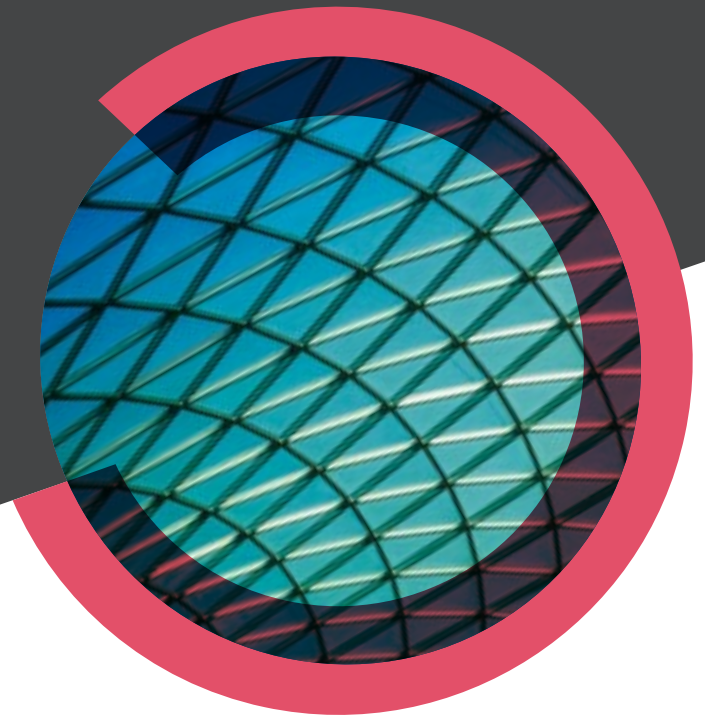




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# IMPACT OF THE MODERN SLAVERY ACT 2015



This has received recent coverage following the Boohoo scandal, which is investigating whether factories manufacturing the fashion company's clothes have paid staff below the minimum wage and in breach of health and safety rules. Currently, there are vastly different approaches to reporting (let alone compliance), especially where parent companies seek to comply with several international regimes in one statement/policy.

In 2019, we saw a rise in non-compliance in relation to Section 54 statements being picked up by the Home Office, and whilst in a number of cases this non-compliance was minor, in other cases, system checks were not being implemented internally to ensure that specific prohibitions against the use of forced, compulsory or trafficked labour, slavery or servitude, were enforced, even though these organisations were nominally committed to ensuring their supply chains were free of these issues. As with anti-corruption systems, procedures, including a system of checks and balances, must sit behind policies.

While Section 54 of the Act states items which may be covered by an MSA statement, the Home Office's letters to those who had not been compliant specifically referred to matters such as "measuring effectiveness", confirming that a "good" statement demonstrates progress by setting and reporting against clear targets. Furthermore, Home Office guidance states that KPIs are important in driving performance. While we note that many organisations do include provisions which follow this approach, there are often inconsistencies around specifying specific risks and "targets" which will be reported against in the following financial year. Linked to this, statements often lack sections dealing with how the effectiveness of controls are measured.

We are still awaiting the outcome of the Modern Slavery Act 2015 consultation which closed last year. The consultation looked at ways to strengthen the use of Section 54 (modern slavery statements) including a "comply or explain" style of mandatory reporting. It may also lead to mandatory reporting requirements, sanctions for non-compliance and the application of the Act to public bodies with an annual turnover of over £36 million unless they are already captured by the existing legislation (although many already voluntarily publish statements).

Mandatory reporting areas would help standardise reporting and clarify expectations, allowing comparisons and benchmarking across industries. This, coupled with a "comply or explain" mechanism, would allow flexibility for those organisations where certain areas of reporting would not apply. However, without adequate sanctions and a body which enforces compliance, it is doubtful that any such changes would have a real impact in the current regulatory climate as businesses seek to understand the post Covid-19 and post EU era and are focussed on their bottom line and not on what some consider are "nice to haves".

It is also worth noting that in relation to slavery and human trafficking, the Global Human Rights Sanctions Regulations 2020 came into force on 6 July 2020. These regulations allow the UK to impose sanctions on individuals and entities in relation to serious human rights violations including violations in relation to the right to be free from slavery, not to be held in servitude or required to perform forced or compulsory labour.

We will update clients once the outcome of the consultation is published

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