



## MODERN SLAVERY GUIDANCE

### Scope

This guidance applies to all employees of Fortel Group Companies ('Fortel').

### Purpose

Fortel has a policy of strict compliance with all laws. This guidance describes how the Modern Slavery Act 2015 applies to Fortel.

### Definitions and Notes

None

### Associated Documents

Legislation and Compliance Policy  
Modern Slavery Policy

### Guidance

#### What is the Modern Slavery Act 2015

The Modern Slavery Act 2015 ('the Act') significantly enhanced the criminal penalties for traffickers and illegal gangmasters, alongside increasing support and protection for victims of modern slavery and human trafficking. The Act applies across all industry sectors and so is not recruitment specific.

Section 54 of the Act also introduced a new statutory obligation on large businesses to publish an annual statement on the steps they are taking to ensure that modern slavery and human trafficking are not taking place within their business operations and their supply chain. The Modern Slavery Act 2015 (Transparency in Supply Chains) Regulations 2015 which came into effect on 29 October 2015 build on Section 54 and provide more detail on the requirements.

#### What do slavery, human trafficking and exploitation mean?

Annex A sets out the definitions of slavery, human trafficking and exploitation in full. In brief they are:

- Slavery/ servitude - behaviour depriving an individual of their freedom and property (s1 of the Act).
- Human trafficking - arranging or facilitating the travel of another person with a view to them being exploited, even if they consent to the travel (s2 of the Act).
- Exploitation- forced or compulsory labour. This can include direct threats of violence or more subtle forms of compulsion (s3 of the Act).

#### Which businesses are required to report?

The reporting requirement under s54 of the Act applies to commercial organisations which:

- Are incorporated (either a public or private company) or a partnership;
- Supply goods and/or services in the UK (even if incorporated outside the UK); and
- Have an annual turnover of at least £36 million (see below for comments relating to group companies and overseas revenue).

#### Turnover

Total turnover of a commercial organisation is:

(a) the turnover of that organisation; and



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(b) the turnover of any of its subsidiary undertakings as cited in Regulation 3(1) of The Modern Slavery Act 2015 (Transparency in Supply Chains) Regulations 2015 ('the Regulation').

Turnover means the amount derived from the provision of goods and services falling within the ordinary activities of the commercial organisation or subsidiary undertaking after deduction of:

- (a) trade discounts; and
- (b) VAT; and
- (c) any other taxes based on these amounts (Regulation 3(2) of the Regulation).

### Group companies

Every organisation within a group of companies will have to publish a statement if it meets the above requirements. Neither the Act nor the Regulation specify how a group of companies can manage this obligation. However, the [Home Office guidance](#) states that if for example a parent company and one or more subsidiaries are each required to publish a statement, then the parent company could provide one statement for use by all provided it covers the steps each organisation has taken during the financial year. This includes where the subsidiary is a non-UK company (pages 7 and 8).

### Franchises

Again, this is not expressly covered in the Act or the Regulations but is covered in the [Home Office guidance](#). Only the franchiser's turnover is relevant to assess whether the franchiser has a duty to publish or not. However, any franchisee which reaches the £36 million in its own right will also have a duty to publish.

### Businesses that do not meet the above requirements

While the majority of businesses may not meet the turnover threshold and therefore will not be required to report in their own right, they may be asked by clients further up the supply chain to help them prepare their statement by providing evidence or implementing new policies and practices. So companies supplying via vendors, whether master or neutral, can expect to be questioned about the steps they take to tackle slavery and human trafficking within their own organisation and any other entities they engage with. Alternatively, where there are no vendors they could be asked directly by their client if it has a duty to publish.

### What information should the statement contain?

There is no prescribed format for the content or structure of the statement. The Home Office guidance states that different types of business can develop their policies and practices – and consequently statements – to reflect the level of risk in their sectors. That said, Section 54 of the Act states that the statement may include information about:

- The organisation's structure, its business and its supply chains;
- Its policies in relation to slavery and human trafficking;
- The organisation's due diligence processes in relation to slavery and human trafficking in its operations and supply chains (i.e. audits, compliance checks, procurement policies);
- Steps taken to assess and manage risk of modern slavery and human trafficking in its operations and supply chains, and how the business measures its effectiveness in this regard;
- The training about slavery and human trafficking which is available to staff.

The [Home Office guidance](#) also suggests noting whether any of the organisation's work is seasonal, the countries it sources goods and services from including high risk countries where modern forms of slavery are prevalent and the relationships it has with suppliers, trade unions and other bodies representing workers. It also emphasises that tackling modern slavery is not just about policies but about organisational behaviour including training, resourcing, collaboration and leadership by senior management.

Within Fortel we do and have worked collaboratively with the Home Office and the Gangmaster Labour Abuse Authority ('GLAA') to share experiences, learning and intelligence. Fortel worked with the GLAA in the creation of the [Construction Protocol](#) and was one of the founding organisations, along with a hand full of others, to sign the Protocol.



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Fortel Directors meet regularly with the GLAA and other construction organisations as part of the Construction Protocol commitments.

### Due diligence

Neither the Act nor the Regulation set out what due diligence the reporting organisation might do on their supply chains. However, Annex E of the [Home Office guidance](#) sets out some pointers. It states that due diligence procedures should be:

- Proportionate to the identified modern slavery risk (which is affected by the countries and sectors the supply chain operates in, finance (including money laundering) and business partners);
- The severity of the risk;
- The level of influence a business may have; and
- Informed by broader risk assessments that the organisation has already conducted.

### Publishing the Statement

#### When is Fortel required to publish?

Section 54(1) simply states that commercial organisations have to complete a statement for each financial year. Section 6 of the [Home Office guidance](#) provides some examples of different financial years and when businesses will be expected to publish a statement. We have taken the following text from the guidance:

**Example 1** *Business V has a financial year-end of 30 November 2015. The transparency provisions do not take effect in relation to financial years ending before 31 March 2016. Business V, therefore, does not need to complete a statement for the financial year-end 30 November 2015. Business V's first statement will need to be produced for the financial year 1 December 2015 to 30 November 2016.*

**Example 2** *Business W has a financial year end of 31 March 2016 and so is required to produce a statement for the current financial year. Business W has undertaken a number of activities throughout the financial year relating to tackling modern slavery and wider human rights issues, including activity prior to the commencement of the provision. Their statement should cover all the relevant activities undertaken by the organisation during the period 1 April 2015 to 31 March 2016.*

**Example 3** *Business X has a financial year-end of 30 April 2016 and so is required to produce a statement for the current financial year. Business X has only started to undertake activities related to tackling modern slavery since the provision was commenced. Their statement covers the financial year from 1 May 2015 to 30 April 2016 but only details the activity undertaken since the transparency provision commenced in October 2015.*

The [Home Office guidance](#) encourages organisations to publish their statement as soon as reasonably practicable, and ideally within 6 months, after the end of their financial year.

#### Who in Fortel is required to produce the Statement?

The statement must be approved and signed off by senior members/ staff within each Fortel Group Company before it is published. Section 54(6) states that this is:

- (a) If a company, the board of directors (or equivalent) must approve the statement, whilst it must be signed off by a director
- (b) If a limited liability partnership it must be approved by members and signed off by a designated member
- (c) If a limited partnership registered under the Limited Partnerships Act 1907 it must be signed by a general partner; or
- (d) If any other kind of partnership it must be signed by a partner.

Within Fortel The Statement will be created and signed off by the Managing Director of that Fortel Company.



*Where are Fortel required to place the Statement produced?*

Section 54(7) provides that the statement must be published in a prominent place on the reporting organisation's website and there should be a link to the statement in a prominent place on the homepage. If the company does not have a website, then it must provide a copy within 30 days of receipt of written request from any person (section 54(8)).

**Sanctions for non - compliance**

Failure to publish a statement is not a criminal offence, nor will it, currently, result in a financial penalty. However, the Act gives powers to the Home Secretary to seek an injunction to force a company to publish.

Compliance with this new reporting requirement will be chiefly driven by businesses seeking to avoid negative publicity and reputational damage amongst their customers, suppliers and potential investors.



## Annex A – definitions contained in the Modern Slavery Act 2015

### Section 1 - Slavery, servitude and forced or compulsory labour

(1) A person commits an offence if—

(a) the person holds another person in slavery or servitude and the circumstances are such that the person knows or ought to know that the other person is held in slavery or servitude, or

(b) the person requires another person to perform forced or compulsory labour and the circumstances are such that the person knows or ought to know that the other person is being required to perform forced or compulsory labour.

(2) In subsection (1) the references to holding a person in slavery or servitude or requiring a person to perform forced or compulsory labour are to be construed in accordance with Article 4 of the Human Rights Convention.

(3) In determining whether a person is being held in slavery or servitude or required to perform forced or compulsory labour, regard may be had to all the circumstances.

(4) For example, regard may be had—

(a) to any of the person's personal circumstances (such as the person being a child, the person's family relationships, and any mental or physical illness) which may make the person more vulnerable than other persons;

(b) to any work or services provided by the person, including work or services provided in circumstances which constitute exploitation within section 3(3) to (6).

(5) The consent of a person (whether an adult or a child) to any of the acts alleged to constitute holding the person in slavery or servitude, or requiring the person to perform forced or compulsory labour, does not preclude a determination that the person is being held in slavery or servitude, or required to perform forced or compulsory labour.

### Section 2 – Human trafficking

(1) A person commits an offence if the person arranges or facilitates the travel of another person ("V") with a view to V being exploited.

(2) It is irrelevant whether V consents to the travel (whether V is an adult or a child).

(3) A person may in particular arrange or facilitate V's travel by recruiting V, transporting or transferring V, harbouring or receiving V, or transferring or exchanging control over V.

(4) A person arranges or facilitates V's travel with a view to V being exploited only if—

(a) the person intends to exploit V (in any part of the world) during or after the travel, or

(b) the person knows or ought to know that another person is likely to exploit V (in any part of the world) during or after the travel.

(5) "Travel" means—

(a) arriving in, or entering, any country,

(b) departing from any country,

(c) travelling within any country.

(6) A person who is a UK national commits an offence under this section regardless of—

(a) where the arranging or facilitating takes place, or

(b) where the travel takes place.

(7) A person who is not a UK national commits an offence under this section if—

(a) any part of the arranging or facilitating takes place in the United Kingdom, or

(b) the travel consists of arrival in or entry into, departure from, or travel within, the United Kingdom.



### Section 3 – Meaning of Exploitation

(1) For the purposes of section 2 a person is exploited only if one or more of the following subsections apply in relation to the person.

Slavery, servitude and forced or compulsory labour

(2) The person is the victim of behaviour—

(a) which involves the commission of an offence under section 1, or

(b) which would involve the commission of an offence under that section if it took place in England and Wales.

Sexual exploitation

(3) Something is done to or in respect of the person—

(a) which involves the commission of an offence under—

(i) section 1(1)(a) of the Protection of Children Act 1978 (indecent photographs of children), or

(ii) Part 1 of the Sexual Offences Act 2003 (sexual offences), as it has effect in England and Wales, or

(b) which would involve the commission of such an offence if it were done in England and Wales.

Removal of organs etc

(4) The person is encouraged, required or expected to do anything—

(a) which involves the commission, by him or her or another person, of an offence under section 32 or 33 of the Human Tissue Act 2004 (prohibition of commercial dealings in organs and restrictions on use of live donors) as it has effect in England and Wales, or

(b) which would involve the commission of such an offence, by him or her or another person, if it were done in England and Wales.

Securing services etc by force, threats or deception

(5) The person is subjected to force, threats or deception designed to induce him or her—

(a) to provide services of any kind,

(b) to provide another person with benefits of any kind, or

(c) to enable another person to acquire benefits of any kind.

Securing services etc from children and vulnerable persons

(6) Another person uses or attempts to use the person for a purpose within paragraph (a), (b) or (c) of subsection (5), having chosen him or her for that purpose on the grounds that—

(a) he or she is a child, is mentally or physically ill or disabled, or has a family relationship with a particular person, and

(b) an adult, or a person without the illness, disability, or family relationship, would be likely to refuse to be used for that purpose.

End

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