Modern Slavery Evidence Unit (MSEU) Research Briefing 4: 2019

Modern Slavery Act Reporting in the Agricultural Sector

Modern Slavery Evidence Unit briefing on the findings of a study by Andrew Phillips and Dr Alex Trautrims, October 2019[i]

Transparency in supply chains (TISC) reporting in the agricultural sector, which is considered high risk for labour exploitation, has increased year on year, with 89% of agricultural companies falling within the scope of the UK Modern Slavery Act (MSA) publishing a statement in 2019. However, the quality of statements has decreased annually.

The poor quality of statements suggests a box-ticking attitude to obligations under Section 54 of the MSA. Without greater government enforcement and guidance on TISC reporting, this downward trajectory is likely to continue.

Key research findings

The findings show an increase in transparency in supply chains (TISC) reporting in the agricultural sector, but poorer quality of statements:

- 89% of UK agricultural companies that fall within the scope of the Modern Slavery Act's corporate reporting requirement had published a modern slavery statement by June 2019, compared to 50% in 2017.
- Only 46% of these statements were compliant with the requirements of the Act.
- Therefore, overall, only 41% of the agricultural sector is abiding by the terms of Section 54 of the Modern Slavery Act.
- The quality of content in agricultural companies' statements was low in 2017 but has worsened year on year.
- Poor statements demonstrate a 'tick-box' approach, providing only generic comments about zero tolerance to modern slavery with no indications of meaningful actions.

Why is this important?

Given the high risk of labour exploitation and modern slavery in the agricultural sector, it is of pressing importance that agricultural companies take meaningful steps towards ensuring decent labour standards.

Companies have the opportunity to communicate their efforts through modern slavery statements, however the year on year reduction in the quality of statements indicates a failure to meaningfully engage with anti-slavery action or take their obligations seriously. Increasingly, companies appear to be taking a tactical, 'tick-box' approach to their responsibilities under the Act.

In the absence of mandatory reporting criteria and effective mechanisms for enforcement, Section 54 of the MSA continues to have limited effect in encouraging supply chain transparency and positive business action in this area.

Recommendations for the UK Government

To increase and improve modern slavery reporting in the agricultural sector the findings support, in particular, the following recommendations made in the final report of the Independent Review of the Modern Slavery Act[ii] -

- **Recommendation 15**: Government should establish an internal* list of companies in scope of section 54 and check with companies whether they are covered by the legislation. *[*We recommend that the list be made public rather than it just being an internal list, to allow civil society and the public to continue to play a role in holding businesses to account.]*
- **Recommendation 17**, section 54(4)(b): which allows companies to report they have taken no steps to address modern slavery in their supply chains, should be removed.
- **Recommendation 18**, section 54(5): 'may' should be changed to 'must' or 'shall', with the effect that the six areas [that an organisation's statement may cover] will become mandatory.
- **Recommendation 19**: Statutory guidance on transparency in supply chains should be strengthened to include a template of the information organisations are expected to provide on each of the six areas that a statement might cover.
- **Recommendation 26**: There should be a central government-run repository to which companies are required to upload their modern slavery statements and which should be easily accessible to the public, free of charge.
- **Recommendation 30**: Government should make the necessary legislative provisions to strengthen its approach to tackling non-compliance.

Research overview

According to the International Labour Organisation, the agricultural sector has the fourth highest proportion of victims of forced labour worldwide. The characteristics of work in this sector – low-skilled, low-paid, and seasonal – create significant vulnerability to modern slavery and other forms of exploitation. Workers can be forced to work long hours for little pay, and have limited job security; tasks are easily replicable and therefore labourers are deemed easily replaceable.

This study assessed how the agricultural sector in the UK has engaged with Section 54 of the Modern Slavery Act (MSA)[iii], by reviewing compliance (existence of a modern slavery statement that meet the provision's three requirements – visibility, sign-off and board approval) as well as quality of modern slavery statements. The research started in June 2017, and was repeated in June 2018 and again in June 2019.

Reporting trends

In 2017, 51% of agricultural companies had produced a statement, which increased to 67% in 2018, and 89% in 2018 (although that this fell to 77% when out-of-date statements were excluded). All aspects of compliance has increased since 2017, with the biggest improvement being seen in terms of visibility (92% of companies have a link to their statement from their homepage or an obviously accessible page), and the poorest performance was on the requirement to get board approval (only 54% of statements in 2019 recorded that they were approved by the board).

Overall compliance

To comply with Section 54 of the Modern Slavery Act, a company must have an in-date statement and must meet all requirements of the provision. Combining data on the number of companies reporting and the extent to which they meet all the requirements of Section 54 shows that **overall compliance has doubled from 19% in 2017 to 41% in 2019, but still less than half of companies are complying with the Act**.

Quality of statements

Statements were analysed and graded against the six content areas recommended in the Modern Slavery Act and in government guidance for modern slavery statements[iv]: business and supply chain structure, policies, due diligence processes, risk and risk management, measured effectiveness and performance indicators, and staff training.

Due diligence processes remain the highest scoring area, whilst effectiveness and performance indicators remain the least well addressed area. Very few companies discussed an approach to assessing the effectiveness of what they are doing to address modern slavery. Disappointingly, companies that are coming late to reporting do not appear to have learnt from those who started earlier, and there are limited examples of companies seeking out and replicating examples of good practice in order to drive up reporting standards.

Improving compliance

Compared to three other high risk sectors - food processing and packaging, mining, and the hotel industry – reporting in the agricultural sector was about average in 2017 i.e. around the 50% mark. However, if we compare rates of modern slavery reporting to another example of mandated corporate social responsibility (CSR), namely reporting under the 2010 Gender Pay Gap (GPG) Regulations[v], modern slavery reporting falls significantly short.

GPG Regulations require companies with more than 250 staff to report gender pay gap data online. On day one of the first year of reporting, there was a compliance rate of 87% for GPG reporting, which is significantly higher than the 51% response rate in the agricultural sector in the first year of modern slavery reporting. Unlike reporting under the MSA, there are sanctions for non-compliance with GPG regulations: those who have not reported by the annual deadline are to be contacted by the Equality and Human Rights Commission and required to report within the month. Continued non-compliance can result in the company being named and shamed, as well as subject to court action and potentially unlimited fines. Furthermore, unlike the MSA, GPG regulations mandate a single public repository for organisations' data, there is a government list of companies required to report, and there are specific requirements on what should be reported.

Additional enforcement measures in the GPG Regulations seem to have motivated more companies to take action in this area. It is therefore sensible to consider the introduction of similar guidance and enforcement measures for reporting under the MSA.

Recommendations 15, 17, 18, 19, 26 and 30 in the final report of the Independent Review of the Modern Slavery Act (2019) would bring the MSA closer in line with the GPG Regulations in this regard, and therefore are supported by the findings of this study.

[i] Agriculture and Modern Slavery Act Reporting: Increasing engagement but poor quality from a high risk sector. October, 2019. https://www.nottingham.ac.uk/research/beacons-of-excellence/rights-lab/mseu/mseu-resources/2019/september/agriculture-and-modern-slavery-act-reporting.pdf
[ii] https://www.gov.uk/government/publications/independent-review-of-the-modern-slavery-act-final-report
[iii] Section 54 requires businesses with a turnover of £36 million or more to publish an annual modern slavery statement explaining what steps, if any, they are taking to address modern slavery within their operations and supply chains. Statements must be signed by a director, approved by the board and linked from the company's homepage.
[iv] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/649906/Transparency_in_Supply_Chains_A_Practical_Guide_2017.pdf
[v] The Equality Act 2010 (Gender Pay Gap Information) Regulations 2017. Available https://www.legislation.gov.uk/ukdsi/2017/9780111152010