

## Teething Trouble – Poor Levels of Compliance with Reporting Requirement Under UK Modern Slavery Act Need to be Addressed

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According to research published by the [Chartered Institute of Procurement & Supply](#), more than one third of organisations required to complete a statement in compliance with the UK Modern Slavery Act 2015 (“Act”) have failed to do so.

Under [section 54 of the Act](#), organisations that carry on business in the UK and have turnovers of £36 million or more are required to produce a statement each year setting out the steps they have taken to ensure that their business and supply chains are slavery free, or a statement that they have taken no steps to do this. “Slavery” includes slavery in the narrow sense (i.e. where any rights of ownership are exercised over a person), servitude (i.e. the obligation of a person to provide services imposed by the use of coercion and denoting an obligation to live on another person’s property with the impossibility of changing his or her condition) and forced labour (i.e. where work or service is exacted from any person under the menace of any penalty and for which the person has not offered himself or herself voluntarily.). “Human trafficking” essentially requires that a person arranges or facilitates the travel of another person with a view to that person being exploited (e.g. being subjected to slavery, servitude or forced labour).”

Of the foreign organisations that carry on business in the UK and are required to publish a statement, 60% have failed to do so. The survey of 1,288 supply chain professionals also found that 37% of supply chain managers subject to the scope of the Act admitted to not even having read the [guidance published by the UK Government on Modern Slavery](#).

One of the knock-on effects arising from the lack of engagement with the statement requirement has been that a majority of businesses surveyed have few or no policies in place to tackle modern slavery. Just 45% of organisations have provided any training to their staff to help them spot modern slavery, while only 42% have mapped their supply chains to better understand their risks. Only a small minority (6%) of supply chain managers under the Act’s scope are absolutely certain there is no slavery in their supply chain.

Commentators are quick to point out that the central weakness of the legal requirement to complete a statement is that there is no adequate penalty for non-compliance. In the event that an organisation fails to publish a statement when required, the Secretary of State may bring civil proceedings for an injunction (or, in Scotland, for a specific performance of a statutory duty). If the organisation were to fail to comply with the injunction (or order for specific performance), it would be in contempt of a court order, which would be punishable by an unlimited fine. Apart from that, the assumption has generally been that failure to comply would tarnish an organisation’s reputation and brand to the extent that pressure from consumers, investors and shareholders would compel the organisation to issue a statement. From the evidence available so far, however, this form of “soft” regulation has not achieved its goal.

So, what hope for the future given the dismal results of the survey? In the aftermath of the Conservative Party’s relatively poor performance in the 2017 UK General Election, Fiona Hill, seen by many as one of the driving forces



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behind the introduction of the Modern Slavery Act, resigned as Prime Minister Theresa May's joint chief of staff. In addition, the Government seems destined to spend most of the current Parliament locked in difficult negotiations with the EU and acrimonious debate with opposition voices from within the UK regarding the future of the country post-Brexit. Does anyone have the time or inclination to contemplate reforming the Act? At least one attempt to bolster the Act has already [floundered](#).

Despite its shortcomings, the Act represents an example of the UK taking an ambitious lead on an issue of global importance. The Act was the first of its kind in Europe, and one of the first in the world, to specifically address slavery and trafficking in the 21st century. At the very least, the Act has begun to raise awareness of an issue that many organisations had never formally considered. As a result, other jurisdictions (most recently, [Australia](#)) are beginning to follow suit and consider introducing their own legislation based on the Act, with equivalent requirements to produce statements. At a time when questions are being raised as to the future standing of the UK in the world order, it would seem a shame for this piece of regulatory innovation to fall by the wayside.

It is clear that the reporting requirement is in need of revitalisation if it is going to survive, and the survey results suggest that organisations would welcome tougher regulation. For example, the majority of respondents to the survey called for the introduction of fines for organisations that fail to comply with the statement requirement. Furthermore, in excess of two-thirds of those surveyed called for the requirement to be extended to organisations with a turnover of less than £36 million. Perhaps now is the time for the Act to bear some teeth.

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