statements of several institutions across the HE sector against the areas described under the guidance heading above, the results of which are as follows:

- **the organisation's structure, its business and its supply chains.** Coverage across the statements reviewed was variable. Whilst some clearly articulated a clear understanding of the organisation's structure, its business and its supply chains in detail, others failed to suitably address one or more of these areas at all, or to a limited extent - for example, number and classification of suppliers and supplies, and associated expenditure. There was also a general lack of detail beyond institutions' tier one suppliers, perhaps partly reflecting the lack of visibility institutions have beyond this level in their supply chains. Providing a fuller explanation of the institutional set up and supply chains enables institutions to demonstrate a thorough analysis has been undertaken.
- **organisational policies in relation to slavery and human trafficking.** All statements referenced or linked to at least one, but often several, existing policies. The specific policies varied to a large extent between different statements, including, but not limited to: Public Interest Disclosure (Whistleblowing) Policy, Employee Code of Conduct, Corporate, Social and Environmental Responsibility Policy, Procurement Policy, Code of Conduct for Recruitment and Labour in the Supply Chain, Donations Acceptance Policy, Adult Safeguarding Policy, Supplier Code of Conduct, Ethics Policy/Framework, Dignity and Respect, Good Practice in the Conduct of Research, Sustainable Procurement Policy, Fair Trade Policy, Sustainable Food Policy, Procurement Procedures Manual, Child Protection Policy, Health and Safety policies, Social Responsible/Ethical Investment Policy, Procurement Strategy, Financial Due Diligence Process.

Some institutions also had explicitly specific policies in place. These included: Anti-Slavery and Human Trafficking Policy, Procurement Policy on Modern Slavery and Modern Slavery Policy 2015.

What was also evident from this review and benchmarking exercise was the variable extent to which modern slavery was or was not explicitly referenced in the aforementioned policies, with some including no reference at all, leading to the question of to what extent the implications of the Act are appropriately reflected in some institutions' existing policy frameworks.

We would suggest referencing a smaller number of specific policies or procedures which focus on slavery and human trafficking is a more positive demonstration of appropriate action rather than a plethora of documents that contain no explicit, or only passing, reference to this area and do not provide an adequate response on the part of the business concerned.

- **due diligence processes in relation to slavery and human trafficking in its business and supply chains.** All the statements reviewed as part of the benchmarking exercise addressed this area, but the variation in the level of detail was again notable in terms of the processes described. Coverage included a combination of suppliers and/or prospective employees. As well as institutions' internal processes, a high proportion of statements also

referenced affiliations with Electronic Watch (EW) who's mission is to help public sector organisations work together, and collaborate with civil society monitors in production regions, to protect the rights of workers in their electronic supply chains, and Netpositive Futures, which enables suppliers to develop a sustainability action plan. Institutions appear to consistently state they undertake modern slavery due diligence checks as part of the supplier selection process, with some adopting a risk-based approach based on the potential risk and value of the proposed contract, whether that is based on institutions' own checks or assurances provided by potential suppliers via tender documentation. We see this as good practice; however, in the main, these processes did not apply beyond tier one suppliers, where modern slavery issues are most likely to occur. Whilst the difficulties and challenges in doing so are recognised, this would provide institutions with a more detailed understanding of modern slavery supply chain risks and ultimately facilitate better management, mitigation and transparency.

- **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.** The statements reviewed paint a picture of variable progress in this area. Some institutions' processes appear to be relatively immature, with general reference made to future commitments and associated actions, but nothing specific by way of any formal risk assessment having already been undertaken. A number of institutions refer to having undertaken modern slavery risk analysis at a commodity and service or supplier level, either on an ongoing basis and/or as part of appointing a new supplier, which are then categorised into high, medium or low risk groups in order to prioritise the risk mitigation response. None of the statements reviewed contained references beyond first tier suppliers, which is of note given the more tiers that exist in the supply chain, and the greater the complexity of the chain, the greater the challenge that institutions face to ensure that modern slavery is not taking place. There was some evidence of risk assessments that also took into account geography at a country level. We also note that whilst all statements referred to supply chains, there was limited information regarding organisations' own business operations, as well as a general lack of detail around the specific risks that exist in institutions' supply chains and the steps taken to address higher risks, perhaps in order to avoid institutions' disclosing too much detail about their activities, which may also draw comparison with others. Whilst mindful of confidentiality, we think institutions should consider increasing transparency in this area as part of their statements through including greater detail around their risk assessments in terms of how they were conducted, the criteria used and the actions that have been, or will be taken, in response, to address modern slavery risks in their business operations and supply chains.
- **its effectiveness in ensuring slavery and human trafficking is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate.** This was clearly the weakest area reported on across all of the statements reviewed, with all statements virtually silent in this regard. There was little by way of reference to the effectiveness of institutions' activities in this area and none included any specific or relevant measurable goals or Key Performance Indicators (KPIs). As a minimum, we would expect linkage to existing KPIs that are relevant

to modern slavery - for example, bespoke or integrated staff training in this area. As well as existing KPIs that may be relevant or contribute to modern slavery, institutions should also consider developing new KPIs and associated targets to measure performance and progress in mitigating and minimising modern slavery in its business operations and supply chains.

- **the training about slavery and human trafficking available to its staff.** Again, the statements reviewed suggest a variable approach to training across the sector. At one extreme, one statement made no reference to any training delivered or to whom. At the other extreme, one statement made reference to relevant training that is required to be completed by all staff, which is delivered by an e-learning module renewable every three years. There was a more common middle ground referred to in a number of statements, with training provided to and/or undertaken by procurement teams. There was little evidence of wider targeted training to specific departments and employees. In some cases, training on modern slavery and human trafficking has been integrated as part of existing procurement training modules rather than separate and standalone training. There were some references to training events provided to suppliers, albeit by exception. It is noted that generally training references are made almost exclusively in the context of staff/employees as opposed to also incorporating explicitly, or at all, other types of stakeholders such as students, business partners, funders, research collaborators and so on. Informed by the assessment of the institution’s business operations and associated supply chain arrangements that present modern slavery risks, we would expect a level of specific or closely related ethics and/or human rights mandatory training on modern slavery-related issues that is targeted to these identified groups and individuals therein, with the recipients clearly identified in the institution’s statement. Consideration should also be given to extending this training to members of their supply chains, given this is where the risk of modern slavery is probably the highest.

We can help

We can provide Boards with independent assurance to support their sign-off of annual statements. To discuss this further, please contact us.



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