



REFINITIV EXPERT TALK

PREPARING YOUR COMPLIANCE PROGRAMME TO EFFECTIVELY ADAPT TO MODERN SLAVERY REQUIREMENTS

By Megan Jongbloed, Emma Peters and Manvi Rai

Introduction

It is estimated that a staggering 40.3 million people are victims of modern slavery, with 25% comprising children spanning over 190 countries.¹ Many NGOs and regulatory bodies estimate that this number is far greater and that only one in six victims are discovered. There is a growing urgency to eradicate human trafficking, child labour and poor working conditions. It is becoming more apparent that larger organisations can play an important function in affecting this change. Recent studies indicate that approximately 85% of employees are unable to even recognise and report modern slavery issues, due to a lack of awareness.² The Covid-19 pandemic has disrupted supply chains and heightened the risk of modern slavery activities, placing immense pressure on businesses to act quickly.

The passing of California's Transparency in Supply Chains Act of 2010, the UK Modern Slavery Act of 2015 and more recently Australia's Modern Slavery Act of 2018 ('Act') indicate that governments around the world are introducing regulations that require businesses to identify and mitigate modern slavery risks within their organisations and supply chains. Within this changing landscape, there are a number of ways that organisations can meet their regulatory obligations. In Australia, the Act obligates large organisations to publish annual public reports (modern slavery statements) on the efforts and actions taken to address modern slavery risks in their operations and supply chains.

This Expert Talk focuses on the requirements under the Act and how businesses can address modern slavery risks in their compliance programme.

¹ <https://news.un.org/en/story/2017/09/565202-over-40-million-people-caught-modern-slavery-152-million-child-labour-un>

² <https://www.cityam.com/new-report-highlights-lack-of-awareness-on-modern-slavery-in-fintechs/>

What is a modern slavery statement?

A modern slavery statement is an annual statement published by a reporting entity that must address the seven mandatory criteria under the Act. A reporting entity is an entity that has a consolidated revenue of at least \$100 million for the reporting period and the entity is an Australian entity or carries on business in Australia.

The mandatory criteria that must be satisfied by a modern slavery statement is:

Criteria	Requirement
1	Identify the reporting entity
2	Describe the structure, operations and supply chains of the reporting entity
3	Describe the risks of modern slavery practices in the operations and supply chains of the reporting entity and any entities that the reporting entity owns or controls
4	Describe the actions taken by the reporting entity and any entity that the reporting entity owns or controls, to assess and address those risks, including due diligence and remediation processes
5	Describe how the reporting entity assesses the effectiveness of such actions
6	Describe the entity's consultation process with other entities that it owns and controls
7	Any other relevant information

A reporting entity's modern slavery statement is uploaded into a national register, whereby any person can view the modern slavery statement.

How to incorporate modern slavery risks into your compliance programme

An effective compliance programme is essential for satisfying criterion 4. It requires organisations to describe in their modern slavery statements the actions that have been taken to assess and address modern slavery risks. This includes the due diligence measures conducted and the remediation processes followed. Here are some basic tips to guide you through how you can incorporate these requirements into your compliance processes:

1. Know your suppliers

- Collate a list of your 'active' suppliers and perform a preliminary risk assessment to sort them into low-, medium- and high-risk categories. This will help you understand where to focus the majority of your time and resources. This can sometimes feel like an onerous task; however, most organisations are turning to automated technology platforms to determine the risk level of their suppliers. Ensure that modern slavery is one of the factors taken into consideration when calculating this risk score and that the platform you choose is configurable so that the algorithm takes into account your risk appetite. A one-size-fits-all approach will not be effective, and the technology should seamlessly adopt your specific requirements.
- For most organisations, the first step in satisfying criterion 4 involves mapping supply chains and operations to assess the relevant risks of modern slavery depending on the relevant industry and location. For example, for large retailers, manufacturing and raw materials are likely to present more immediate modern slavery risks.

2. Understand how your industry is impacted

- There are detailed nuances that must be considered when adapting your programme to include modern slavery risks. Industries that require intensive labour such as construction, manufacturing and agriculture are considered higher risk and should be more thorough in their due diligence.
- If your corporation operates in high-risk jurisdictions, you will need to have access to comprehensive data that can help you make informed decisions.

3. Conducting preliminary due diligence on suppliers

- Supplier questionnaires should be drafted in an effort to understand what measures suppliers are taking within operations and supply chains to identify and assess actual and potential modern slavery risks. Targeted questions about the policies, employment and recruitment practices, employee treatment and supply chains can help entities pinpoint where resources need to be focused to minimise modern slavery risks.
- Some Australian-based corporations already have existing third-party questionnaires as part of their anti-bribery and anticorruption programme. Including a subset of questions to be answered by your suppliers will avoid you having to send them multiple forms and can combine the modern slavery risk to your overall supplier risk score. Using a technology platform that includes tracking and monitoring certification and completion can assist in identifying suppliers that may present more modern slavery risks.
- If your compliance programme doesn't yet include a questionnaire, work with your technology partner and engage their advisory team to provide you with a short questionnaire that fulfils your industry requirements and includes best-practice guidance on automated risk scoring that will be executed seamlessly and strengthen your reporting obligations.

Example of modern slavery – An employer/business confiscates documentation from workers. An employer that withholds a worker's passport or identity papers presents risks of modern slavery practices. An employer withholding personal documentation may exploit a worker by forcing them to work longer hours or without pay in order to get their identification papers back. This type of exploitation is more common when workers are migrant or overseas workers who may not have the same support networks in place.

4. Automate your programme with a systematic, simplified approach

- Implementing a streamlined workflow solution will help you identify, mitigate and monitor modern slavery risks in your programme. An auto-generated risk score will enable you to understand appropriate next steps and mitigating actions required for each supplier, including escalation paths for additional layers of review.
- If you have global operations, it is impossible to conduct on-the-ground checks and on-site audits for all your at-risk suppliers. Leveraging technology gives you greater oversight into far-reaching locations across a centralised platform, allowing you to track all touchpoints for a comprehensive audit trail – a key requirement for your reporting obligations.
- A technology solution to screen your suppliers allows you to reduce time and resources required to run a comprehensive programme while keeping costs low. This gives you the benefit of launching a global initiative and implementing a consistent programme that can be audited, tracked and monitored closely to conduct trend analysis.
- Perform ongoing screening for your suppliers against sanctions and watch list databases. An important measure to ensure you are not engaging with known criminals or undesirable businesses is to understand if your database includes implicit sanctions, as this uncovers hidden layers that are not registered under any official sanctions lists but have deep-rooted connections with illicit activities, including ties to dirty money and modern slavery.
- Modern slavery due diligence should sit together with your anti-bribery and corruption compliance programme and integrate into your existing processes. There is no need to reinvent the wheel – use what you have already implemented and weave in the modern slavery elements.

5. How to achieve the level of oversight needed and what to do when something emerges

- The responsibility of collecting information and demonstrating transparency falls on organisations and this can be done with minimal effort.
- Conduct enhanced due diligence on suppliers based on a risk-tiered approach. Approximately 10-15% of your suppliers will likely fall in the high-risk category and these suppliers should receive a regular audit (whether in person or virtually). With limited in-house capabilities, organisations are outsourcing these activities to global vendors with on-the-ground resources, local language, industry and cultural subject-matter experts, with a deep understanding of modern slavery risks in your industry so they know exactly what to look for. These experts should also be able to identify risks and provide mitigating steps so you can manage risks effectively without affecting business continuity.

6. Educate the workforce on how to identify risks

- Training employees and suppliers on how to identify, report, investigate and remedy potential and actual modern slavery practices is integral in helping to satisfy criterion 4. The focus on modern slavery is recent, and many employees and suppliers are unaware of the prevalence of modern slavery. Providing training modules to allow for a greater understanding of modern slavery assists employees and suppliers to be equipped to combat modern slavery practices within operations and supply chains.
- Frontline staff should be trained on what risks may look like so they can safely speak up through methods such as confidential reporting hotlines. This can be achieved through customisable training specific to modern slavery. Many eLearning providers are shifting towards animation, gamification and bite-sized learning that allows for more focused attention and absorption of the content.

Conclusion

With the Australian Government's implementation of the Act and the digital resources available to organisations, it is no longer acceptable to focus on the bottom line without considering the impact to human life. People want to work for and with good corporate citizens and setting high standards across the industry for others to follow doesn't have to be an expensive or time-consuming task. Additionally, the government has indicated that businesses that fail to comply with the Act will be named and shamed in a public statement. Failing to satisfy your obligations could result in your business's reputation being damaged and consumer confidence decreasing.

Implementing a modern slavery compliance programme, aided by digital solutions to manage and remediate modern slavery risks, will assist in building a strong foundation to eradicate modern slavery in your operations and supply chains and will ensure that you satisfy your obligations under the Act.

Key takeaways

- Don't reinvent the wheel: There are simple ways to weave modern slavery essentials into your existing compliance framework.
- Prepare a best-practice modern slavery statement by implementing a modern slavery compliance programme and consider engaging a third party to assist with compliance strategies.
- Leverage automated technology solutions to maximise the effectiveness of your programme and focus your resources where they are needed the most.

Authors bios:

Megan Jongbloed

Director, Cowell Clarke

Megan Jongbloed practices across the full spectrum of corporate and commercial law.

She has extensive experience in documenting and reviewing all types of commercial relationships and works with her clients to ensure that their commercial goals and outcomes are achieved.

Megan advises on acquisitions and divestments of assets, businesses and companies in Australia and internationally, and provides corporate governance and compliance advice to a broad range of businesses.

Megan also has comprehensive expertise in assisting and advising clients on matters of compliance across a range of sectors including privacy, franchising, modern slavery and whistleblowing.

Megan was nominated for Commercial Partner of the Year in the LawyersWeekly Partner of the Year Awards for 2020.

Emma Peters

Special Counsel, Cowell Clarke

Emma Peters works collaboratively with businesses regarding commercial and corporate matters to achieve practical and astute outcomes.

Specialising in corporate and commercial law, Emma's primary focus is on governance and compliance pertaining to modern slavery and whistleblowing. She also advises on matters affected by privacy law such as notifiable data breaches and policies related to the disclosure of personal information, as well as corporate acquisitions, business sales and purchasing, and contract and tender reviews.

With experience as in-house legal counsel, Emma has a real-world understanding of businesses operating on a global scale and the regulatory, compliance and legal framework associated with international operations.

Manvi Rai

Regional Manager, Customer Success, Refinitiv, an LSEG business

Manvi leads the Asia Pacific Customer Success team managing customer and third-party risk solutions.

She oversees the key accounts in the region and works closely with each client to leverage their existing solutions, providing guidance on industry best practices. She has extensive experience in optimising client programmes and workflows across a wide range of technology solutions.

Manvi is passionate about helping clients understand the importance of fighting modern slavery by implementing strong programmes to assess risk within their supply chains and conducting the appropriate due diligence checks to ensure greater transparency.

Manvi has a background in operations and finance, with a degree from The Wharton School. She was the Account Manager of the year in 2020.

About Cowell Clarke

Cowell Clarke is a specialist corporate and commercial law firm located in Adelaide and Sydney. Our focus is on the delivery of excellent commercial law solutions to assist our clients to transact effectively and to manage risk.

We act for clients across all industries and sectors of business in Australia and internationally. With over 100 staff, we pride ourselves in providing legally accurate and commercially astute advice that assists our clients to manage risk and achieve a competitive edge in their markets.

Cowell Clarke is an innovative law firm focused on our clients' business objectives. Our design, build and roll-out of various online solutions demonstrates how our use of technology creates efficiencies that save time and money for our clients.

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