

Section 54 Modern Slavery Act 2015

Transparency in Supply Chains

Section 54 of the [Modern Slavery Act](#) applies to all commercial organisations that supply goods/services and have a total turnover equal to or exceeding an amount set by the secretary of state, currently £36 million. It requires them to publish a transparency statement annually, within six months of the end of the organisation's financial year.



Requirement of the Act

The statement should include any international supply and trade routes as well as the areas or regions where your organisation operates. In some larger organisations it will be necessary to list the specific areas for different types of trading activity. You should highlight the areas of your business and sections of your supply chain that are at risk of modern slavery. Furthermore, the statement should outline who is responsible for anti-slavery initiatives within your organisation, including any relevant policies. The statement must include: your due diligence process for tackling modern

slavery; the performance indicators you use to assess effectiveness and measure risk; staff modern slavery training requirements and any other initiatives you are implementing to combat modern slavery.

The act must be signed by an executive of the organisation, e.g. a director or partner. It must also be published on your organisation's website accompanied by a prominent link on the homepage. The statement should be clear and written in simple English. Additionally, if your organisation regularly trades with non-English speaking countries then the statement should be readily available in the respective languages.

The act does not strictly require you to implement a strategy to prevent slavery within your supply chain, but simply to investigate and report on it. Organisations are therefore within their rights to publically state that they are doing nothing to combat slavery within their supply chain. However, the inevitable shift in public perception through this demonstration of disregard is worth considering.

Why is Supply Chain Transparency Important?

The logic behind section 54 of the Modern Slavery Act is that the transparency statement will encourage organisations to take proactive steps to eradicate modern slavery from their supply chains. Greater supply chain transparency allows companies to identify and better manage areas of risk. The birth of social media means that brands are more exposed than ever to public critique and the potential accompanying loss of reputation. Additionally, non-compliance could result in a loss of business and damage to shareholder opinions. Furthermore, compliance is important since it is a legal obligation. Education is key in maintaining vital compliance. Regular modern slavery training can help ensure your knowledge is kept up to date and that you are fully equipped to address the risks within your supply chain.

Why you need to assure your labour supply chain

Failing to take reasonable action to make sure that your supply of labour is legitimate can lead to significant legal, financial and reputational risks to your business. It could even stop your business from operating entirely.

You may be liable for unpaid taxes and National Insurance contributions. You may be unable to recover VAT payments and you could be criminally prosecuted with an unlimited fine if someone acting on your behalf facilitates tax evasion.

Proper checks are also important for protecting workers and preventing modern slavery.

How to assure your labour supply chain¹

You should perform due diligence to enable you to make a judgement on transactions and the integrity of your supply chain.

Protect your business by testing the credibility, legitimacy, legal and tax compliance of your suppliers, supplies, customers, employees and labour supply.

Exploitation, fraud and avoidance are easier to hide below the surface of a supply chain when effective due diligence is not performed by all parties, therefore checks done purely in relation to your immediate suppliers and customers may not be sufficient.

It is also important to consider the credibility of the supply, payment arrangements and other surrounding circumstances.

Using supply chain due diligence principles of check, act and review will help you apply effective risk management and robust due diligence to assure the integrity of your supply chains, minimising your exposure to risks.

Supply chain due diligence principles

The Principles are not a definitive checklist but are good practice examples of what businesses can do to minimise risks in their supply chains.

¹ [Advice on applying supply chain due diligence principles to assure your labour supply chains - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

Check

Know your own risk – legal, financial, tax and social obligations, and those of your suppliers. You can check:

- your risks by performing risk assessments to understand what they are and how to mitigate them
- your own compliance with legal, financial and social obligations to safeguard against risks within business supply chains
- your suppliers' tax and legal compliance, for example, submitting their tax returns and payments on time, complying with legal and social responsibilities, and having reasonable procedures to prevent the criminal facilitation of UK and foreign tax evasion, as per the Corporate Criminal Offences brought in by the Criminal Finance Act 2017
- for modern slavery and exploitation risks, for example, check for published slavery and human trafficking statements and for indicators of modern slavery and exploitation

Act

Carry out robust due diligence on your suppliers. If risks are identified do not ignore them, act to mitigate or remove the risk completely by:

- acting on your risk assessment by setting up effective systems and processes for due diligence
- knowing your suppliers – do not assume tax compliance, be vigilant for previous business failures or possible criminal intent. Check the credibility of directors and verify signatories of contract negotiations and documents are accountable office holders
- knowing your suppliers workforce – understand what the relationship is between the workers and the provider of the labour, for example:
 - who provides the workers
 - who the workers are
 - what their employment status is
 - who is responsible for making sure how they are paid and how much
 - if there is any indication of exploitation including modern slavery
 - are they allowed to work in the UK
- knowing how long your supply chain is – margins become tighter with every layer of subcontracting and opportunities increase for fraudulent infiltration of supply chains so be vigilant – check that the supplier actually exists (for

example, by looking for commercial features) and check details of any onward subcontracting

- knowing their suppliers – due diligence applies throughout supply chains – one aim of due diligence and risk assessment is to enable the taxable person to make a judgement on the integrity of their supply chain and the suppliers, customers and goods within it, for example, you may lose the right to recover the tax paid on transactions connected with the fraudulent evasion of VAT if you failed to carry out appropriate check

Review

Effective due diligence needs continuous monitoring and review which includes:

- due diligence procedures – these should be risk-based, relevant, reasonable, proportionate and most importantly, ongoing
- live risk management – this can stop or prevent harm before it occurs, for example it will provide added protection against denial of input tax

It is recommended that you carry out due diligence checks to help safeguard your business from financial, operational and reputational risks. You must decide what checks are relevant, reasonable and proportionate for your own business – when you'll carry them out, and how often. However, these checks will need to be more extensive in business sectors where there are greater commercial risks or vulnerability to fraud and other criminality.

Completing these checks will also help satisfy a number of your legal obligations.

This is particularly important if your business uses labour supplied by a third party such as an agency, contractor or sub-contractor, or if you outsource your payroll service.

Guidelines to help you check, act and review

The examples given are guidelines to help you avoid getting involved with high-risk businesses and individuals.

You can also find useful pointers in [10 things about due diligence](#).

Make sure you keep a detailed record of all the checks you do.

You must make sure you understand and can approve the supply chain by considering:

- adding a clause to the contract requiring your authorisation before further sub-contracting to a third party, and check that this is adhered to
- adding a clause in the contract that travel and subsistence arrangements between the workers and the labour supplier comply with [HMRC requirements](#)
- adding a clause in the contract stopping the use of off-shore intermediaries
- where workers supplied by agencies are being treated as self-employed, decide if the [Agency Rules](#) apply – agency rules mean that you need to operate PAYE as if the workers you supply are your employees
- making sure the agency has complied with [employment intermediary reporting requirements](#) and get evidence of submitted reports to HMRC where they do not operate PAYE (this includes where they use an [umbrella company](#))
- where an individual works through their own intermediary (usually a limited company, or personal service company) and you are a public sector body you will need to decide if the [off-payroll working rules](#) apply and if PAYE needs to be operated on payments to the individual's intermediary – if you are a medium or large-sized private or voluntary sector organisation, from 6 April 2021 you will also need to check whether the off-payroll working rules apply and take action accordingly
- whether the workforce has been repositioned into 'mini umbrella companies' to enable fraudulent abuse of government incentives aimed at small businesses (such as the [VAT Flat Rate Scheme](#) and [Employment Allowance](#)) – [Mini umbrella company fraud](#) can result in reputational and financial damage to your business, and workers not receiving all they're entitled to
- whether the supply chain is unnecessarily long, leaving those further down little scope for profit or meeting statutory tax obligations

You must make sure workers are paid properly by considering:

- checking workers are actually paid their contractual rate and that it complies with the National Minimum Wage or the National Living Wage – failure to comply with minimum wage legislation is largely driven by a series of common errors – support is available through [help and support for employing people](#)
- checking the [Association of Labour Providers \(ALP\)](#) or [Gangmasters Labour Abuse Authority \(GLAA\)](#) for the latest suggested hourly rates for the supply of labour – any business charging less suggests unsustainable practices
- taking a sample check of agency worker's pay slips to understand who is responsible for paying your workers – check whether it is who you expected

- checking that the PAYE reference is the right one for the business you consider to be the employer – check if your actual supplier of labour is linked to the business you hold a contract with

Make sure your supplier is legitimate and previously compliant by considering:

- whether commercial features can be demonstrated and are as expected
- checking the credibility of the directors and establishing who is in control of the business
- checking the history of the labour supply business – if a previous business failed due to tax debts, see what has changed to prevent this happening again, and check if the supplier is now commercially sustainable
- adding a clause in the contract requiring labour suppliers to show evidence of the VAT and PAYE returns filed and payments made to HMRC
- checking that appropriate licences are held and in order, for example, a [Gangmasters and Labour Abuse Authority \(GLAA\) licence](#) or a [Security Industry Authority \(SIA\) licence](#)
- verifying the suppliers VAT registration details with HMRC before you use them and making regular checks of all VAT registration numbers afterwards (see [‘Verifying VAT registration details’](#))
- telling HMRC about your payroll or staffing outsourcing arrangements (see [‘Tell HMRC about your payroll outsourcing’](#))

If you do not do checks or take appropriate action afterwards

You need to know that if HMRC finds non-compliance or fraud in your supply chain it is likely to cost you more.

HMRC is committed to tackling non-compliance, fraud and illegal working practices in labour supply chains across business sectors so that we can:

- fund essential UK services
- stop modern slavery
- create a level playing field for those businesses who do comply

The right to claim input tax could be denied to anyone in a supply chain if they knew or should have known that their transactions were connected with VAT fraud.

You can be fined [if your tax return or other tax document is inaccurate](#) and tax has been unpaid or paid incorrectly as a result. For example, those businesses denied input tax under Kittel may face a section 69C fine which is 30% of the VAT denial.

You may be liable for unpaid taxes and National Insurance contributions

If you use agency or temporary workers or are an agency providing workers, you or one of the other parties in the labour supply chain may need to operate PAYE on the workers' earnings – you should check who needs to do this.

HMRC can ask you to account for unpaid tax and National Insurance contributions. For example, if an offshore agency supplies you with workers and they do not account for tax and National Insurance contributions payable through the PAYE system, then you may have to.

To increase compliance with the off-payroll working rules in the private and voluntary sectors, organisations receiving an individual's services (where the individual works through their own intermediary, most commonly their own limited company) will become responsible for assessing that individual's employment status and determining whether the rules apply from April 2021. This reform already applies in the public sector where an individual works through their own intermediary.

The off-payroll working reform from April 2021 will also provide HMRC with the power to recover unpaid tax and National Insurance contributions from you, or the agency you contract with in some circumstances – if for example a UK-based agency lower down in your labour supply chain fails to account for tax and National Insurance contributions payable through the PAYE system under the off-payroll working rules and there is no realistic prospect of recovering the tax and National Insurance contributions from them. This change will apply to the public, private and voluntary sectors. See [understanding the off-payroll working \(IR35\)](#) rules for more information.

National Minimum and National Living Wage and falsified payment records

It's a criminal offence if HMRC finds that an employer has not been paying workers the correct rate or falsifying payment records. Arrears have to be paid back immediately. There'll also be a fine of up to 200% and offenders can be named in a government press release.

Operating within the construction industry

You need to follow [Construction Industry Scheme \(CIS\)](#) rules. If you do not, you may have to pay any CIS deductions that have not been correctly accounted for plus interest and fines.

All payments to sub-contractors relating to construction must be shown on CIS returns regardless of their payment status, otherwise your own gross payment status could be at risk.

Corporate failure to prevent the criminal facilitation of tax evasion

Companies that fail to prevent representatives acting on their behalf from criminally facilitating tax evasion could be prosecuted, and if found guilty they may be subject to an unlimited fine. See [criminal corporate offences for failing to prevent criminal facilitation of tax evasion](#) for more information.

Use of tax avoidance arrangements

HMRC will always challenge tax avoidance arrangements. If you or your workers are involved in tax avoidance arrangements, there may be unintended tax consequences. Additional tax and National Insurance contributions could be due and late payment interest may also be payable. Fines may also apply. If something looks too good to be true, then it almost certainly is.

Find out [how to spot the warning signs of tax avoidance](#).

Your business could be prevented from operating entirely

If HMRC or another law enforcement agency take action against a labour supplier in your chain (for example licences revoked or suspended, bank accounts frozen, the removal of the workforce) the supply of labour to your business and subsequent ability to meet deadlines could be affected.

Your risk of reputational damage

Customers, shareholders and the media expect transparent tax planning and value low risk behaviour towards tax contributions. Taking part in non-compliant supply chains, including association with criminals, illegal workers and exploitation can compromise your commercial relationships, affecting your ability to maintain contracts.

More information and checks

Eradicating modern slavery and illegal working in your supply chains

Certain organisations need to produce [an annual modern slavery statement](#). The statement must set out what steps they have taken during the financial year to make sure that modern slavery is not happening in their supply chains or own organisation.

To help you establish this you will need to be aware of the [modern slavery indicators](#).

You can get more information about [modern slavery on the GOV.UK website](#).

You have a legal obligation to check that an individual is allowed to work in the UK before they are employed as well as making sure they are not breaching any visa restrictions.

A National Insurance number is not proof of identity or right to work in the UK. You should make sure document checking follows UK Visa and Immigration guidance: [Right to work checks: an employer's guide](#).

Employers can be fined for employing illegal workers and could even be sent to jail and receive a fine if found to have knowingly employed an illegal worker.

Tell HMRC about your payroll outsourcing

Organised fraud in labour provision presents a risk to the public revenue.

HMRC would like to help your business to report any concerns about payroll or staffing outsourcing you already use or are considering using. HMRC will check if the company submits returns and pays tax and National Insurance contributions for your employees, however HMRC may be unable to tell you the result of these checks.

Telling HMRC about these arrangements is voluntary and is not the same as employment intermediary reporting. You should [complete the online form](#) if your business:

- is not an employment intermediary company
- outsources staff including CIS subcontractors to an outsourcing company such as a payroll, [umbrella](#) or intermediary company, and
- the outsourcing company assumes responsibility for both making returns and remitting tax to HMRC in their company name

Verifying VAT registration details

You can check the VAT status of all UK VAT registered businesses on the [Check a UK VAT number service](#). You can get a unique reference number for your check if you also enter your own VAT Number when doing the check.

You can check the VAT status of EU businesses you're working with on the EU's VAT Information Exchange System (VIES) website. You can get a unique reference number for your check if you also enter your own VAT number when doing the check. UK VAT registration numbers will only be displayed on VIES if they trade under the terms of the Northern Ireland protocol.

HMRC can verify the VAT status of the businesses that you are working with if you:

- are involved in the supply of labour
- are an intermediary
- use payroll services
- operate in other trade sectors at high risk of fraud

For more information you can email: hmrc.vrnchecks@hmrc.gov.uk.

More information about performing due diligence checks on labour supply chains

The information in this guide is about assuring labour supply chains, however the principles of due diligence can apply elsewhere and you can get more information from:

[10 things about due diligence](#)

[Mini umbrella company fraud](#)

[Joint and several liability for unpaid VAT \(VAT Notice 726\)](#)

[How to spot missing trader VAT fraud](#)

Reporting concerns about potential compliance issues

If you have information concerns about a supplier or engager of labour, or associated activities, contact the HMRC hotline on: 0800 788 887 (open 8am to 8pm every day). For more details see how to [report fraud to HMRC](#).

You can also report someone if you think they're [evading tax](#).

Reporting concerns about exploitation

If you have concerns and someone is in immediate danger then you should call 999.

Otherwise you should contact:

[Crimestoppers](#) website or telephone: 0800 555 111

[Modern Slavery Helpline](#) website or telephone: 0800 0121 700

[Gangmasters and Labour Abuse Authority](#) website or telephone: 0800 432 0804

[ACAS Helpline](#) website or telephone: 0300 123 1100

[Health and Safety Executive](#) website for serious injury.

For fatality only contact:

- out of hours Telephone: 0151 922 9235
- office hours Telephone: 0845 300 9923

Home Office Immigration Enforcement to [report an immigration or border crime](#).