UK Modern Slavery Act Transparency in Supply Chains: The Second Year of Reporting by Universities

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The UK Modern Slavery Act Transparency in Supply Chains Provision

The UK Modern Slavery Act 2015 (hereinafter MSA) received Royal assent on 26 March 2015. Some months later, on 29th October 2015, its Transparency in Supply Chains Provision (TISC, s.54) came into force. The provision requires commercial entities to report annually on their actions to identify, prevent and mitigate modern slavery in their supply chains. It aims to engage commercial organisations in the fight against slavery, human trafficking and forced labour by producing an annual Slavery and Human Trafficking Statement (the statement). The legislation defines 'commercial entities' as suppliers of goods or services with a total annual turnover currently set at £36 million or more.

This has included certain public bodies who are subject to the UK Public Contracts Regulations (2015). Universities, as commercial organisations, are obliged to report under the TISC provision. Other public buyers, which in principle are not caught by s.54, have chosen to report voluntarily. The largest group to do so has been local authorities (see our report *"UK Modern Slavery Act Transparency in Supply Chains: Reporting by Local Authorities". BHRE Research Series, Report no. 2. March 2018*).*

The government published its *Guidance on Transparency in Supply Chains Etc* (hereinafter the government Guidance) in 2015, updating it in 2017. This Guidance provides advice and examples to reporting organisations.

Second Year of Reporting

The publication of the statement is an annual exercise. Organisations should publish their statement as soon as possible after their financial year end, and in any event the government Guidance establishes that it is expected that they do, at most, within six months of the organisation's financial year end. This report analyses the Slavery and Human Trafficking statements published by universities for the financial year 2016-2017 (and published up to 31ST May 2018)**, which we refer to as the **second year of reporting**. Our research for this report has undertaken a qualitative analysis of statements released by **98 universities (including two university hospitals)** which are obliged to produce a statement under s.54. These include:

- 69 statements produced by universities reporting for the second time, and
- 29 by universities reporting for the first time.

In our previous report (*"UK Modern Slavery Act 2015 Transparency in Supply Chains: The First Year of Reporting by Universities", BHRE Research Series, Report 1. August 2017*) we analysed the statements produced for the financial year 2015-2016 (up to 31st January 2017). We refer to this period as **the first year of reporting**. ***

There has been a significant increase in reporting in the second year. Equally, quality has improved and there is a higher level of commitment expressed universities in their reports. The first year of reporting provided an intense learning period for universities, in terms of their obligations and responsibilities under the MSA in particular - and more generally regarding the impact their purchasing practices have on those working in their supply chains. It is true that the development of new policies, practices and procedures takes time and commitment. However, it is now time to move beyond this first understanding of obligations and responsibilities and take action.

In the following sections we first consider how universities have responded to the mandatory requirements set out in s.54 and then we provide an in-depth analysis of the content of the statements. In doing so, we aim to highlight examples of best practice. On a few instances we have signalled poor practice and examples of what we consider to be less effective approaches in order to encourage improvement through a valuable learning process and collaboration.

* We use the term universities to refer to those institutions listed as Higher Education providers by the Higher Education Statistics Agency (HESA, www.hesa.ac.uk/support/providers) and university hospitals.

** The deadline to publish the 2016/2017 statement was, for most universities, 31st January 2018, six months after the end of the financial year. Our research was conducted in two phases. Firstly, we analysed 63 statements published up to 31st January 2018. In May 2018, with the help of the Higher Education Procurement Association (HEPA) we analysed a further 34 statements, which had been published after the deadline. The increase of reporting was due, in part, to the featuring of our research in Research Professional (see Universities Failing to Disclose Slavery Risks, 19th February) and HEPA´s communications to universities regarding their modern slavery reporting obligations.

*** Including the first and the second year of reporting and the second and first statements produced by all those which reported, we have analysed 156 statements from 115 universities.

Mandatory (Formal) Requirements

The MSA makes it mandatory for entities to publish their Slavery and Human Trafficking statements on their website via a link located in a prominent place on their homepage or in a relevant and obvious dropdown menu. These statements must be approved at the highest level of governance and signed by one of the most senior members of the organisation.

Universities should be consistent in where they publish their statement year on year and make it as visible as possible. It is something to be proud of, not hide.

Out of the 98 statements published by universities for the financial year 2016/17, 66 have been signed by senior members of the institution. Members include the Chairman of the Board of Governors or Council, Vice Chancellors, Chief Executive Officers, Chief Operating Officers, Vice Provost and Head of Procurement. Most universities have improved the visibility of their report this year, compared to last year, and 83 of them have published a link to their statements on their websites. A majority of 59 provide this at the bottom of their homepages, whilst 24 do so using relevant menus such as the 'About' link. Nine of the statements however, could only be found using the websites' search bar, and 6 could only be found using a general Internet search tool. One university states on its website that it acknowledges the Act and has a modern slavery policy and statement but we could not find either. Another university lists a statement on its website but access to the document is denied to the public.

The increase in statements available publicly signals an improvement in practice with respect to last year. Visibility and accessibility of the statement is essential. The rationale behind the statement being easy to find is to promote transparency and guarantee that it reaches stakeholders. We suggest universities be consistent in where they publish their statement year on year and make it as visible as possible. Working towards the abolition of abuse in our supply chain is something to be proud of, not to hide away in the vastness of web content.

Substantive Content

Subsection 5.2 of s.54 provides a non-exhaustive list of information that may be included in statements:

a) *The organization's structure, its business and its supply chains;*
b) *Its policies in relation to slavery and human trafficking;*
c) *Its due diligence processes in relation to slavery and human trafficking in its business and supply chains;*
d) *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;*
e) *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;*
f) *The training and capacity building about slavery and human trafficking available to its staff.*

For our analysis we have grouped some of these criteria and present our findings as follows: **1)** the organisation's structure, its business and its supply chain; **2)** organisational policies; **3)** due diligence, risk assessment and response, including effectiveness of such response, and; **4)** training.

1. The organisation's structure, its business and its supply chain

Effective reporting can only be achieved if organisations have a good understanding of their own supply chain and how this is structured in terms of suppliers, contractors and subcontractors, as well as the origin of the products, materials and services which are used in their activities. Only with this in-depth knowledge can they assess the levels of risks present in their supply chains and how their purchasing decisions affect those who produce the products they buy and provide the services they contract. The government Guidance highlights that a greater level of detail is likely to be more helpful. However, it also warns that too much technical or legal information reduce accessibility to the public.

Declaring "our supply chain is diverse" is simply not enough.

Some universities reporting for the second time and those who produced their first statement this year show progress in tracing their supply chain and being more transparent about it. However, the statements

analysed here still show insufficient disclosure of organisations' structure and supply chain. This leads us to conclude that there is still little knowledge and capacity to develop exercises such as supply chain mapping, which in turn has an important effect on risk assessment and prioritisation, as discussed below.

Seventeen of the 98 university statements analysed for this report contain no information on organisational and business structure, and the rest are very brief, sometimes only mentioning that they operate in the educational sector. Several of those that do make such reference provide some detail on the organisational structure and business operations in terms of procurement teams' responsibilities. The majority of these statements also state employee and student numbers and some provide their turnover numbers. Most universities reporting for the second time have kept the section on structure the same. One provided further information on the structure of the institution and two universities which did not provide any information on organisational structure in the first report have done so in the second year of reporting. There has also been an instance of a university removing information on their organisational structure in the second year of reporting.

Out of the 29 universities reporting for the first time this financial year six provided no information on their organisational structure. The majority of those reporting for the first time this year followed in the footsteps of the universities that reported in the first year and kept this section brief. However, some provided good detailed insight into their organisational and business structure, such as Bangor University, King's College London and University of Westminster.

This second year has brought interesting examples of good practice. Some universities show a better understanding of their supply chains and are able to showcase what they have learnt in a more comprehensive way.

It is not easy to map the supply chain and the first year of reporting showed how challenging this process was for most institutions. The second year has brought interesting examples of good practice and some universities have shown a better understanding of their supply chains and are able to showcase what they have learnt in a more comprehensive way, for example University of Dundee, University of Nottingham and Birkbeck University of London.

Anglia Ruskin University, as well as providing a list of areas of procurement, reports on its suppliers and provides figures collected using a supplier engagement tool. For example, the number of registered suppliers per procurement category, and how many of those recognise modern slavery as an issue in their business, as well as the number of suppliers which published their own statements or are in the process of doing so.

In the first year of reporting most statements only provided lists of categories of procurement, and no real insight into supply chains and existing business relationships, as we highlighted in our previous report. Unfortunately, this is still the case as most universities reporting for the second time have not updated this section of their report to provide further information regarding their supply chains. Out of the 69 universities reporting for the second time only three (Harper Adams University, Lancaster University, Birkbeck University of London) provided detailed information on their supply chains such as tiers of suppliers or countries from which they derive their goods and services whereas the rest only listed categories of procurement. Two universities which provided some insight into their supply chains last year no longer included this in their updated statement.

The above trend also occurred with universities which released their first statement in the second year of reporting. Out of the 29 universities only three provided detailed information on their supply chains (University of Dundee, University of Salford Manchester and University of the West of England Bristol). The University of Dundee's statement, which was updated following a training session we conducted, includes detailed information regarding their seafood supply chain following an investigation into this category of procurement which was considered potentially at risk. It has followed up down to tier 3 of their supply chain to get to know the ethical trading policies of their suppliers. The statement reports on the university's intention to replicate this process in order to adopt a risk-based approach by the procurement department to identify other areas of risk.

This shows good practice, unlike those universities that do not provide any insight and merely state "our supply chain is diverse."

The lack of reporting information regarding supply chain structure points at institutions not enabling themselves to assess their supply chains properly, and therefore not having the basic information and capacity to put in place processes to identify both potential and actual occurrences of modern slavery and human trafficking in their supply chains.

2. Organisational policies

Section 54 suggests that organisations may report on ''b) […] policies in relation to slavery and human trafficking.'' The government Guidance further clarifies that they need not have a standalone policy in place. Instead they may develop one or explain how current policies and practices are relevant to the cause.

Many reporting universities reflect their strong commitments towards human rights and respect for others.

> ***Policy circulation is important. Staff needs to be aware of the responsibility of the university and be part of the challenge faced by the institution.***

Following the trend of the universities that reported in the first year, most reporting entities refer to pre-existing policies on sustainable procurement or social and ethical buying. Several universities foresee the enhancement of their procurement policies to include reference to modern slavery. However, an increasing number of organisations have chosen to develop specific modern slavery policies. Fifteen out of the 98 universities which released a statement in the second year of reporting now have a standalone policy in place and 12 having reported their plans to do so in the coming years or have already undertaken preliminary work. Drafting policies takes time and may involve many departments and several procedures. Whilst it is understandable that not every university will already have a standalone policy in place, we hope that the coming statements see an increase in plans to design standalone policies being followed up on.

Two universities reporting for the second time had a standalone policy in the first year of reporting but this is no longer visible anywhere on the university website or referred to in the second statement. Some universities state that they have an anti-slavery and human trafficking policy but do not provide a link to it or it cannot be found on the university website.

Several statements include the phrase "the University has a zero-tolerance approach to modern slavery", which in itself, without the backing of appropriate policies and procedures, does not guarantee a proper understanding of the risks and robust responses. Other universities take the opportunity to showcase a range of policies which are unrelated to modern slavery.

The universities which have anti-slavery policies have devised obligations on staff, suppliers, business partners and agents to ensure modern slavery is not taking place within their organisation or their supply chains.

When explaining their policies, a group of universities refer to commitments towards the Base Code of Ethical Trading Initiative (ETI), and as will be noted below, four of them specifically refer to these standards when explaining their demands from suppliers. However, none explain further how the commitment towards the Base Code is implemented and how the standards listed there are guaranteed.

A number of universities report that they have related policies but tend to be vague about it. For example, one university states that it has a number of policies in place to support and promote human rights however such policies are only available to view by the staff on the university website therefore restricting access to the public.

Cardiff Metropolitan University provides a good example regarding organisational policies. The university's Ethical Supply Chain Policy incorporates elements of modern slavery through their practice and objectives to improve ethical standards across all aspects of its supply chains. The policy reflects the pledge made in the modern slavery statement with regards to the university's commitment to ensuring modern slavery and human trafficking is not taking place within their supply chains. It focuses on ensuring that suppliers adopt a socially responsible business practice through eliminating practices such as forced or compulsory labour. It reports that the policy is regularly reviewed to make sure it continues to reflect relevant good practice.

A number of universities mention that they have a whistleblowing policy in place protecting staff and students and allowing them to raise concerns related to modern slavery or risk of modern slavery anonymously. It is however unclear if this policy on its own would be effective in tackling modern slavery and human trafficking in any business or its supply chains.

The University of the West of England Bristol reports on a related policy: a Safeguarding Policy and Procedure which focuses on the safeguarding of children and vulnerable adults. Although it does not mention modern slavery or human trafficking it highlights the ways in which the university deals with concerns that are raised that an individual may be at risk of exploitation, harm or abuse. It has also identified areas where the university may come into contact with children and vulnerable adults.

It is not imperative to have a standalone policy, but it is important that prevention and response to human rights risks are clear policy priorities. They should clearly form part of sustainability policies and be incorporated into main procurement policies for maximum impact.

A handful of universities mention having working groups however very few provide information on the competencies of such groups. The University of Surrey mentioned in their first report that they have set up a working group. The second report indicates that the working group has an input into reviewing policies.

The government Guidance states that for policies to have the desired impact, they must be supported through effective communications and, where appropriate, training, resourcing and collaboration of effort by appropriately skilled personnel. Clear policy circulation is essential in any organisation, but especially with regards to an issue such as modern slavery which has only recently become a public policy priority. In order to become embedded as standard practice all staff needs to be aware of the responsibilities of the university regarding its supply chain and incentivised to be part of the challenge which is faced by the institution as a whole.

On the contrary, there still seems to be little done to raise general awareness by universities among staff, suppliers and stakeholders. Instead, training is usually targeted primarily at procurement staff (see below on training).

Having a whistleblowing policy is relevant as long as it is made effective in tackling modern slavery.

Overall, in the second year of reporting an increasing number of universities demonstrated how their existing policies, including standalone policies, address the risks of modern slavery in their supply chain. Nonetheless there is still a large proportion of universities which list policies they consider to be relevant to modern slavery and human trafficking when in fact they are not. These universities have shown no effort to take further steps and embed modern slavery into existing policies or implement a standalone policy.

Expressing intentions to implement a standalone policy and the commitment to further embed modern slavery into existing policies is a clear indication of greater understanding of the importance of tackling and preventing modern slavery and human trafficking in the university´s activities and supply chains. Intentions then need to materialise in proper due diligence procedures.

Out of the 98 universities that reported in the second year 18 of them have made no reference to any policies in their statements.

3. Due diligence, risk assessment and response, including effectiveness

Human rights due diligence requires assessing the risks that the organisation's own activities pose to the human rights of those affected by such activities and taking measures to prevent, mitigate and remediate harmful impacts. In our context due diligence processes inherently demand an on-going assessment of modern slavery risks, its monitoring, engagement with the relevant actors to address both the risks and the actual instances of violations identified and putting in place measures to prevent the risks from materialising, mitigating them and remediating the actual violations and abuses when they occur.

We have classified the most relevant elements cited by universities regarding due diligence as follows: **a)** do statements contain specific reference to due diligence, **b)** how do universities identify and prioritise, **c)** how do universities engage with suppliers, **d)** how do universities monitor their supply chains, and **e)** collaboration with purchasing consortia and external organisations.

a) Do statements contain specific reference to due diligence?

As the government Guidance suggests, for many organisations due diligence in relation to modern slavery is likely to form part of a wider framework around ethical trade, corporate social responsibility and human rights. This is definitely the case with most universities, several of which have been developing sustainable procurement practices for many years now.

Most of statements analysed refer specifically to due diligence. An increasing number of universities address due diligence processes and measures in a separate heading, and the rest refer to due diligence throughout the text of their statement. Only two universities do not report on or even contain a reference to due diligence processes in the second

year of reporting compared to nine in the first year of reporting.

Due diligence processes demand an on-going assessment of modern slavery risks, its monitoring, engagement with the relevant actors to address both the risks and the actual instances of violations identified and putting in place measures to prevent the risks from materialising, mitigating them and remediating the actual violations and abuses when they occur.

Last year the information provided in statements was quite general and vague, with 15 universities merely stating that they have, or will put in place systems to identify and assess risks, mitigate and monitor them. In the second year of reporting the majority of universities, both those reporting for the second and for the first time, have provided more detail on their due diligence processes explaining how they conduct due diligence rather than simply saying that measures are in place. Some universities, such as the University of Edinburgh and the University of the West of England Bristol, state that they will review their due diligence processes and measures to ensure they adopt the best practice.

Several universities mention that they have put in place working groups to develop policy and due diligence procedures. Having a working group dedicated to ensuring effective due diligence measures and processes are in place in accordance with the risks identified is good practice and should eventually be adopted by all universities. The University of Sheffield reported having established a working group last year and the University of Greenwich, reporting for the first time this year, has also set up one. The University of Edinburgh reports having a working group comprised of staff from various departments who meet to discuss progress on modern slavery and plan next steps.

Each institution has unique needs and risks, even if most are exposed to similar ones given the fact that they provide similar services, purchase the same goods and therefore share many of their supply chains.

One university states that it plans to delegate modern slavery supplier due diligence to a purchasing consortium. Whilst purchasing consortia play a key role in supporting universities in their efforts to combat modern slavery in their supply chain, as discussed below, we do not consider due diligence processes can be delegated as such. Each institution has unique needs and risks, even if most are exposed to similar ones given the fact that they provide similar services, purchase the same goods and therefore share many of their supply chains. Organisations need to engage directly with their suppliers and understand their own supply chains and the risks involved in order to be able to devise their own suitable due diligence processes and measures.

Due diligence is not a static process. Due diligence measures need to be regularly reviewed and should be modified in accordance with the risk assessment findings (discussed below) to address existing risks and potential for risks arising. Some universities recognise the need for dynamism and continuous adaptation to the new circumstances that arise. For example, the University of Manchester states that it revises its procurement documentation and processes continuously to ensure that they keep pace with developments in this area.

b) How do universities identify and prioritise risks?

Many of the reporting universities express commitments to implementing and enforcing effective systems and controls to minimise risk. Our first report (*"UK Modern Slavery Act 2015 Transparency in Supply Chains: The First Year of Reporting by Universities"*) highlighted that most statements referred only to the risks of abuse regarding their own staff, either recruited directly or through recruitment agencies. This is still the case. In the second year of reporting it is common for universities to only address the topic of modern slavery within their institution; often focusing on recruitment policies and procedures including zero-hour contracts and temporary staff.

Some universities also discuss risk assessment processes in relation to their students and hired interns. A number of universities wrongly assume that as they procure majority of their goods and services from UK based suppliers that automatically the risks of modern slavery in those supply chains are extremely low. No supply chain is free of risks and no country is free of instances of human rights violations including modern slavery. In 2013 the Home Office estimated that there were between 10,000 and 13,000 potential victims in the UK, but the overall figure is likely to be much higher. This demonstrates that a significant number of institutions are still not aware of the impact that their purchasing decisions may be having beyond their own gates and how the products they buy may be produced in conditions of abuse.

Many other universities do, however, recognise the importance of seeing beyond their institution and operations in the UK and have expressed efforts to put due diligence processes in place which aim to protect the workers in those supply chains.

No supply chain is free of risks and no country is free of instances of human rights violations including modern slavery.

The first step within a human rights due diligence process should be to identify potential risks within the supply chain, and prioritise action over them. It will be done with time, but also through collaboration and as institutions gain understanding and knowledge of their supply chain. In this process, in the interests of time and good management of resources, prioritisation in risk identification and response is essential.

As the government Guidance points out, appropriate resources need to be deployed to ensure that risk assessment strategies can be effective. This is always difficult, especially considering competing social demands public institutions must tend to and the limitations and constrains that the public procurement legal regime establishes on secondary priorities and particularly regarding socially responsible procurement.

Having a cross-departmental modern slavery working group is good practice as may provide with an on-going and permanent forum, to discuss, design and follow on more thoroughly with due diligence processes.

As mentioned above, in its first statement last year the University of Surrey reported setting up a working group, reporting this year that the group is continuing its activities. Its competences were to identify and assess risk areas in their supply chain, to establish how to mitigate the risk of modern slavery, and to review how to monitor potential risk areas in the supply chain and ensure compliance by suppliers. As discussed, having a modern slavery working group is good practice for universities as it could provide an on-going and permanent forum, to discuss, design and follow on more thoroughly with due diligence processes, risk assessment and better understand their supply chains. Cross department representation would be necessary to bring in the relevant expertise and engage the institution in a comprehensive manner.

The government Guidance indicates that modern slavery risk assessment should be part of an organisation's wider approach to risk management and could form part of a more general risk assessment. It suggests considering risks according to country risks, sector risks, transaction risks and business partnership risks. Most universities have chosen to focus on sectors, or more specifically procurement categories. However, whilst the majority of universities reporting for the second time have listed their procurement categories they often do not provide any further information which leads us to conclude they understand the level of risk involved. Less than half have identified which of their procurement categories carry material risks of human rights violations such as modern slavery or human trafficking and very few classify risks into medium to high risks of modern slavery and human trafficking, for example.

Some universities, such as Newcastle University, the University of Leicester, and the University of Kent report that they have begun to map out their supply chains which pose risks of modern slavery and human trafficking in an attempt to understand the risks in their supply chains. Mapping the supply chain leads institutions to identify the many tiers each chain has and the many risks involved in each tier. Beyond these examples, most universities fail to recognise the tiers of suppliers and specify action taken or intended to mitigate risk for each of them. In fact, in the second year of reporting the number of universities that have identified the tiers of their suppliers is still very low. Examples of universities which have mentioned tiers of suppliers are the University of Dundee, University of Leeds, Birkbeck University of London. Anglia Ruskin University has gone as far as reporting that 36% of the suppliers it uses have a percentage of their manufactured goods from outside Europe.

Some universities wrongly assume that as they procure majority of their goods and services from UK based suppliers that automatically the risks of modern slavery in those supply chains are extremely low.

Some universities identify risk sectors, most prominently IT and electronics products, food (in several statements specifically mentioning seafood), and facilities management services (in several statements specifically mentioning cleaning and security). Some universities report positively on the results of their risk assessment exercises. For example, the University of Loughborough, reported that they have received confirmation from their laboratory gloves suppliers that there is no modern slavery or human trafficking in their supply chains. The University of Dundee states that "having initially identified the purchase of seafood as an at risk commodity regarding modern slavery practices, the research carried out by the procurement team has found that compliant

policies exist throughout three levels of the supply chain". It continues to assume that if "these policies transfer through to practices then the university has some comfort regarding its purchase of seafood not being at risk." Whilst these results are interesting and denote good efforts to identify risks and seek answers it is important to remember that relying exclusively on the suppliers' response may not provide the whole picture of the conditions in the supply chain and does not exonerate the institution from responsibility. Asking is the first step, but monitoring and verifying the answers should follow.

None of the statements produced in these two years, mention actual instances where modern slavery, human trafficking or any other human rights violation have been identified in reporting universities' supply chain. It may be a matter of time until universities uncover actual violations, and the test will be not in how they report on it but how they address it and put in place mechanism to prevent them recurring. Most institutions, including private organisations, still consider that finding instances of modern slavery in their supply chain is a sign of failure and therefore would rather not make it public. However, the rationale behind reporting is that institutions become transparent and in the process learn how to deal with the risks they all face and design effective responses to prevent, mitigate and remedy them. Both ignoring risks and hiding breaches will not help us tackle the problem.

Relying exclusively on the assurances given by suppliers may not provide the whole picture of the conditions in the supply chain and does not exonerate the institution from responsibility.

Eighteen of the 98 university statements analysed do not report on risks or risk assessment processes and those who do mention potential risks fail to provide specific details.

c) How do universities engage with suppliers?

Some organisations are already using tools and specific mechanisms to develop their risk assessment and design their actions. These mainly revolve around engaging with suppliers to identify, respond to, and monitor risks. For most, due diligence has been limited to informing suppliers of their policies and seeking some sort of assurance from new suppliers, usually during the tendering process. As we will see, this is not enough.

Supplier engagement at pre-contractual stage

Several universities demand from potential suppliers that they are aware of their MSA obligations and that they provide proof of practice to combat modern slavery. Others report their intention to introduce such demands during the tendering process. One university, in particular, states that suppliers are required to prove a high level of corporate social responsibility during the tendering and selection process, however, it is not clear whether modern slavery and human trafficking related demands are included among these and whether they are explicitly communicated during the tendering process.

As we saw in the first year, the most common way of obtaining pre-contractual assurances is still through questionnaires which require potential suppliers to confirm that they have arrangements in place to prevent incidences of modern slavery. Several universities specifically refer to this practice, including the University of Bournemouth and London Business School. One university in particular states that it has pre-qualification questionnaires that include the business position on modern slavery for high value purchase suppliers. For lower value purchase suppliers this is done through a self-certification process. It is expected that major suppliers will be the main focus when assessing compliance.

A self-certification system may not be suitable for all suppliers. It may not be enough to ensure that the supply chain is free of risks.

Anglia Ruskin University reporting for the second time, asks to see modern slavery statements for relevant suppliers (which come under s.54 of the MSA 2015) within their standard tender documentation and include supplementary questions for suppliers in high-risk categories as an additional precautionary measure.

Questionnaires are a relatively low cost form of due diligence which can easily be sent and accessed by all suppliers. But it is important to bear in mind that a self-certification system may not be suitable for all suppliers and ineffective in ensuring that the supply chain is free of risks.

Some universities report having amended their questionnaires to include potential ground for rejections related to modern slavery. In fact, it is increasingly common for universities to report that they exclude potential suppliers where they do not comply with the MSA, university policies or have been previously convicted under the MSA. Amongst others,

Goldsmiths University of London reports having provisions in tender documents that include the mandatory exclusion of any bidder previously convicted of an offence under the Act. Other universities simply state that going forward they will only enter into contracts with individuals and organisations which provided written declaration confirming no modern slavery or human trafficking occurs within their business or supply chain. This denotes good will, but lack of understanding regarding the risks in the institutions' supply chains. No supply chain is free of risks and total assurances that violations do not occur are very difficult to make. The goal should be to increase the level of leverage that universities have with their suppliers and influence on the market to be able to work together to eradicate abuses and mitigate risks; this cannot be done only based on promises that violations are not occurring without deploying mechanism to assess what is really happening in the supply chain.

Engaging with contracted suppliers

Several universities state that they expect suppliers to have their own modern slavery policies. One in particular stated that it expects their suppliers to ensure goods and labour-related supply chains are compliant with the MSA, transparent and auditable and to ensure that they are also obtaining similar assurances from their supply chains. This university however does not make it clear how and whether these expectations are communicated on regular basis and to which potential suppliers.

The University of Bournemouth reporting for the second year explicitly mentions sending out questionnaires to their top 25 suppliers to gather information regarding modern slavery.

This year some universities have been able to report in much more detail their findings regarding their own supplier's commitments to modern slavery. Eight universities reporting for the second time for example, state that they have asked high-risk category suppliers to comply with the Base Code of the ETI. However, there is a lack of further information on how this commitment is guaranteed in their business practices, and there is no mention on whether assurances are sought regarding how suppliers implement their own commitments.

> ***University of Dundee***
>
> ***"[Supplier tier 2] have policies designed to eliminate Modern Slavery within both their organisation and their own supply chain. These include adherence of organisations which are part of their supply chain to an ethical trading policy based on the standards within the Ethical Trading Initiative."***

An increasing number of universities report engaging directly with current suppliers. Some use specific tools for this. Scottish universities have reported to use the Advanced Procurement for Universities and Colleges (APUC) Sustain tool and 18 universities reporting in the second year mention using, or intending to use, the NETpositive Futures Supplier Engagement (HE) Tool, to engage both contracted and non-contracted suppliers, including in relation to issues of modern slavery, track suppliers' progress and share best practice. Suppliers can access the tool free of charge to create a sustainability action plan for their business whilst simultaneously allowing the university to run reports to see supplier's progress against identified actions within their plans**.** This tool is an easy and accessible tool universities and suppliers can use in order to work together towards greater transparency in the supply chain. An example of a university which reports to be successfully using this tool to engage with suppliers is Anglia Ruskin University. It states that the tool supports their understanding of modern slavery and the data gathered provides it with a baseline to focus on and measures engagement with their supply chains on this critical issue.

Anglia Ruskin provides one of the most complete and advanced examples. It provides a good disclosure of their supply chain, presentation of risk assessment and in particular regarding suppliers, it shows good engagement practice, with clear data to support their actions. Its second report this year discloses that 521 suppliers have completed sustainability action plans. University College London states that it will contact its top 1,000 direct suppliers (based on total spend and number of purchases), as well as suppliers of high risk categories, and ask them to sign up to the NETpositive tool. The University of Manchester also reports on the effectiveness of the online assessment tool created in partnership with NETpositive Futures and shares information on the number of suppliers which have accessed the tool.

Other tools universities report having used in order to assess, monitor and mitigate potential risk areas in supply chains as well as enabling procurers to have up to date information on suppliers' credentials include the DEFRA Sustainable Procurement Prioritisation Tool, Scottish Government Sustainable Procurement Prioritisation Tool and the APUC Prioritisation Tool.

A good way to guarantee that leverage over suppliers can be asserted is through the introduction of contract performance clauses relating to modern slavery in procurement contracts.

Introducing contract clauses allows institutions to have contractual rights over their suppliers to demand collaboration, disclosure of information, and the setup of mitigation processes or any other procedures that the university considers relevant to fulfil its own modern slavery responsibilities.

Cardiff Metropolitan University

"…Our contract terms require our suppliers to take all reasonable measures to ensure that there are no forms of slavery in their direct and indirect supply chains. These terms also require suppliers to provide the University with reports on the measures and outcomes in respect of this matter."

Twenty-four universities have incorporated anti-slavery clauses into standard terms and conditions of agreements. They vary in content, providing more or less leverage to the contracting authority over the supplier. Other universities have expressed intentions to develop such clauses in the future (Heriot Watt University, University of Stirling). Several universities have also reported to have revised or are currently revising their procurement terms and conditions to include reference to modern slavery and human trafficking (University of the West of England Bristol, BPP University, Cardiff Metropolitan University).

Other universities report on their engagement with suppliers including through training. This is a very interesting approach. Anglia Ruskin University states that in the following year it would provide training for key suppliers on modern slavery.

University of Manchester

"We are updating our on-line resources for suppliers and are planning a modern slavery and human trafficking training session for SME's over the coming year."

Other universities such as Manchester Metropolitan University encourage their suppliers to provide training to their own staff, suppliers and providers through on-going contract management discussions.

University of Salford Manchester

"Where we identify any concerns or areas of improvement we would in first instance work with relevant suppliers…As a last resort, we would seek to terminate relationships with anyone who refused to take remedial action or who failed to share our policy of zero tolerance of slavery and human trafficking."

Working together with suppliers to eradicate risks or instances of modern slavery is essential. But it is also important to recognise that suppliers may not always be co-operative or responsive to an organisation's demands and requirements. In principle we would discourage terminating the business relationship which allows universities to have influence over the situation which may result in abuse of human rights. Terminating contracts mean that we lose our leverage over that supplier, whist the situation of abuse remains. It is each individual organisation's decision when to make the drastic move to step away from a contract, but we recommend that this is done as an ultimate recourse, when all other engagement to change supplier behaviour has failed.

An example of a university which has decided to include a reference to termination of contracts with suppliers is the University of London.

University of London

"In the supplier selection phase we may remove from competition suppliers that do not agree with the University's policies or who have poor supply chain practices in place… we will work with them [the suppliers] to address any supply chain concerns. If the supplier does not improve the University may terminate the business relationship."

d) How do universities monitor their supply chains?

It is difficult for institutions to directly monitor and audit their supply chains. Monitoring the supply chain is complex and expensive, but it is essential to understand whether the risks materialise and actual violations are occurring in one's supply chain. Even in the private sector, with more experience and resources, this is a challenging endeavour. Most organisations are only just beginning to consider how they can effectively monitor potential risk areas to ensure compliance. Universities are having to take decisions over how they will audit their own supply chains and processes without any previous experience or existing guidance. The use of external procedures to monitor risks is still uncommon and most universities are using internal auditing systems.

Sheffield Hallam University has reported that manufacturers based in high risk regions will be asked to consider joining an audit programme designed to audit manufacturers based on their ethical standard, where proportionate and appropriate to the level of expenditure with the university. This seems to be a sensible approach considering that it would be unrealistic for universities to audit all their suppliers until less expensive practices are put into place.

The University of St. Andrews reports working with contracted suppliers to implement and commit to new monitoring regimes where corporate codes of conduct and social auditing policies and practices are failing in their transparency and effectiveness.

The University of Winchester states having plans to identify key suppliers in potentially high-risk business areas and conduct a supply-chain audit in respect of the products and services they supply to the institution in the future.

Several universities simply state that they have processes and systems in place to monitor their supply chain but fail to provide any more detail on this. One university reporting for the second time no longer mentions monitoring in their statement. This is concerning as in order for institutions to move forward and achieve transparency in supply chains monitoring and auditing supply chains is essential.

Effective auditing processes, such as planned audits combined with unannounced visits to suppliers, would allow institutions to be able to react to actual violations, but they normally require the intervention of specialist organisations, as discussed below in the section on collaboration.

As a response to violations many of the analysed statements only mention the possibility of terminating agreements with suppliers who are found to be non-compliant with the MSA and still very few mention engaging with suppliers to develop corrective action plans and remedial processes.

Working together with suppliers to eradicate and deal with issues of modern slavery and human trafficking could encourage the faster addressing of the issues by the supplier in an attempt to save a business relationship with those it supplies to.

e) Collaboration with purchasing consortia and external organisations

Beyond engagement with their own suppliers, several organisations report on their collaboration with external actors. The most cited non-governmental organisations in the statements are Electronics Watch and the Ethical Trading Initiative. For example, the University of Westminster, a newly affiliated member of Electronics Watch, states its intention to implement more effective systems and to collaborate with other member institutions to create effective market demand for decent working conditions in their ICT hardware supply chains.

Collaboration with external actors is essential, not only because universities do not have the expertise and capacity to assess every sector from which they purchase goods and contract services, but also because these organisations have established practices, relationships and procedures which can multiply the effect of one single institution and, in time, galvanise the energy and leverage of the university sector as a whole.

Most universities also refer to their own purchasing consortium and their expectation that they would support and guide them. Some purchasing consortia are working to support their members and action through them has the potential to capitalise on greater leverage towards suppliers. A significant number of universities, 58, report using relevant frameworks and purchasing agreements. An example of university reporting how it is supported by its consortium is the University of the West of Scotland. It reports that it procures goods and services through the APUC which requires all suppliers to sign a Supply Chain Code of Conduct confirming that it does not use forced, involuntary or underage labour, provides suitable working conditions and treats employees fairly. Potential suppliers are required to sign a Modern Slavery Certificate which requires tendering suppliers to set out the measures that they take to ensure that modern slavery and human trafficking does not take place in their own organisation and supply chains.

The majority of universities purchasing consortia have their own Slavery and Human Trafficking Statements. These are: LUPC, SUPC, AUPC, NEUPC, and NWUPC. Consortia are also resorting to using pre-qualification questionnaires and including modern slavery contract performance in their framework agreements, thus providing an added layer of risk assessment and supplier engagement from which universities can benefit. However, as we have done before, we warn against just using their –or any others- statements as templates as each institution should be responsible for and show ownership of the process and outcome of elaborating its own statement.

Thirty-three out of the 98 universities reporting in the second year do not mention any external collaborators.

e) Measuring effectiveness

The government Guidance encourages organisations to report on the effectiveness of their measures by providing information on existing or additional Key Performance Indicators (KPI's) related to anti-slavery actions.

Effectiveness still appears to be the least reported on with only 32 of the 98 universities analysed having reported on this criterion and only 10 of those mentioning any KPI's.

The University of Edinburgh provides a list of KPIs as well as the figures corresponding to each KPI found from the year 2016-17. The 7 KPIs include questions such as the number of suppliers engaged with directly on modern slavery, training provided to staff as well as known reported cases in their area of influence and the number of reported cases acted on. The university has also introduced a new KPI which it states will be integrated during the coming year. This practice should be adopted by more institutions as it shows continuous focus and intention to improve as well as effort to report on the criterion of effectiveness which a significant number of institutions have failed to report on.

Other universities mention KPIs briefly with some stating that they intend to develop KPIs in the future and others stating that they will review and update their systems which will include KPIs.

Those universities which have not cited KPIs but do refer to effectiveness, only generally mention that they are in the process of or they will review the effectiveness of the policies, training and other measures taken to combat modern slavery and human trafficking and will continue to do so.

> ***London Business School***
>
> ***"In 2016-17 the School developed its direct procurement activity…through the introduction of questions to establish how suppliers meet their obligations under the Act…During 2017-18 the implementation of revised procurement processes will be monitored in order to ensure that suppliers…are meeting their obligations under the Act."***

It is disappointing to see that universities are still not establishing KPI's and taking seriously the need to assess and measure how their policies and strategies are working. Delivering its activities without participating in the exploitation of others should be a key objective of each institution. We expect universities to report further on this criterion in the coming years as well as develop procedures to monitor and measure effectiveness of current policies and due diligence processes in place, including through KPIs.

4. Training on slavery and human trafficking available to staff

The introduction of s.54 has created intense activity in training and consultancy in the private sector, which has generally served as an awareness raising exercise but also, to some extent, an outsourcing of responsibility to consultants.

In the public sector, particularly among universities, procurement departments have sought training. The Higher Education Procurement Association (HEPA) has run several training workshops in the country, attended by over 100 staff. These efforts to attend external training, or develop internal ones, is reflected in universities' statements. Two-thirds of the statements refer to training, which is an increase from one-thirds in the first year of reporting. The majority of those reported training to be targeted at those in the procurement teams, management or involved in the recruitment and selection processes.

Many universities mention training in their induction processes, but these tend to focus on institutional policy in general, and lack focus on modern slavery. The majority of universities reporting in the second year mention that their staff has already received training, whilst several also express their plans to introduce training or expand the group of those the training is delivered to.

> ***University of Leeds***
>
> ***"A new training programme is being developed for staff in the University's procurement and sustainability services, focusing on all aspects of sustainable procurement including the Modern Slavery Act…This training will then be rolled out to other members of staff across the University".***

One university merely stated that the teams with responsibility for overseas activities are aware of the duties under the Act.

Training is largely focused on internal teams and staff, but as we discussed in the previous section, some universities mention providing training to suppliers.

Many of the universities reporting for the second time have followed up on their plans from last year to

implement training or expand it or have done so despite not communicating their intention to do so in the first statement (Cardiff Metropolitan University, Middlesex University, Liverpool John Moores University, and University of Nottingham).

Several universities use the phrase 'relevant staff' in their statements but do not specify who falls under this category according to the university. The definition of 'relevant staff' could vary from institution to institution therefore it is important that universities specify which staff is receiving or will be receiving training in the future. Out of the universities which do not have training in place 19 have expressed plans to implement training in the future and 26 mention no training whatsoever one of which simply states that it supports awareness amongst staff of risks in their supply chain.

Training is essential, however this issue is complex and the responsibilities within institutions related to it are diverse, which needs to be reflected in the support given to staff. The government Guidance states that organisations should think about where training should be targeted to have the most effect. As mentioned previously, the universities primarily focus on delivering training to teams involved in purchasing. Other universities, such as Lancaster University, also mention training those in human resources, estates as well as technical and operational roles.

Universities have generally made a good effort to go beyond focusing on training key staff and an increasing number of them mention raising awareness in all university staff and some even mention students. Liverpool John Moores University for example has a dedicated internet page to modern slavery for its staff and students to access. E-learning exercises and articles are also a common medium used to raise awareness of the issues on modern slavery and human trafficking. It is essential that universities continue to engage with their suppliers, staff and students on this issue to draw more attention to it as well as continue to roll out new and improved targeted training and determine the most effective and efficient way to reach the most relevant groups in their business and supply chains.

Conclusions

The second year of reporting has shown an increase in awareness over the shared responsibility universities have with regard to preventing and mitigating human rights violations in global supply chains. Our research has collected 156 Slavery and Human Trafficking Statements from 115 institutions, from the time of the enactment of the MSA 2015 to the 31st May 2018,

Although a significant number of universities are yet to undertake fundamental steps towards identifying risks in their own supply chains and developing suitable and effective due diligence processes, it is encouraging to see improvement amongst those reporting for the second time and that a good effort has been made by those reporting for the first time to understand their own supply chains and take steps towards achieving greater transparency.

There are however exceptions and a handful of universities kept their statements exactly the same only changing information such as student and staff numbers, turnovers or minor wording changes of the first statement. The use of templates or adapted templates is still a concern for us, as it shows little effort to develop own processes and implement them effectively.

The coming years will be crucial in demonstrating the effectiveness of organisations' policies, procedures and engagement processes, both with suppliers and external organisations. We expect the quality of the reports to improve and reporting on all suggested substantive criteria to become the norm as capacity building increases. Equally, we expect the know-how and best practices to be shared both among the public sector and the private sector in order to create better understanding of what works and what doesn't. Purchasing consortia will play an important role in this regard fostering collaboration and increasing and expanding knowledge contributing to placing universities at the forefront of the public sector in the fight against modern slavery.

Annex

Financial Year 2016/2018*

Universities which reported for the second time

Aberystwyth University
Aintree University Hospital NHS Foundation Trust
Anglia Ruskin University
Aston University
Birkbeck University of London
Bournemouth University
BPP University
Cardiff Metropolitan University
Cranfield University
De Montfort University
Edinburgh Napier University
Goldsmiths, University of London
Harper Adams University
Heriot-Watt University
Keele University
Lancaster University
Leeds Beckett University
Liverpool John Moores
London Business School
London Metropolitan University
London South Bank University
Loughborough University
Manchester Metropolitan University
Manchester University
Middlesex University
Northumbria University
Nottingham Trent University
Queen Margaret University, Edinburgh
Queen Mary University of London
Queen's University of Belfast
Robert Gordon University
Roehampton University
Royal Holloway, University of London
Royal Liverpool and Broadgreen University Hospitals NHS Trust
School of Oriental and African Studies
Sheffield Hallam University
Staffordshire University
Teesside University
University College London
University of Aberdeen
University of Bath
University of Birmingham
University of Bristol
University of Chichester
University of Cumbria
University of East Anglia
University of East London
University of Edinburgh
University of Gloucestershire
University of Hertfordshire
University of Huddersfield
University of Kent
University of Leicester
University of Lincoln
University of London
University of Northampton
University of Nottingham
University of Oxford
University of Portsmouth
University of Reading
University of South Wales
University of St Andrews
University of Stirling
University of Surrey
University of the Arts London (UAL)
University of Warwick
University of York
York St John University

Universities which reported for the first time

Bangor University
Birmingham City University
Canterbury Christ Church University
City University of London
Glasgow Caledonian University
Imperial College of Science, Technology and Medicine
King's College London
Liverpool Hope University
Liverpool School of Tropical Medicine
London School of Economics
Newcastle University
Royal College of Art
Southampton Solent University
St George's, University of London
The Institute of Cancer Research
University College Birmingham
University of Derby
University of Dundee
University of Durham
University of Essex
University of Exeter
University of Greenwich
University of Leeds
University of Plymouth
University of Salford Manchester
University of Sheffield
University of the West of England Bristol
University of the West of Scotland
University of Westminster
University of Winchester

* This Annex includes universities which have published their statement up to 31st May 2018. We are grateful to HEPA for its support in finding the statements. Whilst upmost care has been put in the search process we are aware that we might have missed some. We would appreciate if you contact us if your statement has been omitted (o.martin-ortega@gre.ac.uk).

About BHRE

The Business, Human Rights and Environment Research Group (BHRE) brings together the expertise and research interests of several leading academics in the field of Business and Human Rights, International Environmental Law and International Criminal Law. As part of our research we focus on the roles and responsibilities of public buyers regarding their own supply chains. In particular, we are studying the implementation of the Transparency in Supply Chains provision of the UK Modern Slavery Act 2015 (MSA) by the public sector. We are also supporting initiatives to amend the law to include obligations for public authorities to report on their efforts to identify, prevent and mitigate modern slavery, and to increase accountability for human rights violations in global supply chains.

About the authors

Dr. Olga Martin-Ortega is Reader in Public International Law at the School of Law, University of Greenwich (UK) and leads the BHRE. She has been researching business and human rights for over fifteen years. She has also undertaken extensive research in the areas of post-conflict reconstruction, transitional justice and international criminal law.

Olga is a member of the Board of Trustees of Electronics Watch and a member of the Board of Directors of the London Universities Purchasing Consortium. She is also a member of the Steering Committee of the International Learning Lab on Procurement and Human Rights and leads its Electronics Hub.

Olga has conducted numerous trainings for public authorities on their legal obligations under the UK Modern Slavery Act and performing human rights due diligence on their supply chain in the framework of the Higher Education Procurement Association (HEPA).

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For more information, visit **www.bhre.org**

BHRE Research Series Reports and Policy Papers

- Olga Martin-Ortega, Anna Gorna and Rahima Islam (2018), *UK Modern Slavery Act Transparency in Supply Chains: Reporting by Local Authorities*, BHRE Research Series, Report no. 2. March 2018.
- Olga Martin-Ortega and Rahima Islam (2017), *UK Modern Slavery Act 2015 Transparency in Supply Chains: The First Year of Reporting by Universities,* BHRE Research Series, Report 1.
- Opi Outhwaite and Olga Martin-Ortega (2017), *Monitoring Human Rights in Global Supply Chains. Insights and policy recommendations for civil society, global brands and academics.* BHRE Research Series. Policy Paper n.3.
- Olga Martin-Ortega (2016), *Modern Slavery and Human Rights in Global Supply Chains: Roles and Responsibilities of Public Buyers. Policy and practice insights for Higher Education Institutions in the framework of their obligations under the UK Modern Slavery Act*. BHRE Research Series. Policy Paper n.2.
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BHRE-LUPC Resources

- Olga Martin-Ortega and Andy Davies (2017), Protecting Human Rights in the Supply Chain. A Guide for Public Procurement Practitioners (CIPS).
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