

THE UK MODERN SLAVERY ACT: ONE YEAR ON

03 April 2017 | UK

Legal Briefings - By **Oliver Elgie, Senior Associate and Natasha Walton, Associate**

Any organisation that provides goods or services, that generates a turnover in excess of £36 million and that carries on any part of its business in the UK now has to produce an annual Transparency Statement, setting out the steps that it has taken to ensure that slavery and human trafficking are not taking place in any part of its business or supply chain. For more information in relation to the reporting requirement, see our previous [briefing](#).

The obligation has been in place in relation to all financial years ending on or after 31 March 2016. Now, one year later, all companies within scope of the requirement should have produced (or currently should be producing) their first statement. Some companies will even be considering their second statements. There initially seemed to be [some confusion](#) about the reporting requirements, but 12 months later, are any trends appearing and where might we be going next? This post considers a few themes.

THE MSA HAS BROUGHT THESE ISSUES BEFORE THE BOARD

As a Transparency Statement must be approved by the Board and signed by a director, these issues are being considered at a senior level within companies, in many instances, for the first time.

A POTENTIAL GAP IN REPORTING

In the absence of an official government registry of all Transparency Statements, the Business & Human Rights Resource Centre has been attempting to collate them. Thus far, the BHRRC has collated just over 1,700 statements. This number falls well short of the 12,000-17,000 companies that it was estimated would come within scope of the reporting.

This difference could be explained partially by the fact that companies are encouraged to report within six months of their financial year end and so statements from companies with a year-end between October and 30 March might still be in the pipeline. Additionally, some of the statements on the BHRRC list have been made by a parent company on behalf both of itself and certain subsidiaries (and so cover more than one company).

However neither is likely to account for the whole difference. The answer probably lies in a combination of two issues: First, and despite the BHRRC's best efforts (and its encouragement to companies to volunteer their statements for the list), it is simply not able to collate all statements made from its own investigations. This could add renewed fire to civil society's call that the Government should be maintaining a mandatory list. Second, companies that are within scope are not reporting. This could be through deliberate non-compliance or, perhaps more likely, lack of understanding, including, for example, a misunderstanding by overseas companies of what constitutes "carrying on a business" in the UK.

BASIC COMPLIANCE IS LOW

There are very few requirements for a Transparency Statement, and notably only recommendations for its content. Nonetheless, compliance with even the basic requirements is low. For example, the BHRRC reports that only 15% of the statements on its list state that they have been approved by the Board, have been signed by a director and are available from a link in a prominent place on the organisation's homepage.

THE NGO RESPONSE

The NGO community has generally described the standard of reporting thus far as poor, with some notable exceptions leading best practice. That said, NGOs appreciate that many companies are grappling with a new law that encourages new internal procedures. NGOs are expecting to see improvements in reporting that demonstrate improvements in internal practice, and a readiness to identify and address risks, rather than hide them or pretend they do not exist. They are also encouraging companies to see the MSA as an opportunity to take a leading role in combatting slavery and to use the reporting requirement (and the platform to the Board that it provides) to drive change internally on both this and broader human rights risk issues.

A number of NGOs are reviewing and benchmarking the statements produced thus far, and there is likely to be an increased trend towards benchmarking as NGOs try to drive best practice.

WHERE TO NEXT?

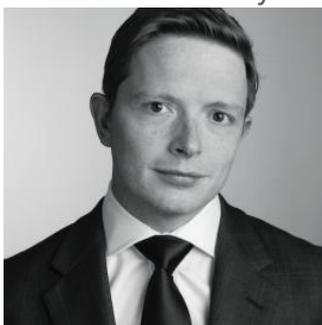
We seem to be moving towards an age of greater transparency, with corporate reporting becoming increasingly pervasive on a broad range of issues. The Modern Slavery Act is just one piece, following in the footsteps of [similar legislation in California](#), and accompanying the UK Companies Act strategic reporting and the EU Directive on non-financial reporting, as well as future gender pay gap reporting requirements in the UK from April 2017. Other jurisdictions are following a similar path: [Singapore has introduced mandatory sustainability reporting](#), France has recently adopted a corporate due diligence law (although that has been partially invalidated by its constitutional court) and [Australia is considering implementing its own Modern Slavery Act](#). The type of reporting required by the MSA is only going to become more prevalent in future, making the diligence and internal work underlying it ever more important.

In the UK, [a private member's bill](#) has been put forward that seeks to extend the duty to report to public bodies, require the government to publish a list of all companies who must report and make compliant reporting a requirement for any organisation to be awarded a public contract. Although the second reading of this bill was recently postponed, it is understood that the Government is supportive, at least in part, and will bring forward its own bill in relation to one or more of these three points.

[Business and Human Rights hub](#)

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



OLIVER ELGIE
SENIOR ASSOCIATE,
LONDON
+44 20 7466 6446
Oliver.Elgie@hsf.com



NATASHA WALTON
SENIOR ASSOCIATE,
LONDON
+44 20 7466 2723
Natasha.Walton@hsf.com

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