

Guidance on Section 54 of the Modern Slavery Act 2015

05 November 2015

What is Section 54?	+
Does S54 apply to my organisation?	+
No, my organisation does not fall within the above threshold	+
Yes, my organisation does fall within the above threshold - what does S54 require a relevant organisation to do?	+
How long after the financial year end should the statement be published?	+
What should the statement include?	+

Slavery and Human Trafficking Statement Checklist: Section 54 Modern Slavery Act 2015

1. The statement should be written in simple language that is easily understood.
2. The statement should be accessible to readers – there is a balance to be struck between providing adequate details and including too much technical or legal information that could make it difficult to follow.
3. The statement should be true and reflect actual steps taken or begun - the statement should cover the full financial year in question but if an organisation has only recently undertaken activities it may choose to produce a statement that indicates certain activity undertaken covers only a particular part of that year.
4. The statement should be succinct but cover all relevant points – this can be done by linking to relevant documents or policies rather than copying large sections of them into the statement. Organisations can support narrative by providing relevant links to policies/documents that are publicly available and already published on their website. Information to disclose here could include:
 - 4.1. policies that deal with business relationships
 - 4.2. recruitment policy
 - 4.3. procurement policy
 - 4.4. employee code of conduct
 - 4.5. training policies relating to increasing awareness of modern slavery.
5. The statement should be reflective of an organisation's sector, the complexity of its structure and supply chains or countries its suppliers are working in – outlining actions by specific country might help readers to understand the context of any actions or steps

taken to minimise risks. Organisations should clearly state the sector(s) their business operates in and whether any of the work is seasonal.

Evolution of the statement

The government expects organisations to build on what they are doing year on year, so it will not be possible to simply 'recycle' the same statement each financial year – initial statements might reflect how an organisation is starting to act on the issue and outline planned future actions, whereas subsequent statements will build on this and show how compliance is evolving. Remember that this statement is not a guarantee that an organisation's entire supply chain is free from slavery – it should however capture all of the actions that have/are being taken in relation to any part of its supply chain.

Sanctions for non-compliance

There is no initial fine. However, the Secretary of State may seek an injunction to compel the organisation to issue a statement - if this injunction is not complied with the organisation will be in contempt of a court order, which is punishable by an unlimited fine.

So, why should you take action?

The requirements of the MSA seek to create a 'race to the top' by encouraging organisations to be transparent about what they are doing and in the process drive up standards. Non-compliant organisations may expect pressure from wider society, shareholders and competitors to implement the MSA requirements – and risk negative publicity and an adverse impact on brand and share value for failing to comply, especially if they operate in a sector which is already in the spotlight for labour and supply chain issues. Your suppliers or customers may also scrutinise your actions more closely in light of their own obligations to comply.

The government has also indicated that it may name and shame organisations that do not comply in a timely manner.

Practical tips to aid compliance with s. 54 of the Modern Slavery Act 2015

Who

Identify who will be responsible for s. 54 compliance in your organisation – whilst the MSA does not dictate who in an organisation must be responsible, support from top level management is vital. You should consider who is responsible for:

- initial compliance
- ongoing assessment
- necessary training to the organisation
- dealing with incidents of modern slavery/trafficking that are reported.

Statement?

Consider whether you will need to prepare and publish a statement (and when) – and how this may already fit within any wider compulsory or voluntary reporting currently undertaken by your organisation (and any future reporting that you are already planning for). Also consider how this requirement fits in with your wider framework around ethical trade, CSR/ESG and human rights for example.

When?

Diarise the latest date by which you will need to publish your statement.

Content?

Consider the proposed content of your statement based on the statutory requirements and government guidance.

Allocate resources

Consider what activity you are undertaking to eliminate slavery and human trafficking from your organisation – evaluate the cost/budgeting requirements of this (e.g. training costs) and factor these into your business planning. Remember that expense can be minimised where relevant training is included as a module in a wider training programme and target training at your higher risk areas where it can have most impact. If employees who are most likely to encounter victims directly are more aware of the indicators of modern

slavery and how to report suspected cases, and what actions they can expect the organisation to take, they can flag this to you and help to root it out in a particular business/supply chain.

Risk analysis

Implement risk analysis and supply chain mapping to estimate the risk of slavery and human trafficking in your supply chains – where are your issues most likely to lie? You should consider:

- if you operate in higher risk countries
- the sector you are in
- whether there are transactional risks – banks/financial institutions may be involved in facilitating financing from or supporting cases of modern slavery
- the duration of your business partnerships – for example, in some cases existing long term partnerships may involve less risk.

Contact your suppliers

You should actively seek information from your suppliers:

- look at the information you currently hold about your supply chain
- engage with suppliers to ask for additional information about goods/services supplied
- set up a procedure for direct and indirect suppliers to assess the reliability of information from them
- check the working practices of those you have a direct contractual arrangement with and check your policy on sub-contracting – make it clear that you only allow sub-contracting with your express prior approval or with companies having a zero tolerance to modern slavery and trafficking
- revise any audit regime of suppliers that you might already have in place to add compliance with MSA requirements.

Remember that many human rights violations may not be immediately apparent, as suppliers go to great lengths to hide them.

Contract audit

Review/amend any existing supply chain contracts to require suppliers to comply with MSA requirements (carefully designed KPIs may assist with this) and ensure that appropriate provisions are inserted into new contracts – but be careful not to make demands of suppliers or sub-contractors that might lead them to violate human rights e.g. late orders, high pressure deadlines.

Policy review

Review your current internal policies and procedures and implement any updates or new policies that are required – for example, ensure slavery and human trafficking is covered in your human rights/CSR policy and amend your whistleblowing policy as required. Whilst you do not have to have a MSA-specific policy, you may find this a useful way to collate your required action points.

Communication

Disseminate updated information about your policies/processes to your organisation – effective communications can be vital in embedding anti-slavery activity into your culture and standard practice.

Training

Plan an appropriate training programme to make employees aware of the MSA requirements and implications for your organisation – train employees how to spot the warning signs of modern slavery and human trafficking and how they should deal with them if they arise. In particular, train those involved in buying/ procurement and recruitment if they are likely to be most affected.

Act

Act on your updated risk assessments – implement the measures identified to reduce your risks.

Measures

Regularly review the measures you are taking – track how effective they are and make any necessary improvements – appoint a person to assess risk on an ongoing basis. Be alive to the continuously changing nature of modern slavery and consider whether carefully designed KPIs can help to demonstrate your progress over time in preventing modern slavery in your business and supply chains.

Consider

Consider what measures you should take if your organisation causes or contributes to modern slavery or trafficking – e.g. issuing an apology or compensation.

Be clear

Be clear what measures you will take if you become aware that a supplier is found to be involved in modern slavery/human trafficking. The measures required to be taken depend on the nature of the issue.

Supply chain

Review any statements made by organisations which are part of your supply chain.

Sharing risks

Where appropriate, consider sharing risks with trusted partners such as representative bodies, industry associations and working groups to gain a deeper understanding of issues relevant to your organisation.

Contact

Raymond Silverstein

Partner

raymond.silverstein@brownejacobson.com

+44 (0)207 337 1021

Our expertise

Services

Modern Slavery Act