Contents

Feeding a rich nation. Modern Slavery reporting in UK agriculture.

It has been estimated that, in 2016, there were around 46million people in slavery around the world, over three times the number that came out of Africa during the entire transatlantic slave trade (Bales, Trodd, & Williamson, 2009b). Human trafficking and slavery is the third largest source of income for organized crime, after drugs and arms smuggling (Bales, Trodd, & Williamson, 2009a). In the UK, many aspects of modern slavery policy sit with the Home Office, the government department responsible for law and order, immigration and security. Research conducted for the Home Office (Silverman, 2014) estimated there were between 10,000 and 13,000 slaves in the UK, mainly within the sex, construction and agricultural sectors.

We consider modern slavery to be at the nexus of sustainability, human rights, environmental, economic and business leadership issues. It is recognised as a sustainability issue in the UN Sustainable Development Goals: SDG 8 Decent Work and Economic Growth aims to "Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all." It is a human rights issue: slavery is illegal in all countries. There are many national and supranational laws that address issues of slavery. It is an environmental issue: if today's slaves were a country, its carbon footprint would be the third largest in the world behind China and the U.S. (Bales, 2016). It inflicts damage in the unregulated and marginalised areas where it takes place, through, for example, deforestation in the Amazon and in Africa, destruction of coastal ecosystems, illegal mining and quarrying, and mercury poisoning of land. It is an economic issue: the removal of people from a community into slavery eliminates their economic power as consumers, and their introduction into other communities impacts on local wages and the availability of work for others (Bales et al., 2009a). Finally, and, certainly in the UK, it is a business leadership issue, given the reputational risk of being associated with modern slavery and the risk of prosecution.

Modern slavery is often associated with developing countries and global poverty; nevertheless, it also occurs in developed countries such as the UK and cases of modern slavery in the UK have been documented across a range of economic sectors, including agriculture where the UK's Gangmasters and Labour Abuse Authority (2018) repeatedly highlights a high modern slavery risk.

Crane (2013) portrays modern slavery as a business model in which financial gains are extracted from victims by the perpetrator and as such can occur in any country. Although the number of people in the UK who could be considered part of the bottom of the pyramid in absolute terms is low in comparison, relative poverty does of course exist in significant numbers and other factors besides poverty contribute to modern slavery vulnerability. Modern slavery tends to occur predominantly in low skill manual jobs where workers are easily replaceable and such jobs can be found in any economy.

It is important to highlight that although poverty is a factor that creates vulnerability towards modern slavery, poverty is not the same as modern slavery: Modern slavery is defined as 'the exercise of the powers attaching to the right of ownership' and the loss of individual liberty (Allain, 2012). Although its occurrence is often related to poverty as it creates vulnerability of victims, it is also linked to an absence of institutions, no access to justice, workers rights and bargaining power and other development aspects such as corruption that enable the exploitation of workers and in its most extreme form of modern slavery. It therefore links directly to the bottom of the pyramid of formal and informal work who are the most exposed to the risk of modern slavery through their heightened vulnerability. It must also be stressed that although migration -and the criminalisation of irregular migration- create a particularly vulnerable group of potential victims, the largest group of victims of modern slavery identified in the UK are British nationals (National Crime Agency, 2018).

The bottom of the pyramid has been researched as a source for innovation and as a significant consumer market (Hall et al. 2012; Kolk et al. 2014), but it has also been looked at as a part of global supply chains (Hahn and Gold, 2014; Khalid et al., 2015) and as a source of labour (Arya and Salk, 2006). Developing countries are often sourcing countries for commodities and low cost labour in global supply chains. The responsibility of buyers from developed countries for the conditions in developing countries –and the impact on bottom of the pyramid workers and communities- that form part of their supply chain is a relatively new aspect to this debate. More recently, such social sustainability considerations have been added to voluntary and compulsory disclosure frameworks in the developed world (Yekini et al. 2019).

This responsibility of buyers is reflected in the increased discussion on establishing legal responsibility for parts of the supply chain that are outside an organisation's own boundaries (Director of Labour Market Enforcement, 2018). In UK legislation this debate has resulted in a reporting obligation on modern slavery aspects in supply chains.

The UK's Modern Slavery Act 2015 (MSA) not only codified the criminal offences of modern slavery which were previously dispersed in UK legislation (Wen, 2016), but section 54 (s54) introduced a requirement for all companies with a turnover of £36m or more to report in an annual statement what they are doing to address modern slavery in their organisation and in their supply chain. The agricultural sector, with its use of unskilled and seasonal labour, is a high-risk area for modern slavery, both globally and in the UK.

The starting question for our study was therefore how well the UK agricultural sector is engaging with the reporting requirements of s54. We use content analysis to assess the sector's engagement with the reporting requirements of the Act. Specifically, we i) look at the existence, conformance, content and registration of statements; ii) undertake a longitudinal analysis to assess whether engagement is improving; and iii) set this in the context of a meta-study of other research into responses to s54.

The agricultural sector in developed countries has attracted relatively little research despite it being structurally exposed to high modern slavery risks (Chesney et al., 2019). Many existing studies analyse statements that have been produced and lodged with one of the voluntary registries, thus missing companies that are not producing statements or not registering their statements.

Research context of this chapter

In trying to understand the nature and extent of modern slavery across countries and sectors, four research initiatives are particularly useful. These estimate the risk of slavery and the number of slaves globally and by country and give an insight into the potential problem within the UK and within the agricultural sector. The International Labour Organisation (ILO) estimated in 2012 that 20.9million people are the victims of forced labour globally (International Labour Organization, 2012). Secondly, the Global Slavery Index (GSI) estimated that 45.8million people are in slavery (Walk Free Foundation, 2016), their definition encompassing both forced labour and forced marriage. They provides estimates by country. The GSI measure includes forced marriage in slavery, whereas the ILO forced labour statistics do not. Thirdly, Alliance 8.7 estimates 40.3million victims of modern slavery (24.9million in forced labour and 15.4million in forced marriage). Finally, there is the Modern Slavery Index (MSI), an assessment of the risk of slavery based on how strong a country's laws are, the effectiveness of enforcement, and the severity of violations (Verisk Maplecroft, 2017). There is not a universal acceptance of the definitions and methodologies used by these studies, for example (Aronowitz, 2017).

Looking in more detail at the situation in the UK, the GSI estimates 11,700 living in slavery in the UK. One of the lead authors of the GSI, Kevin Bales, also worked on the Home Office estimate of UK slavery in 2015 which produced a figure of 10,000 to 13,000 (Bales, Hesketh, & Silverman, 2015; Silverman, 2014). Police recorded crime statistics show 880 modern slavery crimes in the year to March 2016, and 2,255 the following year. The National Referral Mechanism (NRM) was introduced in 2009 to meet the UK's obligations under the Council of Europe Convention on Action against Trafficking in Human Beings, and identifies victims of human trafficking or modern slavery and works to support them. Labour exploitation (which includes slavery within UK agriculture) made up nearly half of cases referred in 2017.The 5,145 referrals (an increase of 35% on 2016 and up threefold from 1,745 in 2013) came from 116 different countries. For the first time, UK nationals topped the list of referrals by nationality, with 819 cases, followed by Albania (777 cases) and Vietnam (739 cases). These three countries accounted for 45% of the total. However, the NRM is not without its critics: in oral questions and evidence given at the Public Accounts Committee's (PAC) progress review (21 February 2018, HC 886, 2017-18), Beth Sizeland, Director for Tackling Modern Slavery and Exploitation at the Home Office, described the national referral mechanism as "clunky" (response to question 15). The National Audit Office (NAO) concluded in 2014 that the NRM needed to be redesigned (ibid. question 75).

It is also believed that the risk of modern slavery is growing, both globally and in the UK. This risk is assessed to have increased in 20 EU countries (including the UK), where in 2017 the risk rose from low to medium: "…the presence of … vulnerable migrant populations in the primary countries of arrival [such as Romania, Greece, Italy, Cyprus and Bulgaria] is a key contributor for increases in slavery across multiple sectors in the [EU], such as agriculture, construction and services"(Verisk Maplecroft, 2017). Additionally, the National Crime Agency in the UK produces annual estimates of serious and organised crime, including the nature and scale of human trafficking: "It is highly likely that the actual scale of modern slavery across victim and offender numbers, as well as incidence rates, has increased year-on-year. Analysis of drivers suggests this trend is likely to continue" (National Crime Agency, 2017, p. 15).

Having reviewed the extent of the problem, it is important to consider the differing nature of slavery compared to many other crimes: unlike a murder or a burglary, enslavement is not a discrete, time-bound event but has indeterminate duration. This contributes to the difficulty of defining and quantifying slavery, as highlighted in the work of Datta and Bales (2013, 2014) to assess the "dark figure" of modern slavery – the gap between the actual and reported incidence of the crime. This method of estimating true crime rates, based on referrals and convictions, has proved less effective in this area.

Although no data has been found showing the statistical prevalence of slavery in different sectors within the UK, the literature often cites agriculture as being a key area (Anderson & Rogaly, 2005; Bryant, 2015; IASC, 2016; Logisitics and Supply Chain Journal, 2017; U.S. Department of State, 2016). Bales (1999) sets out the concept of commoditised labour, where the tasks required of a worker are easily replicable and labourers are thus easily replaceable. Such tasks are a feature of agricultural work, making it by nature a higher risk sector. There is also constant pressure on food prices from UK supermarkets as they seek to gain competitive advantage: Wilkinson (2014) identifies this pressure on farmers to reduce costs as a key factor in the rise of seasonal and gang labour since the 1980s, another reason that the agricultural sector is high risk. Wilkinson also suggests that non-unionised sectors, of which agriculture is one, are more susceptible to worker exploitation.

An example of more detailed academic research into the extent of modern slavery in the UK is that commissioned by the Thames Valley Police Commissioner (Wager & Wager, 2017). This attempted to build on the statistical methods proposed by Datta & Bales (2013, 2014) and others in order to produce regional and national estimates of the prevalence of modern slavery in the UK, based on direct indicators of victimisation. The aim of these estimates is twofold: to provide a benchmark against which the performance of the criminal justice system can be judged; and to underpin work by organisations supporting victims of slavery. The research concludes that there could have been nearly 2,500 victims of modern slavery in the Thames Valley area in 2016. As official estimates from the Home Office are that there are between 10,000 and 13,000 victims across the entire UK, this more detailed approach suggests much higher levels nationally, and supports claims made by the National Crime Agency in August 2017 that the Home Office statistics were "the tip of the iceberg", that the problem is "far more prevalent than previously thought" and that modern slavery affects "every large town and city in the country" (BBC, 2017).

This literature shows the difficulty of determining with accuracy the extent of slavery. But it does give a sense of the quantum and the nature of the problem, the most likely sectors where slavery will be found, and thus some of the challenges that will be faced when trying to address it. The identification and prevention of modern slavery in supply chains is a new challenge to supply chain management that requires the presence of institutions and the building of new capabilities across supply chains and within individual firms (Gold et al., 2015). Modern slavery further reveals the limitations of traditional approaches to corporate social responsibility (New, 2015) and the limitations to the expectation that corporations can police their supply chains through corporate mechanisms such as auditing and monitoring effectively and entirely (Pinheiro et al., 2019).

Coming at the problem from a different but very important angle, various authors have sought to capture the experiences and voices of those vulnerable to slavery, in slavery, or freed from slavery, within the UK (Wilkinson, 2012, 2014). It is worth keeping in mind this human suffering, as exemplified in this chapter's introduction with the case of Brzezinski, when considering the wider picture being discussed in this chapter and what the MSA is trying to address. Most bottom of the pyramid research has been conducted in developing countries (Kolk et al., 2014). However, poverty and vulnerability occur in all countries. Victims of modern slavery can be in their home country or be trafficked to the UK for exploitation or indeed be UK nationals. Due to the presence of stronger institutions, lower levels of corruption, less cultural acceptance and other factors, modern slavery is often organised through adjusted and more hidden mechanisms of control and enslavement in developed countries than in developing countries.

One of the first prosecutions under the UK Modern Slavery Act took place in the agricultural sector (R v Brzezinski (2017), Nottingham Crown Court, unreported (16 June 2017)) and illustrates the challenges to the sector. In 2011, Sajmon Brzezinski brought a 38 year man from Poland to Nottingham. He withheld the victim's passport and told him he owed £2,000 for fees in getting him to this country and arranging work. He set up a bank account for the victim to receive his wages, but retained his bank card to prevent him accessing the money. Although the victim's official salary was £480 per week, he was given only £20 to £30 per week, the remainder was kept by Brzezinski. This happened without any involvement or knowledge by the farming business owners (Nottingham Post, 2017). The victim was employed, legitimately, by a £15m turnover business, on a farm near Arnold, Nottingham, from 2013. After a number of years, the victim confided to a colleague and the Gangmasters and Labour Abuse Authority (GLAA) became involved. Brzezinski was sentenced in June 2017 to an 8-year custodial sentence under the Modern Slavery Act 2015, the Coroners & Justice Act 2009 and the Fraud Act 2006.

Modern slavery is, therefore, a pressing sustainability issue and the UK agriculture sector a high risk area. The MSA is the UK government's latest legislative response to the issue. The remainder of this chapter will look at what others have said about the MSA, current approaches to evaluating modern slavery statements, how this study was designed and data collected, what was found, how these results fit with existing knowledge, and, finally, wider implications and ideas arising.

The legal context for Modern Slavery reporting for UK companies

Any organisation seeking to understand their responsibilities for reporting by reading the MSA itself should not be confused – it is relatively short and written in a straightforward way that is understandable for legal laymen. There are also Parliament's explanatory notes which accompany the Act (Parliament, 2015), guidance notes on the transparency in supply chains (TISC) section of the Act, produced by the Home Office (2015) in consultation with businesses and civil society organisations at the time of Act, and the statutory instruments which provided further parameters. In 2017 the Home Office guidance was revised to take a harder line: the six areas to be addressed in a TISC statement were previously suggestions for matters which organisations "may" include: now they "should aim to" include them (and will become obligatory if the 2017 Bill (see below) is enacted). The latest guidance is also clearer on timing – statements to be published within six months of the financial year-end – and suggests that previous years' statements should continue to be available online so that comparison and progress can be demonstrated.

The MSA established the role of the Independent Anti-Slavery Commissioner, who has produced guidance on what organisations need to do – for example he produced an annual report after one year (IASC, 2016) and addressed the business community (Hyland, 2017). The Government commissioned a review of the Act, again after one year (Haughey, 2016). UK Police services have begun efforts to address modern slavery through, for example, an advice note to the agricultural sector (Derbyshire Police, 2014).

And in July 2017 the Modern Slavery (Transparency in Supply Chains) HL Bill (2017-18) [57], had its first reading, in the House of Lords, introduced by Baroness Young of Hornsey, "To make further provision for transparency in supply chains in respect of slavery and human trafficking". Under this Bill i) the reporting requirements of s54 are extended to include public authorities; ii) organisations which should, but do not, produce a statement, would be excluded from participation in procurement under Public Contracts Regulations; iii) the six areas which in the act an organisation "may" include become obligatory ("must" now be included); and iv) the Secretary of State must publish a list of all commercial organisations that are required to publish a statement. These provisions go a long way to address the early criticisms of s54, and, although not yet enacted, give an aspiring organisation clear pointers for improved engagement. Without engaging external advisers it is straightforward to determine what is required, not only to comply with the letter of the law but also the spirit.

How this study was designed and data collected

In assessing engagement, this study i) looks at the existence, conformance, content and registration of statements; ii) undertakes a longitudinal analysis of the same set of agricultural companies to assess whether engagement is improving; and iii) sets this in the context of a meta-study of other research into responses to s54. It uses content analysis as the central research method.

Research approach

In order to assess the most basic of questions around engagement – whether a statement has been produced or not – the starting point had to be the set of all companies that should be producing a statement, rather than the statements that had already been lodged with one of the registries.

The sampling frame was established as companies in specific UK Standard Industry Classification (SIC 2007) codes with a turnover of £36m or above. There is no sampling error – the sample is the entire population. The benefit of using UK SIC codes is that they have been generally accepted as a classification system for many years, are the prevalent approach used by researchers (Ojala, 2005 in Bryman & Bell, 2015) and (since the 2007 revision) are in line with the European Union's industrial classification system. Bryman and Bell (2015), in reviewing the development of the North American Industrial Classification Scheme (NAICS), cite a criticism of SIC codes: that they focus on what is made rather than what is done. While this might have an impact for manufacturing or for new emerging sectors, the descriptions used in section A, "Agriculture, Forestry and Fishing", are based on processes which cover the generally accepted concept of "farming" activity and output. To provide context and comparison for the results of compliance testing, three further higher risk sectors – Food Processing and Packaging (FPP), Mining and Hotels – were selected, using the same approach. SIC codes and descriptions are set out in Table 1 below.

Table 1 Sector SIC codes

Sector	**SIC Code**	**No.**	**SIC description**
Agriculture	011xx	25	Growing of non-perennial crops
	012xx	7	Growing of perennial crops
	013xx	0	Plant propagation
	014xx	23	Animal production
	015xx	16	Mixed farming
		71	
FPP	101xx	82	Processing and preserving of meat and production of meat
	103xx	42	Processing and preserving of fruit and vegetables
		124	
Mining	05xxx	6	Mining of coal and lignite
	07xxx	15	Mining of metal ores
	08xxx	44	Other mining and quarrying
		65	
Hotels	551xxx	85	Hotels and similar accommodation
		85	
		345	

The Modern Slavery (Transparency in Supply Chains) HL Bill (2017-18) [57] (MSB) proposes adding a new section (10A) to the Act: "The Secretary of State must publish a list of all commercial organisations that are required to publish a statement under this section." This will remove any ambiguity about the completeness of the dataset to be analysed, but for now the dataset for these sectors has been defined based on these ranges of SIC codes.

For all four sectors, data was then extracted from the FAME database run by Bureau van Dijk, which covers information on over 7 million companies and unincorporated business throughout the UK and Ireland. The search criteria were:

1. All active companies (not in receivership or dormant)
2. Turnover, last available year: £36m minimum
3. UK SIC (2007): Primary codes (as above)
4. Country: Primary trading address, registered office address: England, Northern Ireland, Scotland, Wales (to give UK).

This search produced an initial population for the agricultural sector of 71 companies. It was then established that two companies were using inappropriate SIC codes – they are not, or are no longer, involved in farming activities. A further 21 companies were subsidiaries of others within the population and were removed to avoid double-counting, giving a final population of 48 companies.

Having established the population, compliance testing was undertaken. There are four mandatory elements to complying with s54:

Existence

1. a statement must be produced: s54 (4)(a) says companies must produce "a statement of the steps the organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place (i) in any of its supply chains and (ii) in any part of its own business, or (b) a statement that the organisation has taken no such steps."

Conformance

2. Visibility: the statement must be published on the organisation's website with a prominent link from the home page (s54 (7)), or, if no website exists, the company must respond to a written request to provide a copy of the statement within 30 days (s54 (8));
3. Approval: the statement must be approved by the board of directors (s54 (6)(a)); and
4. Sign-off: the statement must be signed by a director (s54 (6)(a));

For each company in the population, company websites were reviewed to determine whether a statement existed. If a statement could not be found, the two registries were searched, and web searches using the term "modern slavery statement" and the company name were undertaken.

For the agricultural sector round one analysis, data was taken in June 2017, and the follow-up data for round two in June 2018. For the comparative sectors, data was taken in December 2017.

Where a website existed it was reviewed to test visibility, to see if there was a prominent link to the statement on the homepage. Copies of the statements were downloaded and analysed to determine if the statement had approval and sign-off. For agricultural companies, that were also to be subjected to content analysis, if no company website was found, a written request was made for a statement to be provided.

Having undertaken compliance testing, we then used content analysis for assessing the quality of the s54 statements included in our study. The MSA explanatory notes say "Section 54 does not mandate what a slavery and human trafficking statement must contain (beyond the actual steps taken or a statement that the organisation has taken no steps) nor require commercial organisations to take any particular action beyond preparation of the annual statement." (Parliament, 2015, p. 36) But there are *content suggestions,* and *improvement* is expected over time. Section 54(5) suggests six content areas that could be covered in statements: 1) organisational structure, business and supply chains; 2) policies relating to slavery and trafficking; 3) due diligence processes in the business and supply chains; 4) parts of the business where there is risk, and steps taken to address that risk; 5) effectiveness in ensuring slavery/trafficking is not taking place measured against appropriate performance indicators; and 6) staff training. These provide the six themes which were searched for and graded using content analysis, and mirrors the approach adopted by previous studies (for example by Ergon, BHRRC and Emberson.

Table 2 Content analysis grading criteria from Emberson (2017)

Content category	0	1	2	3	4	5
Organisation and supply chain	No information	Some description of business structure, services, products and customers	Detailed description of business structure, services, products and customers	As 2 plus some description about first tier suppliers	As 2 plus detailed description about first tier suppliers	As 2 plus description of second tier and beyond
Policies	No policy	Formal or informal policy under which business with unethical suppliers is not to be conducted	Relevant Modern Slavery policy	As 2 plus code of conduct	Relevant and specific MS policy and code of conduct	As 4 plus for the organisation and its' supply chain
Due diligence	No steps taken	Modern slavery is / to be included in the organisations risk assessment processes	New internal processes detailed for the organisation	As 2, but extended to its suppliers	As 3, including organisational-wide grievance mechanisms in place for targeted workers	As 4, including suppliers and their workers
Risk assessment	No assessment	Risk assessment conducted based on the nature of goods/services	As 1, plus supply chain	Risk assessment focussed on modern slavery and labour risks	As 3, plus supply chain	Assessment to include potentially-effected rights holders and

		supplied to the business		in its own business		other stakeholders
Effectiveness & KPIs	No measures	General statement re: numbers trained, complaints from whistle-blowing mechanisms	As 1, plus figures	General KPIs used	As 3, plus figures	Detailed KPIs and figures relevant to Modern Slavery
Training	No information	General training on ethical practice provided to employees	Training on Human Rights provided	Training on Modern Slavery provided	As 3 plus details of specific groups of employees targeted	As 4 plus annual update

The legislation and its guidance has been reviewed to determine required and recommended content and process elements, and from this flow the list of recording units, set out above. Each element is then scored on a subjective scale of coding categories from 0 to 5, 0 being no performance, 5 being exemplary. This covers steps 1 and 2 of the Weber protocol.

A sample statement was then coded and the ratings given were cross checked with an analysis undertaken on the same statement by an experienced third-party (Emberson). The sample grading assessments were revised in the light of this feedback, although there had been a high degree of consistency. The entire population was then fully graded and scored.

In order to minimise as far as possible subjective error within the content analysis, statements were analysed in batches and the various categories compared within a batch, so as to ensure consistency of grading and correct ranking. When a new batch was analysed, examples from a previous batch were reanalysed, to achieve the same ends. At the end of the analysis, all statements were sorted in descending order of content rank, for each content category, and reviewed again, to ensure that the progression down the grading was justified.

Compliance: existence and conformance

Of the 48 agricultural companies that should have prepared a statement, 24 had done so, a 50% existence rate. 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 legal form. None of the population prepared a statement saying they had taken "no such steps". Some of the weakest statements did not actually set out any steps "taken…to ensure" – they simply expressed a commitment to ensure there is no modern slavery.

18 of the 24 statements produced (75%) were signed by a director. 12 (50%) were approved by the board. Of the subset of the population which had produced a statement and had a website (22 companies), 13 (59%) had a link on their homepage, and a further 4 (18%) had a link from a drop-down menu or subsidiary page, typically called "CSR" or "Policies". For 4 companies (18%) a statement was discovered either on the internet using a browser search tool or via one of the 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.

Of the final population, 10% (5 of 48) had no website and were contacted by post. Of these, 60% failed to respond, and 40% responded, within the 30 day time period. For one of these it is suspected that the statement was produced as a result of them being contacted, an interesting example of the Hawthorne ("observer") effect, where behaviour is modified as a result of the observed becoming aware of their own observation.

Therefore, across all four measures (existence and three conformance), only 9 companies of 48 (19%) complied with all the requirements of s54. This can be compared with compliance rates amongst all UK companies for filings with Companies House: 97.6% comply with filing annual returns, and 98.1% with filing annual accounts[1].

[1] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/638401/Companies_House_Management_Information_2016-17.xlsx Table 1, UK, 2016-17

Quality of content

This next section looks at the quality of the statements that were produced.

The grading scheme criteria are discussed above.

C1 Business and supply chain structure

The MSA says that an organisation's statement may include information about – "the organisation's structure, its business and its supply chains" s54(5)(a).

Average score 2.0.

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 these 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.

Four companies' statements scored four points for their disclosure on structure, business and supply chains. For example, 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 (which are relatively short) both in the UK and within a US-based joint venture. Another statement which scored well in this area (family company, vegetable grower and packer, turnover £127m, based in Lincolnshire) set out in a straightforward way the nature of their business, where and how they operate, who they supply, and who their suppliers are.

When reading the four 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.

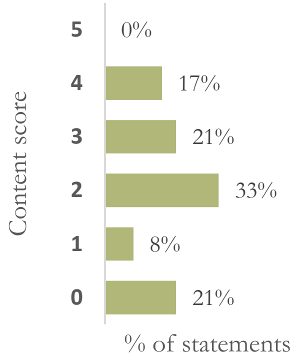

Figure 1 Content analysis scores re business and supply chain structure

C2 Policies

The "policies in relation to slavery and human trafficking" s54(5)(b).

Average score 2.7.

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 (just large enough to be required to produce a statement), 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.

Although they didn't have a specific modern slavery policy, a cheese making group (private limited company, turnover £84m, based in Somerset and Dorset), describe in their 2017 statement the policies they operate which contribute "to the identification of modern slavery risks and steps to be taken to prevent slavery and human trafficking" in their operations. This includes details about their Whistleblowing policy, Employee code of conduct, Supplier code of conduct, and Recruitment/Agency workers policy.

Poor statements included generic comments about zero tolerance to modern slavery, but gave no indication of how this was effected.

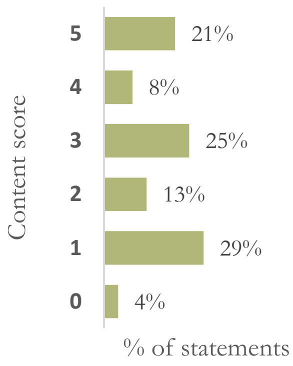

Figure 2 Content analysis scores re policies

C3 Due diligence processes

"Due diligence processes in relation to slavery and human trafficking in its business and supply chains" s54(5)(c).

Average score 3.3.

Overall this was the highest scoring area within the analysis. Pro-active companies are members of SEDEX and/or the Ethical Trading Initiative (ETI). To assess their supply chain they use internal auditors or external auditors from ETI, SEDEX, Fairtrade, the GLAA Active Check service or the Association of Labour Providers. They have clear codes of conduct, and require use of the GLAA for all providers of contract labour. Poor statements gave no indication of any specific due diligence processes, using generic, aspirational comments.

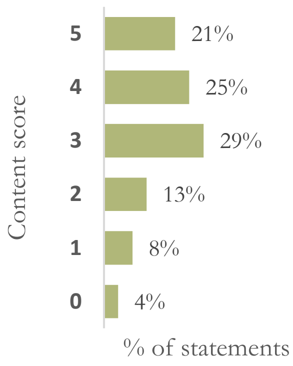

Figure 3 Content analysis scores re due diligence processes

One of the strongest statements in this area came from the parent of a public limited company group whose main business is growing, storing, processing and packing potatoes. They operate in the UK, Jersey, France and the Netherlands, with a turnover of £185m. Their statement remained unchanged from 2017 to 2018, and did not comply with all requirements, but it was particularly strong in setting out the due diligence work the group undertakes, including membership of SEDEX themselves and across their supply base, membership of the Association of Labour Providers, undertaking Gangmaster Licencing Act audits with temporary labour providers, using Ethical Trading Initiative (ETI) audits to SEDEX Members Ethical Trading Audit (SMETA) standards, and participation with the Stronger2gether campaign.

One major international agricultural company conducted over 21,500 audits of businesses in their supply chain in one financial year, in the process finding no incidences of forced labour. It might be thought that only larger companies would have the necessary resources to actively engage in this way, but the correlation between company turnover and score for due diligence was weakly negative at -0.28: smaller companies, if anything, more robust than larger.

C4 Risk and risk management

"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" s54(5)(d).

Average score 2.2.

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% (score 4 or 5) 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 use risk appraisal as a tool nor identify areas of high risk (score 0 or 1).

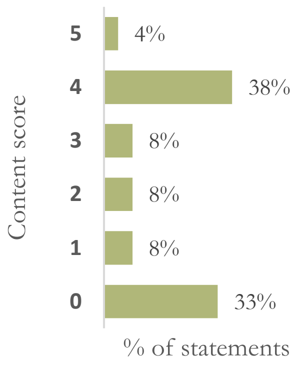

Figure 4 Content analysis scores re risk and risk management

Just one company gained maximum marks in this area (a private limited, UK-based international salad company with a turnover of £293m). They produced a high-scoring statement in 2017 and then revised and improved their statement in 2018. They had identified as higher risk their seasonal workers and external labour providers, and they set out the risk mitigations both within their own organisation and then within their supply chain to deal with these risks.

C5 Measured effectiveness & KPIs

"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" s54(5)(e).

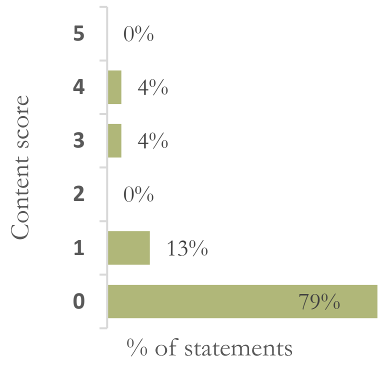

Figure 5 Content analysis scores re measured effectiveness and KPIs

Average score 0.4.

This is 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 KPIs, and neither of these had any data to report or had set targets, as one would expect from the financial KPIs in annual financial statements.

While there are few good examples in the area of measured effectiveness, one comes from a small company, only just over the £36m turnover threshold (private limited company, based in Nottinghamshire, growing and marketing vegetable crops and cereals, selling mainly to the major UK supermarkets). This area was not covered in their 2017 statement, but the 2018 had been revised and improved, and included a reflection on their performance over the year on which they were reporting, and some targets for the subsequent year.

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.

It would be expected that KPIs would change over time as the focus of a company's work changes and it becomes more engaged with the issue. This very poor result may be a function of these reports being the first produced by the companies, but even statements of intent were rare. (Round two analysis, in 5.4, shows a slight increase in average score from 0.4 to 0.7, but it remains the worst area).

C6 Staff training

"The training about slavery and human trafficking available to its staff" s54(5)(f).

Average score 2.3.

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.

A chicken rearing company, part of one on the UK's largest food producing groups (public limited company, turnover £1.4bn) set out the differentiated training provided, from basic training for all staff to more specialist training for HR teams and supply chain operations teams. Another higher scoring company 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.

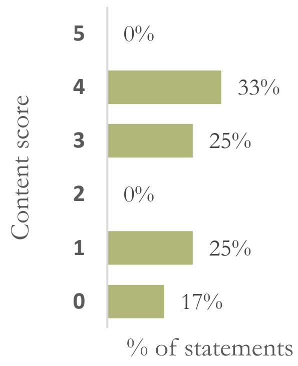

Figure 6 Content analysis scores re staff training

Just as with the testing for existence of a statement, these results do not allow any conclusion to be drawn about the nature of companies which are preparing higher scoring statements. There is no correlation between size of company and scoring: Figure 7 plots this, removing the two outlying largest companies, references 1 (turnover £976m) and 3 (turnover £576m). This gives a correlation coefficient (r) of -0.05, i.e. no correlation.

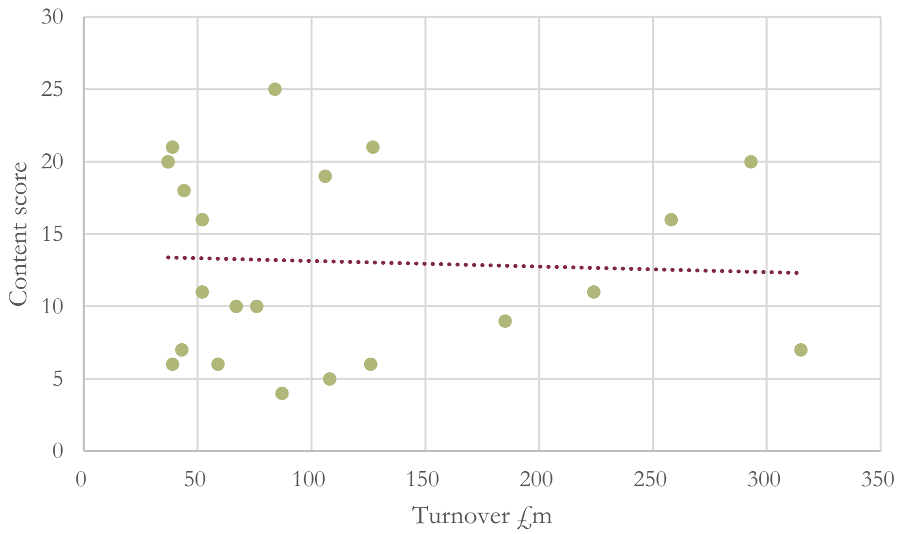

Figure 7 Content score mapped against size of company

Nor is there any correlation between company profitability and scoring: profit margin percentages range from -2.8% to +9.3% (removing the one outlier at 59%), and the correlation coefficient between these and content score is 0.03. There is also no discernible correlation between legal form of company and higher scoring statements. The two public AIM (alternative investment market) companies had an average score of 12.5, very close to the population average of 12.9.

Is there a correlation between quality and approval or sign-off, i.e. does the active involvement of the board or a named individual produce better statements? The correlation coefficient of statement score and approval is 0.32, and between statement score and sign-off is 0.38. Both of these correlations are positive, but at less than 0.5 would generally be considered rather weak. The reasons behind better engagement with s54 must therefore be more nuanced, and suggest further areas for study, discussed in the chapter conclusion.

Comparison over two reporting periods

The final element of our study was a longitudinal analysis, looking at changes in engagement over a year of the same set of agricultural companies. By comparing the statements produced by companies in the agricultural sector at June 2017 with the statements of the same companies one year on, it is possible to see whether there has been any improvement. The final population in round one had contained companies with no website that had therefore been contacted in writing. Because the MSA allows 30 days for a response to a written request, this would not have given sufficient time to integrate the response to written requests in round two prior to finalisation and submission of this book chapter. For consistency, therefore, the longitudinal analysis is limited to the dataset of companies which had a website.

In round two, the compliance testing from 4.1 was repeated and, for statements that had changed over the year, the content analysis described in 4.2 was repeated. Registration rates were also re-measured. The following range of possible outcomes is hypothesised:

Engagement June 2017 (round one)	**Engagement June 2018 (round two)**	**Category**
Statement exists	Revised, better quality	Reviser, improving
	Revised, same quality	Reviser, static
	Revised, worse quality	Reviser, declining
	Not revised	Non-reviser
	Statement no longer exists	Dropout
Statement doesn't exist	Statement now exists	New engager
	Still doesn't exist	Non-engager

Section 54 (1) says that an organisation "must prepare a slavery and human trafficking statement for each financial year". If they have not, even just by reviewing it and changing the date, they no longer comply. When the Home Office guidance was revised and re-issued in 2017, it was recommended that "organisations should keep historic statements from previous years available online even when new statements are published" (Home Office, 2017, p. 14) . These two aspects were introduced as additional compliance tests for round two.

The longitudinal work addresses one of the weaknesses identified in the existing literature (3.2) and explores a key aspect of the legislative guidance, that there should be development and improvement over time: 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" (Home Office, 2015, p. 6).

In his letter to CEOs one year after the MSA came into force, the Independent Anti-Slavery Commissioner noted: "Despite some positive steps forward since the Modern Slavery Act and a number of good statements being published, I remain disappointed that analysis has shown the quality to be weak overall… Even statements that do legally comply have a lot of room for improvement with many simply being reiterations of generic human rights policies… I expect companies to be building on their statements year on year" (Hyland, 2017, p. 1).

Existence over time

Of the 43 companies with a website, 51% (22) had produced a statement in round one. (Table 3). One year later this existence rate had risen to 67%: two companies no longer produced a statement, and there were nine new engagers.

Of the original 22 statements from round one, 20 companies still have a statement, of which,

- 10 statements have changed ("revisers" per 4.4)
  - 6 statements have been materially revised and needed to be subjected to content analysis, with four increasing in quality ("reviser, improver"), 3 by 2 points, 1 by 3 points, and two staying the same ("reviser, static")
  - 4 statements have simply had the date changed for a new year but are otherwise identical ("reviser, static").
- 10 statements have not been changed at all ("non-revisers"), and are therefore out of date
- 2 companies no longer have statements available ("dropouts")

Of the 21 companies that had not produced a statement in round one

- 9 have now engaged ("new engagers")
- 12 still haven't ("non-engagers")

taking the total existence rate from 51% in round 1 to 67% in round 2, or 44% if the out-of-date statements are excluded, as they know longer comply. This is illustrated in Figure 8 which tracks engagement from round one to round two:

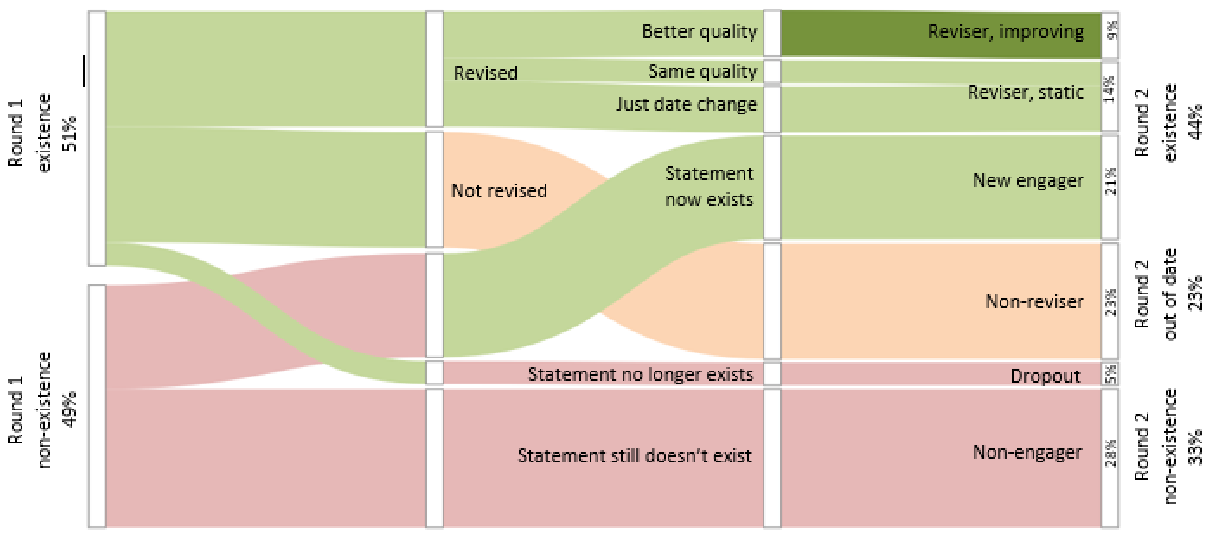

Figure 8 Engagement over time

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

Compliance over time

Of the 20 companies producing a statement in both rounds, none had changed their conformance scoring with regards to visibility, sign-off, or approval: of the 10 revisers, none had addressed gaps around sign-off or approval from round one. For the nine new-engagers, conformance rates are shown below in Table 3 and compared with round one revisers and non-revisers: poor performance from the new engagers has reduced the overall average:

As discussed in 4.4, round two compliance testing included an additional tests to check whether a statement had been produced for the new financial year. 10 of the round one 22 companies, the "non-revisers", The fall in to this category. Although the first statement still exists, the company no longer technically complies. Thus at round two the existence rate falls to 44%: despite 9 new companies engaging, 10 have not revised their statement and 2 have dropped out.

Table 3 Round two conformance of agricultural sector statements

	Existence		Conformance			
	Existence	**Revision**	**Visibility**	**Sign-off**	**Approval**	**All 3**
Round one revisers and non-revisers	51%	-	75%	75%	50%	35%
New engagers	-	-	67%	89%	11%	11%
All at round two	67%	44%	72%	79%	38%	28%

Quality over time

There are four clear findings from the longitudinal quality analysis:

i) Those companies that were most engaged in round one were most likely to have revised their statements a year later. It will be recalled that scores can range from 0 to 30: the average round one score of those who went on to be revisers was 19.8, well above the average of 12.9. The six statements revised had round one scores of 16, 18, 20, 20, 20 and 25. In round two 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 they have had 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 round one average of 12.9.

iii) With the new engagers producing relatively poor statements, and with only six of the 22 round one statements being materially revised, the average quality score for the sector has fallen marginally, from 13.2 for all round one companies with websites, to 12.7 for round two.

iv) The content areas of relative strength and weakness remain the same: content area C3, due diligence, was the best addressed area amongst new engagers (albeit with an average score of 2.2, compared to 3.3 for round one) and C5, effectiveness and KPIs, the least well addressed (with a score of 0.2).

Two further observations emerge:

v) As noted in 4.4, official guidance suggests 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 and General Data Protection Regulation (GDPR) privacy notices, so it is clear they 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. This theme is revisited in the conclusions

Longitudinal summary

While existence rates have increased within the agricultural sector, up from 51% to 67% (for companies with websites), nearly half of those producing a statement in the first year have not revisited their statements and so no longer comply. 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.

Contextualising and comparing the results

At face value, a 51% existence rate (round one, companies with websites), and a 19% overall compliance rate, seem poor. Average scores for content quality also seem low. These results have therefore been contextualised in two ways, first by extending the research of this study for compliance to other higher risk sectors, and secondly by drawing together both compliance rates and content quality information from the six existing UK work streams into a meta-study of results. How do the results and the analysis compare, and what common themes are there? Is the low level of engagement of the UK agricultural sector unusual?

Compliance – within other UK sectors analysed for this study

We analysed three further high-risk sectors under the same approach to testing compliance, except that where no company website was found companies were not contacted in writing. Comparative statistics are therefore just for companies with websites.

Compliance rates across different sectors

	Ag	Comparative sectors				Total
		FP	Mining	Hotels	Total	
Initial population	71	124	65	85		
Removals (wrong SIC code being used)	-2	0	0	-1		
Subsidiaries	-21	-30	-9	-26		
Final population	**48**	94	56	58		
No website	-5	-14	-8	-5		
Final population with websites	**43**	**80**	**48**	**53**	**181**	**224**
Statements found online	22	47	24	19	90	112
Existence:	**51%**	59%	50%	36%	**50%**	**50%**
Visibility	17	37	22	15	74	91
Sign-off	16	39	20	15	74	90
Approval	11	18	12	8	38	49
All compliance elements	8	13	10	8	31	39
Compliance rates (as % of final population of companies):						
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%**

Compliance rates across different sectors show similar results to those found within the agricultural sector: 90 of the 181 companies with websites in the three other sectors had produced statements, a 50% existence rate. Food processing and packing leads, at 59%, mining 50%, and then the hotels sector 36%. Across all four sectors, 50% of companies had produced a statement. The existence rate for the agricultural sector is therefore average. Overall compliance rates for the three other sectors were similarly close: 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.

Conclusions

By June 2017 only 50% of agricultural companies had produced a modern slavery statement, and only 38% of these statements conformed to all requirements, an overall compliance rate for the sector of 19%. One year on, 67% of agricultural companies have a statement, but as a number of these statements are now out of date, technically only 44% of companies have an in-date statement.

The quality of the content of the statements was low, with an average score of 12.9 out of 30. There are some areas of s54 that companies seem to find easier to comply with than others. An area of particular weakness is that of measured effectiveness and key performance indicators: if a company has no way to assess the effectiveness of the steps it is taking to ensure slavery is not taking place, the chances of driving change must be reduced.

There has been little development over time: the quality of statements has not improved. 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 their statements one year on, and only 9% of companies increased the quality of their statements. A small group is strategically engaged with the issue, and may well be frustrated by the increased scrutiny their transparency brings while the poor performance of the majority goes unaddressed. The inference is that the majority of companies have either failed to engage, or have put out a statement, considered the job done, and moved on from the issue, even though there is every indication the issue is a growing one.

Results from this study echo those found in other sectors and in the existing literature. This study contributes to the exploratory foundations on which more theoretical work can be built as to why engagement is poor: the conclusion for now must be to doubt the effectiveness of this example of regulated corporate reporting to bring about change for more sustainable business. The weakness of the provisions of s54 of the MSA manifests itself in this poor engagement: legislation requiring similar outcomes which is more robust achieves a greater impact, sooner. The efforts of civil society and Government to drive up engagement and improve standards show no signs of having had an impact in this sector.

The study supports the need for including the bottom of the pyramid parts of the supply chain in corporate responsibility as suggested by Hahn and Gold (2014). Keeping such responsibility at a voluntary basis without meaningful enforcement mechanisms however can be concluded to be an insufficient and largely naïve approach. It also demonstrates the clear need for state institutions in bottom of the pyramid supply chains were commercial logic does not support or even contradict treating workers well.

Our study can be used for measuring success of the UK's Modern Slavery Act supply chain provision and backs up the Commissioner's and the Public Accounts Committee's conclusions that s54 statements were a "tick-box exercise" and that "Having a series of regulations with which two-thirds…are not compliant is not world leading" (IASC, 2018, question 63 and 64). In essence, the poor quality of many statements indicates a *tactical* response to the MSA and the issue of modern slavery – box ticking and minimal compliance – from the UK agricultural sector, and more widely. If sustainability issues such as modern slavery are going to be successfully addressed through mandated corporate reporting, this must fully engage these companies and elicit a more meaningful *strategic* response.

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