



# Global Compact Network United Kingdom

## **Policy Brief: Implementing the Modern Slavery Act**

On 13<sup>th</sup> October 2015, the UN Global Compact Network UK in partnership with Freshfields, KPMG and Anti-Slavery International organised a briefing targeting UK businesses, which addressed the Modern Slavery Act 2015 (Transparency in Supply Chains) Regulations. In March 2015, the Modern Slavery Act became law. As of October, under Section 54 of the Act, organisations with a turnover greater than £36 million are expected to publish an annual 'Slavery and Human Trafficking statement'.

The Statement and requisite due diligence processes that are necessary to produce it were the main focus of the meeting.

Speakers included, *Paul Bowden, Global Corporate Responsibility Partner* and *Paul Yates, Head of London Pro Bono* both from *Freshfields*, *Nicola Cobb, Director of Risk Consulting* at *KPMG* and *Klara Skrivankova, Slavery and Trafficking Expert* from the *Anti-Slavery International*. The event was held under the Chatham House rule. Drawing from the event, the UK Network has drafted this two-page briefing note that provides an overview of the key points expressed, with special reference to Section 54 of the Act (overleaf).

## **Modern day slavery and the 2015 Act**

Slavery is apparent in the UK and within the supply chains of UK businesses. In its modern manifestation, slavery is forced labour, bonded labour, child labour, sexual exploitation and human trafficking. The lack of knowledge among companies and other organisations concerning labourers and sub-contracted labourers that procure raw materials, manufacture goods, or deliver services in long, complex and diffuse supply chains, enables it to flourish.

The Modern Slavery Act 2015 provides an opportunity for large organisations that may be profiting from enslaved labour (knowingly or unknowingly) in their business to go above and beyond government requirements. The Act dovetails with the UN Guiding Principles on Business and Human Rights; therefore, companies embarking on human rights due diligence as part of their "corporate responsibility to respect human rights" should note the synergy, and seek to incorporate mapping and risk analysis exercises identifying enslaved labourers or trafficked persons within their broader human rights due diligence efforts.

Robust due diligence involves the input of all stakeholders; those known and perceived to be affected. It also requires a multi-disciplinary approach; one that considers the risks to workers in the supply chain, alongside the risk to the business. The identification of risks to workers will arm the organisation with comprehensive information and enable it to identify its area of greatest leverage. Verification of the source of information is critical to ensure that organisations develop an accurate assessment of the problem.

As a result of the Modern Slavery Act, there will be an expectation for businesses and other commercial entities to engage with organisations working to eradicate modern day slavery. It is advisable for commercial organisations to acknowledge in their annual statement if they have identified any incidences of slavery, whether isolated or systemic. Acknowledging the problem head-on will engender trust within civil society, the police and other organisations charged with addressing and remedying the situation, not to mention any affected parties. The Modern Slavery Act requires a "Report of Explain" approach, similar to the UN Global Compact's Communication on Progress annual reporting requirement.



# Global Compact Network United Kingdom

## **The Modern Slavery Act 2015, Section 54**

- Section 54 explicitly acknowledges that 'commercial organisations' with a turnover greater than £36 million will be expected to produce a Slavery and Human Trafficking Statement; therefore, it is equally applicable to charities and other non-business entities that may have a commercial arm aligned to their core charitable purpose.
- The Statement could be viewed as having two objectives. Firstly, it should provide disclosure with regards to the steps taken by the organisation to identify and address any incidences of modern day slavery and/or human trafficking in its supply chain (s/c). Secondly, it should be aspirational and signal the intended course of action by the organisation to address modern day slavery and/or human trafficking in its s/c.
- Section 54 requires each commercial organisation to publish its own statement and for it to be signed by a director (or equivalent).
- UK companies' operating globally will need to consider if they will issue one global statement on behalf of the entire corporate group, or separate ones depending on the nature of the business.
- The Act's definition of slavery is derived from UK statute; therefore, if an organisation plans to issue a 'global' statement it will be necessary to use global definitions of slavery in its statement (e.g. definitions derived from the ILO Forced Labour Convention C029 (1930), or the Palermo Protocol 2000)
- The Act is expected to come into force from 29<sup>th</sup> October 2015.
- Organisations with a turnover greater than £36 million and financial year ending 30<sup>th</sup> March 2016 are not expected to report on activities falling within FY 2015-16 by that date. Companies whose financial year ends 31<sup>st</sup> March 2016 are encouraged to release a statement within six months.
- Enforcement rests with the Home Secretary who may apply to the court for an injunction against a non-compliant organisation.
- Civil society organisations working to eradicate slavery and human trafficking in the UK and abroad will be monitoring and assessing the annual statements.
- Failure to produce an adequate statement could result in negative publicity affecting the brand of the commercial organisation and have further negative repercussions; therefore, there are significant commercial risks associated with failing to submit a statement, or producing one that is unsubstantiated.
  - Reputational/brand damage, loss of consumer confidence, loss of sales, increased scrutiny and resource dedicated to investigation which could lead to a loss of investor confidence, depreciating share price, and inability to attract top talent, are some examples.

## **Two key points expressed regarding conducting relevant due diligence**

- Identify who is making or sourcing the product or service, and consider who is supplying associated components parts (this will include any workers that may be linked to the product or service)
- Identify all relevant stakeholders, both within the business and beyond (consider investors, customers, suppliers, sub suppliers, contractors, migrant labourers and civil society organisations working to eradicate modern slavery/human trafficking etc.)