

RESPONDING TO MODERN SLAVERY - NEW UK BENCHMARKING REPORT

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Legal Briefings

On 17 October 2017, the [Business and Human Rights Resource Centre](#) launched its [second review](#) of the Modern Slavery Statements published by members of the FTSE100. This report follows on from the BHRRC's earlier report: [FTSE 100 at the Starting Line](#) which discussed the first 27 statements produced by FTSE 100 companies.

In this latest report, BHRRC stresses the importance of large companies to the fight against modern slavery. The BHRRC considers that the supply chains of FTSE 100 companies increase the likelihood of the companies in question contributing to modern slavery. It also considers that those companies have sufficient resources to make a positive difference.

MSA reporting obligation:

- Carrying on business in the UK
- Supply goods or services
- Turnover £36 million (including subsidiaries)

Annual statement of steps taken to ensure slavery and human trafficking is not taking place in the business or supply chains.

For more information, see [here](#).

The BHRRC recommends that companies should make the fight against modern slavery part of their strategic agenda and should raise awareness with their suppliers (and perhaps with peers with common supply chains) to try to encourage better practice.

SUMMARY OF REPORT'S FINDINGS

The BHRRC describes what it sees as a wide gap between a "cluster of leading companies taking robust action" and the majority of companies showing a "lacklustre response". The BHRRC considers that:

- Some improvements in reporting are already being seen
- 43% of the statements did not meet the minimum standards of the MSA (namely, explicitly approved by the board, signed by director and available via a link on the company's homepage). It is worth noting that, although a statement must be approved by the board, neither [the MSA](#) itself nor the [Government Guidance](#) requires a statement to state that such approval was obtained. That said, the BHRRC is encouraging an explicit statement of such as good practice.
- Although the majority of the statements set out an overview of the relevant business, they did contain much detail of the complexity of (or the type of workers involved in) the company's supply chains
- Companies should develop their policy framework with input from external stakeholders
- Many companies reported positive action on incorporating modern slavery into risk assessments, but set out less information as to how those risks were then addressed
- Half of the companies provided no "meaningful information" on the effectiveness of the steps that they have taken to address modern slavery. Although the report acknowledged that it would take more time to gather information in relation to effectiveness, it encouraged companies to set out the methods that they plan to employ to assess effectiveness.

RECOMMENDATIONS FOR COMPANIES

The BHRRC considers that companies should place the fight against modern slavery as part of the strategic agenda of the company, embedded within a more holistic human rights approach, they should better collaborate with peers (especially in common supply chains) and they should raise awareness with their suppliers to try to encourage better practice further down the supply chain.

RECOMMENDATIONS FOR INVESTORS

The report also encouraged investors to engage with companies and reward good practice, pointing towards [the CORE Coalition's Briefing for Investors](#) for further guidance.

RECOMMENDATIONS FOR THE UK GOVERNMENT

In the report and at the launch event attended by Herbert Smith Freehills, the BHRRC recommended that the UK Government should improve monitoring, including by publishing a list of those companies which should comply (as suggested in [Baroness Young's private member's bill](#)). The BHRRC considers that a Government registry will make compliance easier to monitor, statements easier to benchmark and will act to level the playing field between those who are already complying and those who are not.

The BHRRC also recommended that the UK Government strengthens its enforcement powers and provides incentives for companies to comply, for example companies bidding for public contracts should be required to show that they have conducted human rights or modern slavery due diligence (as previously recommended by the [UK Parliament's Joint Committee on Human Rights](#)).

COMMENT

Although the BHRRC has continued its credible efforts to police compliance with the Modern Slavery Act, there are a number of potential problems with its call for increased government regulation, oversight and sanctions in this area.

First, the UK Government has been clear that the reporting requirement in the MSA has been designed to encourage the market to lead and drive best practice. Tougher sanctions for non-compliance, might lead companies to focus on ensuring technical compliance with the letter of the law, rather than adopting risk-based approach suited to the particular circumstances of their business operations.

Instead of seeking to introduce tougher sanctions for technical non-compliance, it might be more effective to continue to raise public awareness of modern slavery issues and to leverage the desire of investors and other stakeholders to drive improved governance, practice and reporting.

The cut-off point for this report was statements published prior to 10 September 2017. However, these issues are evolving and new statements have already been published since that date and continue to be published. As the title of the report suggests, a number of companies are starting to lead the fight against modern slavery, as one aspect of their UNGP responsibility to respect human rights. But there remains a long way to go to eradicate this largely hidden global crime and if the business community is going to continue to lead on this issue and to resist the calls for increased regulation, it will need to ensure that it keeps raising the bar in terms of policies and practices in this area, and to demonstrate that progress through improved public reporting.

[Business and human rights hub](#)

KEY CONTACTS

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