University of Nottingham
Rights Lab

INDEPENDENT ANTI-SLAVERY COMMISSIONER

Agriculture and Modern Slavery Act Reporting: Poor Performance Despite High Risks

A research report from the Office of the Independent Anti-Slavery Commissioner and the University of Nottingham's Rights Lab







Contents

Authors

Andrew Phillips

Andrew Phillips, a Chartered Accountant by training, has been involved in corporate reporting in various sectors for 25 years. He works at the Duchy of Cornwall as Rural Director of Finance and leads on Integrated Reporting, natural capital accounting, modern slavery and renewable energy. He is an affiliate of the Rights Lab and a student on the Master's programme at the Cambridge Institute for Sustainability Leadership, supervised by Dr Alexander Trautrims.

Dr Alexander Trautrims

Dr Alexander Trautrims is a Lecturer in Supply Chain and Operations Management and Associate Director at the University of Nottingham's Rights Lab, where he is leading its Business programme. His work focusses on the identification and eradication of modern slavery in supply chains and is supported by funding from the British Academy, the UK's Department for International Development and the Leverhulme Trust. The Rights Lab is a university Beacon of Excellence that focuses on research to help end modern slavery.

Editor: Emily Kenway

Emily Kenway is the Labour Market and Private Sector Lead for the Office of the Independent Anti-Slavery Commissioner. She leads on policy development and intervention to ensure the UK business sector has an effective response to tackle modern slavery and human trafficking. This builds on several years of work focused on improving corporate accountability and action across a range of social and environmental issues.

Introduction

The agricultural sector is considered high risk for forms of labour exploitation, including modern slavery. The International Labour Organisation places agriculture, alongside forestry and fishing, as the sector with the fourth highest proportion of victims of forced labour worldwide.[i] Within the UK, there is a lack of formal data on the prevalence of slavery within agriculture. However, the characteristics of work within this sector – tasks which are easily replicable and labourers thus easily replaceable, and a reliance on low-skilled seasonal labour – create vulnerability to modern slavery and other forms of exploitation. Supporting this, the Gangmasters and Labour Abuse Authority (GLAA) reports that most of its intelligence relates to the agriculture sector and states that workers report paying work-finding fees and working some of the longest hours weekly across sectors.[ii] These conditions are combined with pressure on food prices from food retailers as they seek to gain competitive advantage which can push down wages and enable the conditions for slavery to occur.[iii]

It is important, therefore, that the UK agricultural sector adheres to the Modern Slavery Act's reporting requirements and takes meaningful steps towards ensuring decent labour standards within its supply chains. This study interrogates how the sector has engaged with Section 54 of the Modern Slavery Act which 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. These statements must meet three requirements: they must be signed by a director, approved by the board and linked from the company's homepage. The study has asked five key questions:

- **How many agricultural companies within scope of Section 54 have produced modern slavery statements?**
- **How compliant are those statements with the requirements of the law?**
- **What quality are those statements, measured against government guidance?**
- **Have statements – in terms of both compliance and quality – improved over time?**
- **How does this compare to other high risk sectors?**

Summary of findings

Key Facts

- **Only 50% of agricultural companies which fall within scope of the Modern Slavery Act's corporate reporting requirement had published a modern slavery statement one year after the requirements came into force**
- **Only 38% of these statements were compliant with the requirements of the law, meaning overall only 19% of the agricultural sector is abiding by the terms of the Modern Slavery Act**
- **The quality of content in agricultural companies' modern slavery statements was low (scoring an average of 12.9 out of 30) and there was little improvement from 2017 to 2018**
- **Poor statements showed a tick-box approach, providing only generic comments about zero tolerance to modern slavery with no indication of actions taken to address the issue**
- **40% of companies did not describe any form of risk appraisal nor did they identify areas of high risk**
- **Nearly 80% of statements included nothing regarding the effectiveness of their steps taken to address slavery, despite government guidance advising this**
- **42% of statements gave little or no information about any training put in place**
- **The agricultural sector's low compliance rate is found to be in line with that of other high risk sectors (food processing and packaging; mining; hotels), suggesting poor compliance rates are the norm**
- **This compares with much higher rates of compliance for the new Gender Pay Gap reporting rules (87% on day one in the first year of reporting)**

Poor performance

By June 2017, just over one year after the reporting requirements of the Act came in to force, only 50% of agricultural companies above the £36 million threshold had produced a modern slavery statement, and only 38% of these statements conformed to all three requirements, meaning there was an overall compliance rate for the sector of only 19%. Additionally, the content quality across the statements was low.

Lack of improvement over time

One year on, in June 2018, 67% of agricultural companies had produced a statement, but as a number of these statements were from 2017 and therefore out of date, only 44% of companies had an in-date statement. There has been little improvement in terms of the quality of statements. Those companies that were reporting in June 2017 have not made significant progress in the year since and new engagers have not learned from the response of the earlier adopters, producing below-average quality statements. Only a quarter of companies have revisited[1] their statements one year on, and only 9% of companies increased the quality of their statements. Those companies that had higher quality statements in 2017 were most likely to have revised their statements a year later.

Overall, therefore, the findings are concerning: compliance with Section 54 is poor in agricultural companies, despite it being a high risk sector. These results support the Independent Anti-Slavery Commissioner's conclusion earlier in 2018 that "modern slavery statements were patchy in quality, with some companies failing to produce them at all and others demonstrating little meaningful engagement with the issues". [iv] In essence, the poor quality of many statements indicates two issues: firstly, a lack of a sense of obligation to adhere to the Act's requirements in Section 54, which points to the need for greater government enforcement of this provision, and secondly, a tactical response to the Act and the issue of modern slavery, demonstrated through non-substantive responses, a box-ticking attitude and minimal compliance.

[1] 'Revisited' refers to statements where some change had been made, from simply rolling the date forward a year through to a material revision of content.

Performance of the agricultural sector in detail

All UK-registered agricultural companies with a turnover of £36m or more were reviewed. This was a two-stage process, first to consider compliance (existence of a statement and conformance with the three requirements of Section 54 – visibility, sign-off and board approval), and second to consider the quality of the statement.

Compliance

Of companies that should have prepared a statement, only half had done so. When mapping the existence of a statement against the size of company (measured by turnover), no discernible pattern emerges, nor is there a correlation between whether a statement was produced and the legal form of the company. While no companies had prepared a statement saying they had taken no steps to address modern slavery, some of the weakest statements did not actually set out any steps taken – they simply expressed a commitment to ensure there is no modern slavery.

Three-quarters of statements were signed by a director; half were approved by the board. Of companies that had produced a statement and had a website 59% had a link on their homepage, and a further 18% had a link from a drop-down menu or subsidiary page, typically called "CSR" or "Policies". For 18% of companies, a statement was discovered either on the internet using a browser search tool or via one of the two statement registries, but there was no reference to it at all on their websites, not even through their own search functions where these existed. It is not clear why an organisation would produce a statement but then fail to provide any connection to it on their website – this could be deliberate obfuscation, technical difficulties, or simply administrative error. 10% of companies had no website and were contacted in writing. Of these, 40% responded and sent a statement within the 30-day time period that Section 54 allows.

Therefore, across all four measures (existence and three regarding conformance) only 19% of statements complied with all the requirements of section 54. Since this research was started, another example of mandated CSR, the Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 (GPG), has come into force. This requires companies with more than 250 staff to report gender pay gap data online to the Government Equalities Office and publish this on the company's own website. Unlike the Modern Slavery Act, which has none of the following features, the GPG regulations mandate a single public repository for organisations' data; public sector bodies are required to report; there is a government list of companies required to report; there is a single annual reporting deadline and specific requirements for what data is to be reported; and a single government agency has oversight. Slightly more than 10,000 companies had reported by the deadline of 4th April 2018. Those that hadn't reported by the deadline (estimated by the Equality and Human Rights Commission (EHRC) to be around 1,500 companies) were to be contacted by the EHRC within a week, requiring them to report within a month. Non-compliance will be met with naming and shaming, court action and potentially unlimited fines. [v]

These results suggest a compliance rate of 87% on day one in the first year of reporting, which will increase as the EHRC contacts non-compliant firms. This compares to a 50% response (existence) rate and a 19% compliance rate within the agricultural sector with the minimum requirements of Section 54 of the Modern Slavery Act more than one year after the legislation came into force. The data to be disclosed under GPG is much more circumscribed and statistical, but the discrepancy between compliance rates raises questions about the extent to which the features present in the GPG regulations and its enforcement are needed for Section 54.

Quality

Statements were analysed and graded with reference to six content areas. These areas are recommended in the government guidance for Section 54 statements[vi]:

Content area	Average score (out of 5)
Business and supply chain structure	2.0
Policies	2.7
Due diligence processes	3.3
Risk and risk management	2.2
Measured effectiveness and performance	0.4
Staff training	2.3
All content areas (out of 30)	12.9

i) Business and supply chain structure

High scoring statements included data about the company – its products, processes, location, and structure – and information about tier 1 suppliers so as to give a sense of the supply chain. No statements included information on tier 2 suppliers, but many of agricultural companies have fairly flat supply chains: for example, one company grows organic produce on its own farms and delivers it direct to the end consumer.

A large dairy farming and cheese production company from the West Country works through the relationship between the holding company and subsidiaries, setting out what each business does. It describes its sites, production processes and supply chains both in the UK and within a US-based joint venture.

When reading statements that scored zero points for this section, the reader does not get any information about the company, its products, services or customers – not even that they are involved in agricultural activity.

ii) Policies

The highest scoring statements set out the company's modern slavery policy and how this links in with other company policies. A family owned business with a turnover of £36.5m that grows and packs root vegetables, lists the business policies it has in place, including policies on Ethical and Human Rights, Whistleblowing, Business Practice, Health & Safety, Prevention of Illegal working, and Anti-Bribery.

A UK subsidiary of a major multinational has a supplier code of conduct which has been published in 30 languages as the company engages with its international supply chain. Some companies refer to their use of work done by trade bodies, for example the British Poultry Council Poultry Supply Chain Ethical Compliance Code of Practice.

Poor statements included generic comments about zero tolerance to modern slavery, but gave no indication of policies that would help effect this.

iii) Due diligence processes

Overall, due diligence processes were the highest scoring area within the analysis. Companies described working with expert auditing or non-governmental organisations to assess their supply chains. They have clear codes of conduct and require GLAA licenses for all providers of relevant contract labour.

Poor statements gave no indication of any specific due diligence processes, using generic, aspirational comments, for example: “We strive to ensure that we, and our supply chain, act in compliance [with the Act] and have continued to monitor such compliance.”

iv) Risk and risk management

There is crossover between risk management and assessment and the previous content area, due diligence processes. Similar third parties can be used for both, and there was a moderately positive correlation between performance in these two areas (+0.41).

There is a real divide in this category, with around 40% of companies who actively use risk analysis as a tool for identifying key areas for focus in their own businesses and supply chains, and use tools such as ILO NORMLEX and NATLEX (information systems on international labour standards, national labour and social security laws, human rights issues). And there are 40% of companies who neither described using risk appraisal as a tool nor identified areas of high risk.

v) Measured effectiveness and performance indicators

This was by far the weakest area in statements. Very few companies discussed any approach to assessing the effectiveness of what they were doing to address modern slavery. Only two companies included specific performance indicators and neither of these had any data to report or had set targets, as one would expect from performance indicators in corporate annual reports. Nearly 80% included nothing on this area.

Effectiveness measures could relate both to modern slavery itself (the number of incidences found or notifications received through an internal reporting mechanism) or to the company’s modern slavery policy and work, such as the proportion of its suppliers audited internally or externally, or the numbers of its staff who have received training on modern slavery. This very poor result may be a function of these reports being the first produced by the companies, but even statements of intent regarding measured effectiveness were rare.

vi) Staff training

Again, there was a clear divide in discussion of training. Companies with active training programmes in this area had differentiated training for different groups of staff (such as management, recruiters, operations teams), used company-wide awareness raising programmes, and gave detailed disclosure about their training programmes.

Many had become involved in Stronger Together, a multi-stakeholder initiative aiming to reduce modern slavery, which offers support and guidance and multi-lingual resources. Engaged companies extend their training provision to their supply chain. One of the highest scoring companies in this area had provided key members of staff with lead auditor training in SA8000, an international social accountability standard. But 42% of company statements gave little or no information about any training put in place.

Additional insights

Just as with regard to testing for existence of a statement, the study could not draw any conclusions about the nature of the companies which prepared higher scoring statements. There was no correlation between size of company and scoring. Nor was there any correlation between company profitability and scoring and no discernible correlation between legal form of company and higher scoring statements. There was a weak correlation between quality and approval/sign-off: the active involvement of the board or a named individual may be linked with better statements.

Performance of the agricultural sector in comparison to other high risk sectors

To provide context and comparison, the study also looked at existence and conformance (but not quality) in three other high risk areas: food processing and packaging, mining, and hotels. Across these sectors, half of companies with websites had produced statements. Food processing and packaging leads at 59%, mining follows at 50%, then the hotels sector at 36%. Across all four sectors, 50% of companies had produced a statement. The existence rate for the agricultural sector (51%) is therefore average.

Overall compliance rates for the comparative sectors were similarly close to the agricultural sector: mining at 21%, food processing and packing 16%, and hotels 15%, giving an average of 17%, slightly behind the agricultural sector at 19%. The prima facie poor results for the agricultural sector appear to be par for the course.

Compliance rates across different sectors

	Ag	Comparative sectors				Total
		FPP	Mining	Hotels	Total	
Existence rates	**51%**	59%	50%	36%	**50%**	**50%**
Conformance rates						
Visibility	40%	46%	46%	28%	41%	41%
Sign-off	37%	49%	42%	28%	41%	40%
Approval	26%	23%	25%	15%	21%	22%
All compliance elements	**19%**	16%	21%	15%	**17%**	**17%**

Progress of the agricultural sector from 2017 to 2018

Home Office guidance says that it is expected that organisations will "build on their statements year on year and for the statements to evolve and improve over time".[vii]

Existence over time

51% of companies had produced a statement in June 2017. Nearly all of these companies still have a statement in June 2018, of which,

- 45% of statements have changed ("revisers")
    - 27% of statements have been materially revised and needed to be subjected to content analysis, with two-thirds of these increasing in quality ("reviser, improving"), and one-third staying the same ("reviser, static"), and
    - 18% of statements have simply had the date changed but are otherwise identical ("reviser, static").
- 45% of statements have not been changed at all ("non-revisers") and are therefore out of date
- 9% of companies no longer have statements available ("dropouts")

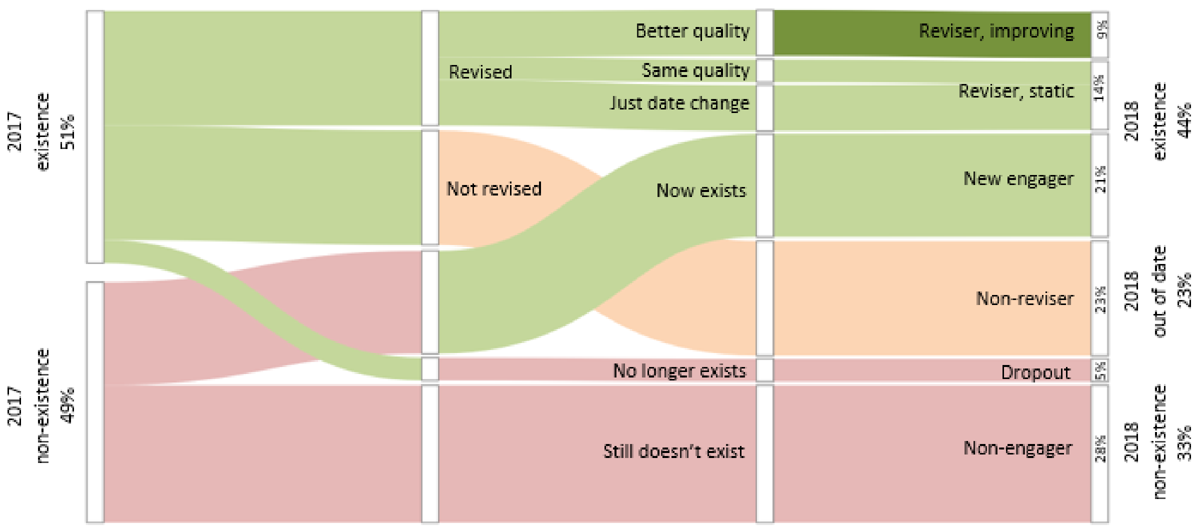
Of the 49% that had not produced a statement in June 2017

- 45% have now engaged ("new engagers")
- 55% still haven't ("non-engagers")

taking the total existence rate from 51% in 2017 to 67% in 2018 at face value, but 44% if the out-of-date statements are excluded, as they no longer comply. This is illustrated below:

Engagement over time

Acknowledgement to ramblings.mcpher.com and bost.ocks.org for d3.js and Sankey diagram tool



Conformance over time

Of companies with a statement in both June 2017 and June 2018, none had changed their conformance scoring with regards to visibility, sign-off, or approval. Even amongst the revisers, none had addressed gaps around sign-off or approval from 2017. And poor performance from the new engagers has reduced the overall average conformance rate.

2018 testing included an additional test to check whether a new statement had been produced for the new financial year. Nearly half of companies with a statement, the "non-revisers", fall in to this category. Although the first statement still exists, the company no longer technically complies. Thus by 2018 the existence rate has fallen to 44%, despite new companies engaging.

Quality over time

There are four clear findings:

i) Those companies that were most engaged in 2017 were most likely to have revised their statements a year later. Possible quality scores range from 0 to 30: the average 2017 score of those who went on to be revisers was 19.8 (well above the average of 12.9). In 2018, the revisers average increased to 21.3.

ii) New engagers have not learned from the earlier engagers in their sector, nor from the additional time taken to engage: statements from new engagers were almost all weak, with scores ranging from 5 to 16, an average of 8.8, with only one statement above the 2017 average of 12.9.

iii) With the new engagers producing relatively poor statements, and with only a quarter of 2017 statements being materially revised, the average quality score for the sector has fallen marginally.

iv) The content areas of relative strength and weakness remain the same: **due diligence processes** was the best addressed area amongst new engagers; **effectiveness measures and performance indicators** was the least well addressed.

Two further observations emerge:

v) Official guidance says that websites should include all modern slavery statements, not just the current year, so that the public can compare statements and monitor progress within an organisation over time. No company website in the agricultural sector does this.

vi) Some of the organisations which still do not have a statement on their website, do have homepage links to gender pay gap information (GPG) and General Data Protection Regulation (GDPR) privacy notices, both new requirements since June 2017. It is clear these companies are aware of at least some aspects of their reporting responsibilities and do maintain their websites. Both GPG and GDPR come with very large – and very well promoted – financial penalties for non-compliance.

Conclusions from 2017 to year 2018

New companies producing statements are more than outweighed by those whose statements are now out of date, with the existence rate falling from 51% to 44%. The poorer performance of the new-engagers means that overall conformance rates have actually fallen year-on-year (from 35% of statements meeting all three requirements, to 28%) and the average content quality has also marginally fallen.

Conclusion

One year after the Act came into force, only half of the companies in the agricultural sector that were required to produce a statement had done so. Over the following year the situation has not improved. Conformance with the mandatory elements of the Act is poor and the quality of the content of the statements is generally low. There are some companies who have fully engaged with issue, and with reporting what they are doing, but they remain a minority.

These results echo those found in other sectors and in other studies, and suggest that the majority of companies in this sector have either failed to engage or have produced a poor quality statement despite agriculture being a high risk sector and the issue of modern slavery and human trafficking a growing one.

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[i] International Labour Organisation. (2017). Global Estimates of Modern Slavery: Forced Labour and Forced Marriage. Figure 9. http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_575479.pdf

[ii] Gangmasters & Labour Abuse Authority. (2018). The Nature and Scale of Labour Exploitation across all Sectors within the United Kingdom. http://www.gla.gov.uk/media/3537/external-nature-and-scale-of-labour-exploitation-report-final-version-may-2018.pdf

[iii] Wilkinson, M. (2014). Demonising 'the other': British government complicity in the exploitation, social exclusion and vilification of new migrant workers. *Citizenship Studies*, *18*(5), 499–515.

[iv] IASC. (2018). Calling on FTSE 100 companies to combat modern slavery. Retrieved January 29, 2018, from http://www.antislaverycommissioner.co.uk/news-insights/calling-on-ftse-100-companies-to-combat-modern-slavery/

[v] BBC. (2018). 1,500 companies miss gender pay deadline. https://www.bbc.co.uk/news/business-43651780

[vi] Home Office. (2015). Transparency in supply chains: a practical guide. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/649906/Transparency_in_Supply_Chains_A_Practical_Guide_2017.pdf

[vii] Ibid.

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