



Modern Slavery

***The Modern Slavery Act 2015
– what are s54 transparency
in supply chains statements?***

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Dr Jane Berney FCA

Transparency in supply chains statement

- The Modern Slavery Act requires certain businesses to produce a statement on the measures they have taken to prevent modern slavery in their supply chain (section 54)
- The s54 transparency statement applies to:
 - commercial businesses (companies and partnerships)
 - the place of incorporation is irrelevant
 - applies to all body corporates
 - that supply goods or services
 - carry on a business (or part of a business) in the UK
 - and has annual turnover of £36m or more
 - when calculating turnover, an organisation should include the turnover of its subsidiaries (including those operating wholly outside the UK)
- Where more than one company in the group is required to prepare a transparency statement it is possible for the parent company to produce one statement including all or some of its subsidiaries
- Charities are within the scope of the rules provided all the conditions above are met. The purpose for which profits are made is irrelevant.

Transparency in supply chains statement

Examples

- A leading British manufacturer has a German subsidiary with a turnover of £45m. The parent company will have to prepare a transparency statement if the turnover of the parent company is at least £36m pa. If the parent company has turnover below £36m the parent will still have to prepare a statement if the group turnover is over £36m, even if the subsidiaries are based overseas.
- A company is headquartered in the UK and all its staff are based overseas. Group annual turnover is £87m. A transparency statement is required if the group provides goods and services in the UK
- A British supermarket chain with a turnover well in excess of £36m has a number of overseas operations and a number of subsidiaries that are not in the supermarket business but in telecomms and banking. All are in scope but the parent company prepares one statement to cover its supermarket operations (in the UK and overseas) and the telecomms and banking subsidiaries prepare their own statements.

Transparency in supply chains statement

When does it have to be prepared? At the moment

- Annually
- Within 6 months of year end – recommended
- Government proposed changes – for 12 months ended 31 March

Where should it be published?

- Prominently on the homepage of the organisation's website
- From March 2021- centrally run registry to house all statements of those in scope – voluntary basis

Can an organisation opt out?

- 'Nil' Return – still must be public

Consequences

- Reputation
- Possible disbarment from public contracts
- Injunction/contempt of court/unlimited fine
- Government is considering civil penalties

Transparency in supply chains statement

- Section 54 of The Act states that a “slavery and human trafficking statement for a financial year is—
 - (a) a statement of the steps the organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place
 - (i) in any of its supply chains, and
 - (ii) in any part of its own business, or
 - (b) a statement that the organisation has taken no such steps.”
- This means that businesses must consider not only their own internal operations but all of the suppliers within its supply chain.

Transparency in supply chains statement

Examples of suppliers to include

- A factory in Bangladesh supplies goods direct to a well -known British manufacturer
 - The British manufacturer will have to assess the risk of slavery in the Bangladeshi factory (assuming the British manufacturer is in scope). The Bangladeshi supplier is a Tier 1 supplier
- A farm in East Anglia supplies fruit and vegetables to a wholesaler in London, who sells the produce to a French supermarket
 - The farm and wholesaler will have to abide by the MSA (assuming all the conditions have been met) but the French supermarket will not (but may have to abide the French Duty of Vigilance law)
- A factory in Malaysia supplies goods to a Spanish company who then sells them to a British retailer in the UK
 - Assuming the British retailer is in scope they will have to assess the risk of slavery within the Spanish company, including its suppliers, as it is a Tier 1 supplier and part of the British retailer's supply chain. The Malaysian supplier is a Tier 2 supplier within the British retailer's supply chain

Transparency in supply chains statement

Preparing a statement

- The Act does not prescribe the format or exact content that a business should include in its s54 statement.
- Must set out the steps the business has taken to prevent modern slavery in its business and supply chains.
- Government guidance ([Transparency in supply chains etc, a practical guide, page 12](#)) suggests some examples of what ought to be included, although this is not an exhaustive list:
 - the organisation's structure, its business and its supply chains
 - its policies in relation to slavery and human trafficking
 - its due diligence processes in relation to slavery and human trafficking in its business and supply chains
 - 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
 - its effectiveness in ensuring that slavery and human trafficking is not taking place in its business or supply chains, measured against such performance indicators as it considers appropriate
 - the training and capacity building about slavery and human trafficking available to its staff.
- Where relevant, the business should also set out the steps taken to eliminate any instances of modern slavery within the supply chain.
- Is an evolving document
- September 2020 update – the government has said it will mandate the content but no details as yet and will require legislation

Transparency in supply chains statement

Approving the statement

- Once written, the statement must be approved and signed by a director or partner

Organisation type	Approval required from	Statement signed by
Corporate body	Board	Director
General partnership	Partners or Executive Board	General partner
LLP	Members or Executive board	Designated member
Charity	Board of Trustees	Trustee

Transparency in supply chains statement

Common errors

- Not approved by top management/board
- Not signed by an individual director/partner etc
- Generic statements 'we do not tolerate' 'we will eliminate'
- No specific action points
- No follow up from previous year
- Only looks at Tier 1 suppliers, not the supply chain as a whole.
- No risk assessment
- Not easy to find on the website

Proposed changes announced September 2020

September 2020: the government announced the following changes will be made – no timetable set for implementation and as require legislation will depend on parliamentary time being made available

1. Contents of statement to be mandated – will probably be the same as now but may change in future
2. Public bodies to be included – if budget exceeds £36m
3. Reporting period will be 12 months to 31 March – not an entities own financial year end or any other period of their choosing
4. All to be published within 6 months of 31 March – on government run central registry
5. The statement must include the date on which it was approved by the organisation's board or top management body and the date on which it was signed by the senior individual responsible (director, chair of trustees, senior partner etc).
6. Any statement prepared for a group must name all the entities included in the group statement.
7. Clearer guidance is promised
8. Penalties for non-compliance will not change in the short term but under review

Central Modern Slavery Registry

- Launched March 2021
- Currently voluntary – aim is to be mandatory
- Can upload if preparing a statement on a voluntary basis
- Govt run
- <https://modern-slavery-statement-registry.service.gov.uk/>
- Summary data in CSV format
- Compare and review

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