

fast forward

Building sustainable supply chains



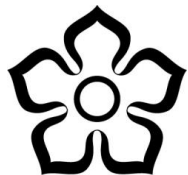
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Ethical and Social Compliance

A workshop for Fashion
and Textile Manufacturers

12.12.17



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Workshop objectives

1. To highlight the importance of ethical and social compliance and imperatives to improve.
2. To explain key employment, health and safety and other legal requirements.
3. To promote a management systems approach to ethical and social compliance.



Outline of the workshop

- Welcome and introductions
- Introduction to ethical and social compliance
 - Imperatives to improve
 - International best practice
 - Ethical auditing schemes
- Management Systems
- Coffee break
- UK Employment and Health and Safety Law
- Feedback and close



Housekeeping



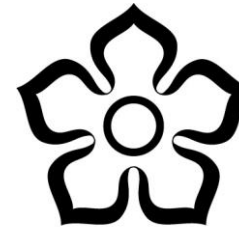
Introduction



Hannah Newcomb
Fast Forward Programme Manager



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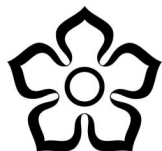
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What do we mean by ethical and social compliance?

Ensuring that your business's practices conform to applicable **laws, regulations and international labour and human rights standards**



What's the business case for ethical and social compliance?

- Good HR and CSR practice
- Good risk assessment/control
- Opportunity to engage with employee reps and business partners
- Proactive commitment valued by your workforce



BUSINESS CASE



What's the business case for ethical and social compliance?

- Client, investor expectations
 - Major fashion retailers want to increase UK sourcing but have had to do the opposite because of the risk of non-compliance in their supply chain
- Legal repercussions (civil fines and prosecutions)



BUSINESS CASE



Relevant UK law



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International labour standards

The only tripartite U.N. agency, the ILO brings together governments, employers and workers of 187 member States (including the UK), to set labour standards, develop policies and devise programmes promoting decent work for all women and men.



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International
Labour
Organization



International labour standards

Numerous ILO Conventions cover international labour standards including:

- Freedom of association and collective bargaining
- Forced labour
- Child labour
- Equality of opportunity and treatment
- Employment policy and security
- Wages
- Working time
- Occupational safety and health
- Social security and maternity protection
- Domestic, migrant workers and other categories of workers



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Ethical labour standards codes

Ethical trading organisations have developed ethical labour standards codes, aligned to ILO Conventions:

- ETI Base Code
- GSCP Reference Code
- SA8000
- Brand/Retailer codes of conduct



Legal vs. ethical requirements

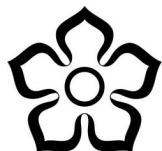
GSCP:

- *In all instances, the international labour standard, national and/or local legislation or GSCP reference code requirement which **affords the highest level of protection** shall apply.*
- *The provisions of this reference code constitute **minimum and not maximum standards***

ETI and other codes have equivalent statements



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Ethical auditing programmes



SMETA

- Aligned to the ETI Base Code + management systems, entitlement to work, sub-contracting and homeworking
- 2-pillar vs 4-pillar
- Non-compliances, observations and good examples
- Any auditor can deliver, any Brand can request



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- Audits are commissioned by the FF Brands only and delivered only by FF trained auditors
- Compliance standards aligned to laws and ETI/GSCP codes
- Pre-audit training, audit and improvement process
- Management systems approach – onus on site to *prove compliance*, not on the auditor to *prove non-compliance*
- Audit outcomes *stranded* into ‘Under Review’, ‘Developing’, ‘Performing’, ‘Leading’



DEBENHAMS

NEW LOOK

RIVER ISLAND

ASOS

SHOP
DIRECT

next

M&S

EST. 1884

John Lewis

Dunelm



UK enforcement

- Immigration Act 2016 introduced legislation to improve the effectiveness of the enforcement of certain employment rights to prevent non-compliance and the exploitation of vulnerable workers:
 - New Director of Labour Market Enforcement
 - Extension of Gangmasters and Labour Abuse Authority's remit to deal with labour exploitation across the economy
- Means more intelligence sharing and increasing number of raids

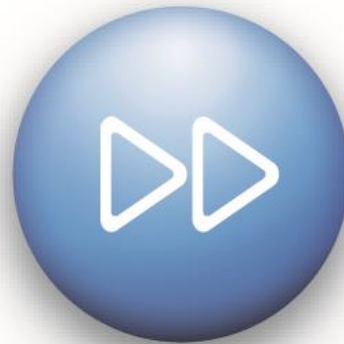


Public-private collaboration

- Apparel and General Merchandise Public / Private Protocol - November 2017
 - We will work together to eradicate slavery and exploitation in the Apparel and General Merchandise supply chain in the UK by:
 - Raising awareness to prevent the exploitation of workers
 - Protecting vulnerable and exploited workers
 - Disrupting exploitative practices and bringing criminals to justice



Discussion and questions



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Management systems

Embedding ethical and social compliance in your business



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Importance of management systems

- Retailers expect to see that legal and ethical compliance is *embedded* in your business
- That means you (and your managers/supervisors/workers) understand the standards and there are systems to ensure these are met in your business
- External advice and consultancy is good if robust and helps to improve ongoing management *within* the business



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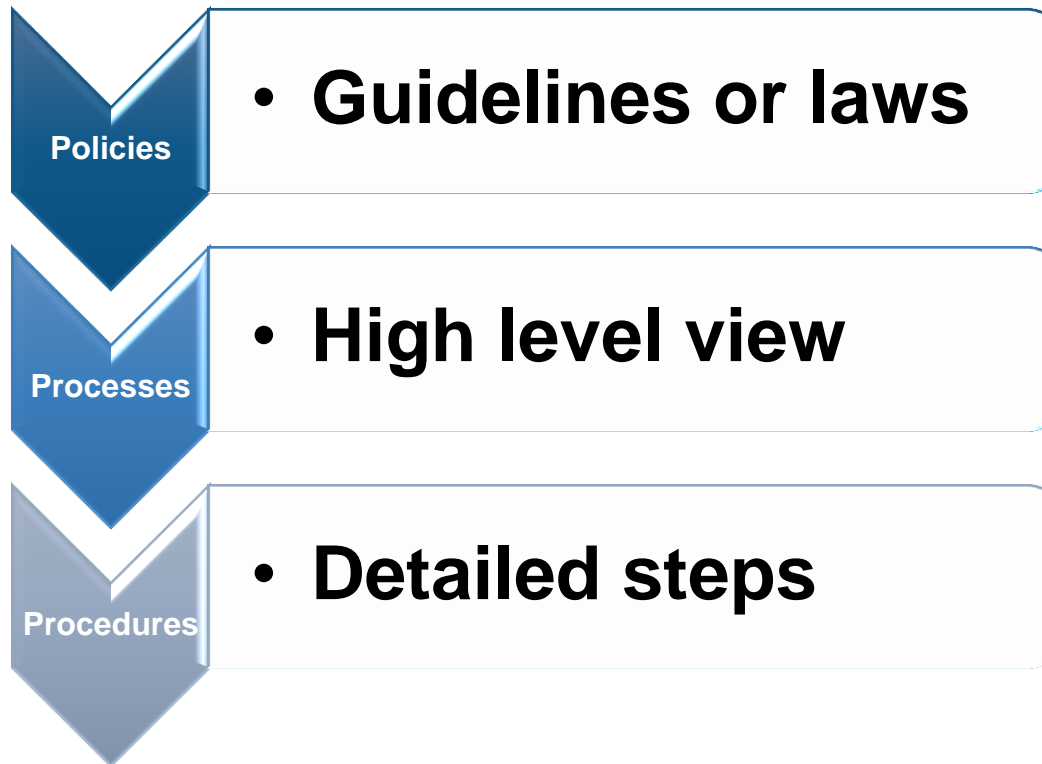


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What is a management system?



Labour standards management system



Plan

- Policy
- Risk analysis
- Legal requirements
- Targets and Objectives
- Operational management



Do

- Training
- Communication
- Operational control
- Supply chain management
- Emergency response



Check

- Document control
- Corrective Actions
- Monitoring and measurement



Act

- Management review
- Continual improvement



Management systems exercise

Discuss in groups:

- What elements of a management system do you already have in place?
- Where do you think you need to make improvements?
- What do you think represents strong evidence vs weak evidence in an audit?
- How can management systems help you to demonstrate compliance?



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Employment and health & safety

Legal and international labour
standards requirements



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1. Eligibility to work



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The Immigration, Asylum and Nationality Act 2006

- Employers may be liable for a civil penalty of up to £20,000 per illegal worker employed unless they have met the requirements to demonstrate a statutory excuse. (Section 15)
- There is a criminal offence of knowingly employing an illegal migrant worker (Section 21) with the potential of an unlimited fine and/or prison sentence.



The Immigration Act 2016

- Section 34 creates a new criminal offence of illegal working, punishable by imprisonment for up to six months and/or an unlimited fine. It will enable wages paid to illegal workers to be seized under the Proceeds of Crime Act 2002.
- Section 35 extends the existing criminal offence of knowingly employing an illegal worker to the situation where an employer has “reasonable cause to believe” that an individual is an illegal worker. Maximum sentence for this offence will increase from two to five years’ imprisonment.



Establishing the statutory excuse

- You will only have the excuse if you conduct a 3 step process to check and copy specified original documents before the person starts working for you.
- You will not have an excuse if you knowingly employ an illegal migrant worker, regardless of any document checks you undertake.

1. OBTAIN

2. CHECK

3. COPY



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Use the Government checklist!

<https://www.gov.uk/government/publications/right-to-work-checklist>

Home Office Right to Work Checklist

Name of person: _____
Date of check: _____
Type of check: Initial check before employment Follow-up check on an employee

Step 1 Obtain

- You must obtain original documents from either List A or List B of acceptable documents.

List A

- A passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK.
- A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office, to the family member of a national of a European Economic Area country or Switzerland.
- A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A full birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British citizen, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

List B Group 1

- A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question.
- A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
- A current Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence.
- A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

List B Group 2

- A Certificate of Application issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old together with a Positive Verification Notice from the Home Office Employer Checking Service.
- An Application Registration Card issued by the Home Office stating that the holder is permitted to take the employment in question, together with a Positive Verification Notice from the Home Office Employer Checking Service.
- A Positive Verification Notice issued by the Home Office Employer Checking Service to the employer or prospective employer, which indicates that the named person may stay in the UK and is permitted to do the work in question.

Step 2 Check

- You must check that the documents are genuine, that the person presenting them is the prospective employee or employee, the rightful holder and allowed to do the type of work you are offering.

1. Are photographs consistent across documents and with the person's appearance?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
2. Are dates of birth consistent across documents and with the person's appearance?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
3. Are expiry dates for time-limited permission to be in the UK in the future i.e. they have not passed (if applicable)?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
4. Have you checked work restrictions to determine if the person is able to work for you and do the type of work you are offering? (for students who have limited permission to work during term-times, you must also obtain, copy and retain details of their academic term and vacation times covering the duration of their period of study in the UK for which they will be employed)	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
5. Are you satisfied the document is genuine, has not been tampered with and belongs to the holder?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
6. Have you checked the reasons for any different names across documents (e.g. marriage certificate, divorce decree, deed poll)? (Supporting documents should also be photocopied and a copy retained.)	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>

Step 3 Copy

You must make a clear copy of each document in a format which cannot later be altered, and retain the copy securely, electronically or in hardcopy. You must copy and retain:

- Passports:** any page with the document expiry date, nationality, date of birth, signature, leave expiry date, biometric details and photograph, and any page containing information indicating the holder has an entitlement to enter or remain in the UK and undertake the work in question.
- All other documents:** the document in full, both sides of a Biometric Residence Permit.

Know the type of statutory excuse you have

If you have correctly carried out the above 3 steps you will have an excuse against liability for a civil penalty if the above named person is found to be working for you illegally. However, you need to know whether you have a continuous or a time-limited excuse, because this determines how long it lasts for, and if and when you are required to do a follow-up check.

The documents that you have checked and copied are from:

- List A You have a **continuous statutory excuse for the full duration** of the person's employment with you. You are not required to carry out any repeat right to work checks on this person.
- List B: Group 1 You have a **time-limited statutory excuse** which expires when the person's permission to be in the UK and undertake the work in question expires. You should carry out a follow-up check when the document evidencing their permission to work expires.
- List B: Group 2 You have a **time-limited statutory excuse** which expires 6 months from the date specified in your Positive Verification Notice. This means that you should carry out a follow-up check when this notice expires.

Date follow-up check required: _____



Retaining ID Documents

- You should not keep a job applicant's original documents for longer than a day.
- If you deliberately take a person's passport or other original documents belonging to them, or retain these without their consent, then you may be guilty of an offence under the Theft Act 1968, or under section 25(5) of the Identity Cards Act 2006.
- Copies of the documents should be kept securely for the duration of the individual's employment and for a further two years after their employment has ceased.



Quiz!

1. What is the potential civil penalty per illegal worker employed if you have not met the requirements to demonstrate a statutory excuse?
2. How long should you keep copies of employees' right to work documents?
3. If your prospective employee keeps forgetting to bring in their ID documents can they commence employment?



2. National Minimum Wage





2,500 Leicester textile workers paid half the minimum wage

By I_Griffin | Posted: February 18, 2015

Comments (11)

More than 2,500 Leicester textile workers are paid just £3 per hour – well below the minimum wage - it has been claimed.

A new study has found the majority of the people employed in the city's garment sector earn less than half the legal hourly rate, which is £6.50 for those aged 21 or over.

These employees receive cash-in-hand and do not have employment contracts, meaning they can easily be exploited, according to research led by the University of Leicester.

The report said the majority of the employees were women, who suffered bullying, verbal abuse and threats in the workplace.



National Minimum Wage – The Law

	25+	21 to 24	18 to 20	Under 18
From April 2017	£7.50	£7.05	£5.60	£4.05

- NLW and NMW updated April 2017
- A worker must be paid the NMW/NLW, on average, for the time worked in the 'Pay Reference Period'
- Overtime does not increase NMW. NMW includes bonuses etc. Breaks are not working time.
- Can only pay one PRP in arrears
- ETI position on overtime and young workers



National Minimum Wage Law

- **Deductions** = money taken from pay
- **Payments** = money paid by the worker to the employer separately to pay e.g. cash, direct debit
- **Piece rates** – time work vs output work
- **Accommodation** – if you provide or effectively provide accommodation there is a maximum charge for accommodation including for obligatory charges (gas, electricity etc.)



National Minimum Wage Law - Records

- It's a criminal offence for employers not to pay someone the National Minimum Wage or to falsify payment records.
- Employers who discover they've paid a worker below the NMW must pay arrears immediately. Use the [National Minimum Wage calculator](#).
- It is the employer's responsibility to keep payroll records for 3 years proving that they are paying the minimum wage.



National Minimum Wage Law - Penalties

- HM Revenue and Customs (HMRC) officers have the right to carry out payment records checks at any time especially following a worker's complaint.
- If HMRC finds an employer hasn't paid NMW
 - pay arrears within 14 days and
 - a penalty equal to 200% of the unpaid wages owed to workers up to a maximum of £20,000 per worker
 - Offenders named by the government
 - criminal prosecutions for those who deliberately do not comply
 - anyone found guilty liable to disqualification from being a company director for up to 15 years.



Quiz!

1. On a typical, standard working day, a 25 year old worker starts work at 08:00 and finishes at 17:00. Their working day includes one 30 minute break and one 15 minute break. What is the minimum gross payment they should receive for that day?
2. Name two deductions that do AND two deductions that do not reduce pay for NMW purposes.



3. Workers are treated fairly in accordance with employment law



Employment Law - Contracts

- Employer and workers agree the contract of employment before commencing work
- Evidence that both parties retain signed copies
- Workers whose first language is not English are able to understand the contract
- Current, complete, accurate and legally compliant



Employment Law - Contracts

- The business's name
- The employee's name, job title or a description of work and start date
- If a previous job counts towards a period of continuous employment, the date the period started
- How much and how often an employee will get paid
- Hours of work (and if employees will have to work Sundays, nights or overtime)
- Holiday entitlement (and if that includes public holidays)
- Where an employee will be working and whether they might have to relocate
- If an employee works in different places, where these will be and what the employer's address is
- How long a temporary job is expected to last
- The end date of a fixed-term contract
- Notice periods
- Collective agreements
- Pensions
- Who to go to with a grievance
- How to complain about how a grievance is handled
- How to complain about a disciplinary or dismissal decision



Employment Documents

- Employees on the Site payroll on 5 April are provided by 31 May with a written P60 summarising their total pay and deductions for the tax year.
- Leavers are provided with a P45 and Part 1 details are sent to HMRC
- Payslips for each pay period containing at least the gross and net wages and amounts and reasons for deductions are delivered to all workers at or before the time wages are paid for each pay period



Employment Law

- Holiday Pay
 - 5.6 weeks annual entitlement
- Sick Pay
 - £89.35 per week (SSP) for up to 28 weeks.
- Pensions
 - Employer's responsibility to enrol eligible workers into a workplace pension scheme
- Family
 - Maternity/Paternity/Adoption Pay & Leave
 - Antenatal care, shared parental leave, emergency dependent leave



Working Hours

Contractually and in practice, workers must:

- Normally work less than 48 hours per week
- Not exceed 60 hours in any week
- Receive rest breaks during shifts
- Have a right to at least 11 hours rest per day
- Have at least one day off in every seven day period or two days off in every 14 day period
- Night workers are not working in excess of an average of 8 hrs per day
- Under 18 adhere to young workers working time limits



Unlawful Discrimination

- A worker or work seeker is not unlawfully discriminated against on the grounds of:
 - Age
 - Disability
 - Gender identity
 - Marriage and civil partnership
 - Pregnancy and maternity
 - Race
 - Religion and belief
 - Sexual orientation



Quiz

1. For employees on the site payroll on 5 April 2017, when should they have received their P60?
2. Can a worker be paid in lieu of taking holiday?
3. Can a worker work 12 days in a row?
4. If a worker informs you they are pregnant, what steps will you take?



4. Workers are provided with a safe and hygienic work environment



Safety processes

- A named competent person with the necessary skills, knowledge and experience to manage health and safety.
- Appropriate Employer's Liability Insurance
- Display the health and safety law poster



Safety processes

- A current site specific written policy and procedures manual which sets out how health and safety is managed including senior managers' responsibilities?

SAFETY MANAGEMENT SYSTEM STRUCTURE



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Safety processes

- Risk
- Training
- Statutory inspections
- Accidents and first aid



Ethical audit: site tour

Site tour to audit safe and hygienic:

- Working environment
- Working practices
- Welfare facilities



5. Forced labour, mistreatment and access to remedy



Forced Labour

“all work or service that is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”



Indicators of Forced Labour

- Threats of or actual physical or sexual violence;
- Removal of phones, restriction of movement and confinement to the workplace or to a limited area;
- Retention of passports and identity documents;
- Debt bondage: where a worker works to pay off debt or loan, and is not paid for his or her services;
- Withholding of wages, refusing to pay the worker at all or excessive wage reductions;
- Threat of denunciation to the authorities.



Modern Slavery



An umbrella term used to describe:

- Offences of human trafficking, slavery, forced labour and domestic servitude.
- Slavery-like practices such as debt bondage, sale or exploitation of children and forced or servile marriage.

While varied in nature, all involve one person depriving another person of their liberty, in order to exploit them for personal or commercial gain.



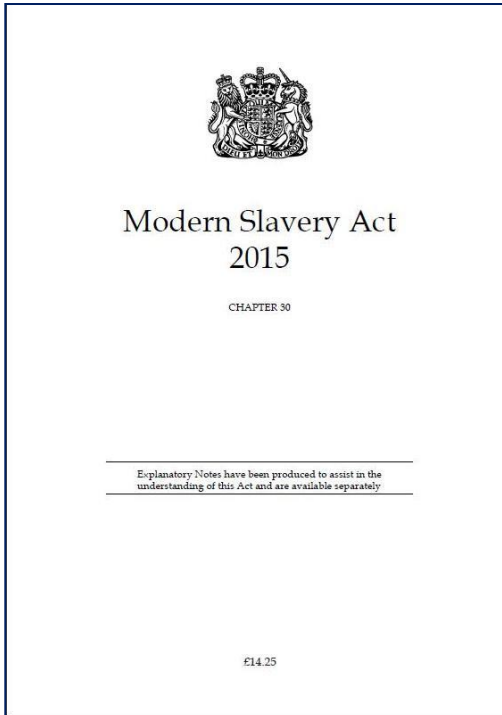
“The great human rights issue of our time”



“Just as it was Britain that took an historic stand to ban slavery two centuries ago, so Britain will once again lead the way in defeating modern slavery and preserving the freedoms and values that have defined our country for generations.”



Modern Slavery Act 2015



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.



Part 6 Modern Slavery Act Transparency in Supply Chains

- Places a requirement on large businesses to publically report on the steps they have taken to eradicate modern slavery from their supply chains.
- Brands are being benchmarked on their actions
- Has led to an increased focus on ethical compliance in supply chains.

Transparency in Supply Chains etc.
A practical guide



Guidance issued under section 54(6) of the Modern Slavery Act 2015

Physical or Mental Mistreatment

Do workers state that they are or others have been subject to actual or threatened


- Verbal or physical abuse
- Bullying
- Sexual or other harassment
- Intimidation
- Physical or mental mistreatment

Is there sufficient training for management in place?



Access to remedy

- Acas CoP compliant written disciplinary and grievance procedure issued to all workers and operated
- Workers are not prevented from taking up trade union membership nor penalised for doing so
- Sites may choose to implement a worker confidential helpline

Global Multilingual Confidential Hotline

InTouch offers employers and labour providers a global 24/7/365 SpeakUp multilingual confidential telephone and web reporting hotline to enable workers to report their concerns in confidence.

SpeakUp has been adopted by organisations of every size in over 100 countries.

Workforce	Annual Cost
Up to 250 (min)	£700 total
251-500	£2.78 per worker
501-1000	£1.96 per worker
1,001-2,500	£1.50 per worker
2,501-5,000	£1.24 per worker
5,001-7,500	£1.15 per worker

By removing barriers, the SpeakUp programme encourages individuals to come forward and facilitates ongoing communication between the discloser and the company even if the discloser has remained anonymous.

For further details, contact Gizelle Handy at gandy@peopleintouch.co.uk or 0121 506 9197 quoting the code S2GALP16 to access the pricing above.

Freedom of association

- Workers have the right to join or form trade unions or worker committees of their own choosing and to bargain collectively
- The site does not discriminate against or otherwise penalise worker representatives or trade union members because of their membership in or affiliation with a trade union
- Duly elected worker representatives are given access to the workplace in order to carry out their representative functions



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Discussion

In groups, choose **one** of the areas discussed in the last two sections (health and safety, forced labour, mistreatment, access to remedy, freedom of association).

- What are the key actions you need to take in your business?
- What challenges do you foresee?
- What support do you need?



6. Taxes are accurately calculated and paid in accordance with UK law



Employment Taxes

- Accurate calculation of gross pay for all workers for actual hours worked
- Accurately calculating and deducting Income Tax and Employees NI from all workers' pay
- Proper process for setting up new starters with the correct tax code and starter declaration
- Employees' payments and deductions are reported on a RTI Full Payment Submission to HMRC each payday (and accords with the gross and net pay for all workers)
- Original bank statements show that the correct amount of Income Tax and National Insurance is paid to HMR and HMRC online account shows payments are up to date



Business Taxes

- Accurate recording of VAT charged and paid
- Accurately completed and returned VAT Returns
- Bank statements show the correct amount of VAT paid
- Where outstanding tax liability, Site has engaged with HMRC's Business Payment Support Service to agree a time to pay arrangement



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Summary



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Discussion

- What's the most interesting/surprising/pressing thing you've learnt from today?
- What actions are you going to take back to your business and what's the priority you're going to focus on?



Key actions from today:

- Start to look at how your **embed** ethical and social compliance standards in your business
- See it as a way to open up **new business opportunities** and reduce risk of fines and prosecution
- Get support and consultancy to help improve **your management** of ethical and social compliance



Support is out there

- Eligibility to work – NSL Validation Services
- Health and Safety – OMS
 - OMS HQ: 0845 1300616 / Website: www.oms.uk.com
- Specialist HR Consultants
- Forthcoming LCC HR and Health & Safety workshops
- Fast Forward website (for factories supplying FF Brands)



Your choice from here...

1. Ignore

Your Action - Keep doing the same as you ever did.

Consequence - Your business will go backwards as your competitors overtake you.

2. Avoid

Your Action – Seek new ways to hide law evasion and worker exploitation.

Consequence – You will be found out. This will be shared with common retailers and your business will suffer.

3. Engage

Your Action – Work to meet legal and ethical compliance requirements

Consequence – You can work together with your customers to build a long term win-win relationship



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Feedback

1. Please go to:
www.surveymonkey.co.uk/r/fast4ward
2. If you have a confidential issue you would like to raise, you can submit it to us anonymously and we will pass the information on where we can.



Any final questions?



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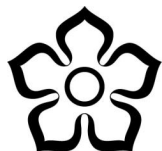
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Thank you!



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