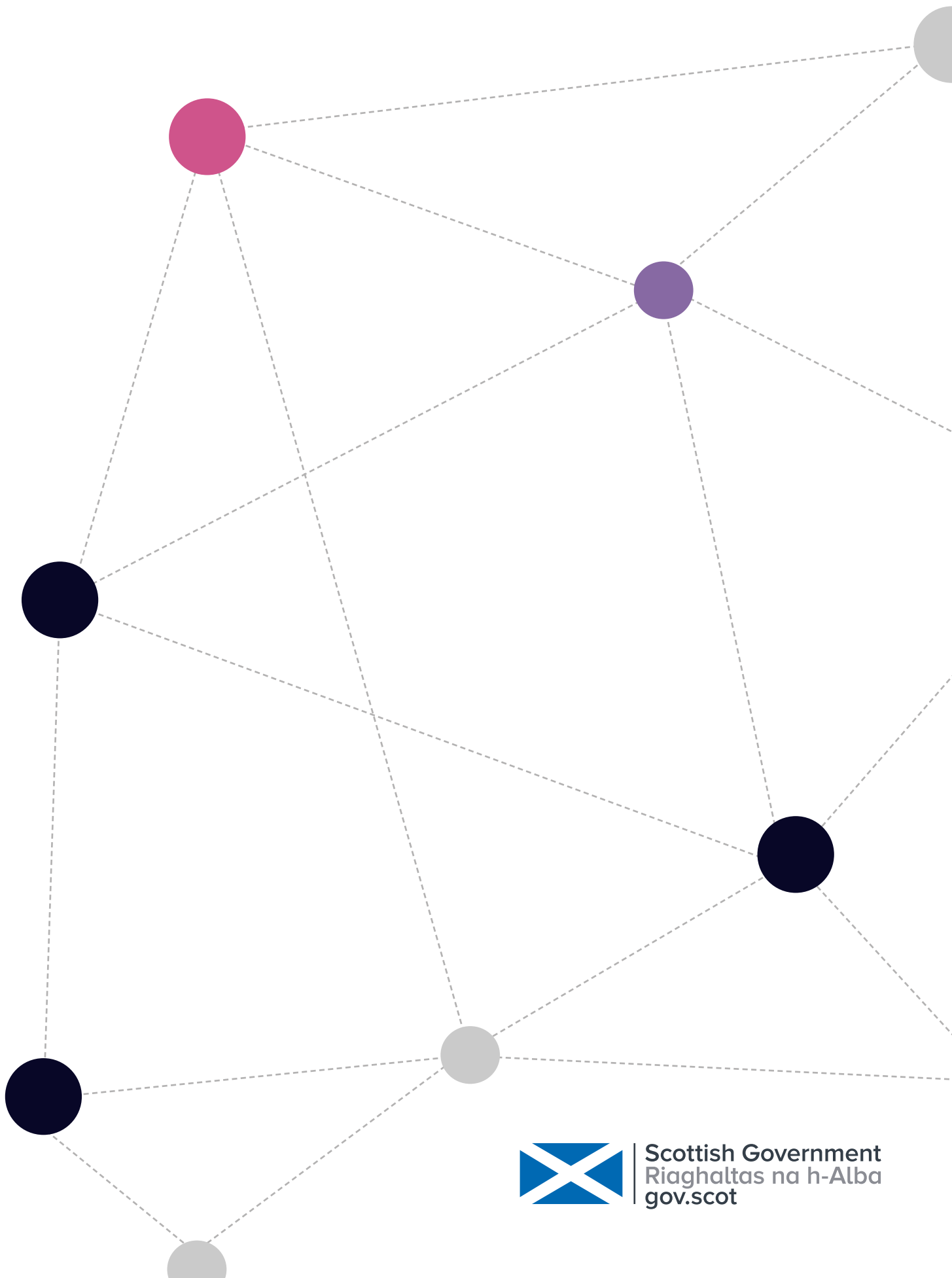

SLAVERY AND HUMAN TRAFFICKING: GUIDANCE FOR BUSINESSES IN SCOTLAND



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How to use this guidance

The duties placed on businesses in the UK in relation to human trafficking vary depending on the size of the business.

This guidance therefore provides tailored advice for larger and smaller businesses.

Part One is relevant to all businesses.

Part Two contains advice for businesses with an annual turnover of £36 million or more.

Part Three contains advice for businesses with an annual turnover below £36 million.

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FOREWORD

CABINET SECRETARY FOR JUSTICE



Humza Yousaf
Cabinet Secretary for
Justice

Human trafficking and exploitation are crimes that prey on the most vulnerable in society, both within Scotland and across the world. They are abuses of human rights that have life-changing negative impacts for victims.

It is a shameful fact that human trafficking happens in Scotland, and also happens elsewhere in the world within the supply chains of Scottish organisations. Scottish businesses are profiting, whether consciously or unconsciously, from this modern form of slavery.

Everyone – individuals, public, private and third sector bodies – has a responsibility to play their part in making this stop.

The Trafficking and Exploitation Strategy sets out the Scottish Government's approach, and this starts with a clear vision: to eliminate human trafficking and exploitation. Development and implementation of the Strategy has been an exercise in joint working, including with members of the business community.

A Corporate Group has been established, to allow business leaders to work together and support implementation of the Strategy. That group has worked closely with the Scottish Government to develop this guidance.

The legal duty on businesses comes from UK legislation, and this guidance is designed to complement UK Government guidance, and other relevant resources.

The legal duty only applies directly to larger businesses, but all businesses have an ethical duty to play their part, as well as a financial imperative given the potential impact of doing nothing.

I am grateful to all who have contributed to developing this guidance. It is vital that we continue to work together to stop these crimes from being possible and profitable.

PART 1

Why does my business need to take action on human trafficking and exploitation?

Human trafficking is on the increase in Scotland, across the UK and worldwide. It can be found in a multitude of legitimate businesses and their supply chains. It is often hidden in plain sight.

What is human trafficking and where does it take place?

Human trafficking is the recruitment or movement of people for the purposes of exploitation, including:

- labour exploitation;
- sexual exploitation; and
- domestic servitude.

Victims are often brought into Scotland from overseas, but there is a growing number of British victims trafficked within Scotland.

The legal definition in Scotland is set out in the [Human Trafficking and Exploitation \(Scotland\) Act 2015](#). In simple terms it is trading adults and children for the purpose of personal gain or profit. It is a violation of human rights, preying on some of the most vulnerable in society. It often involves long-term exploitation and its effect on victims can be devastating.

Human trafficking is happening in Scotland, and the number of identified victims is increasing every year. The National Referral Mechanism, the UK's route for identifying victims of trafficking and directing them to support, shows increases each year in potential victims recovered in Scotland. In 2017, Scotland saw a 38% increase on the previous year¹.

Victims can be found in legitimate businesses having been trafficked via labour supply chains. They may also be **in the supply chains of Scottish-based businesses**, with a large range of raw materials, products and services being susceptible to human trafficking, here or overseas.

Everyone in Scotland – individuals and organisations – has a responsibility to play their part in tackling and preventing this crime.

The Scottish Government and partners are committed to working together towards the goal of eliminating human trafficking and exploitation. The [Trafficking and Exploitation Strategy](#), published in May 2017, sets out an

¹ <http://www.nationalcrimeagency.gov.uk/publications/national-referral-mechanism-statistics/2017-nrm-statistics>



ambitious set of outcomes to be achieved under three key action areas:

- Identifying victims and supporting them to safety and recovery;
- Identifying perpetrators and disrupting their activity; and
- Addressing the conditions, both local and global, that foster trafficking and exploitation.

The business sector has a key role in this work, particularly in relation to the third action area.

A Corporate Group has been established to support delivery of elements relevant to businesses, and in June 2018 the [first annual progress report](#) on implementation of the Strategy was published.

What is the legal requirement on businesses?

The legal requirement for UK businesses is set out in the [Modern Slavery Act 2015](#). Section 54 of the Act requires all commercial organisations **with a turnover of £36 million or more to produce an annual Slavery and Human Trafficking Statement** setting out the steps they have taken to prevent modern slavery in any part of their business and supply chain. This legislation applies in Scotland as it does in the rest of the UK.

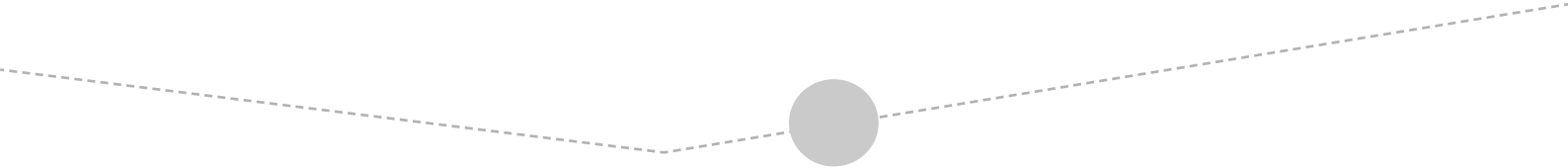
The requirements of the Statement include being approved by the Board, signed and dated by a Director and published on the organisation's website with a prominent link from the homepage. Statements should be published within six months of the end of the financial year.

For **businesses with a turnover below £36 million, whilst there is no legal requirement to publish a statement, it is still advisable to be taking action to address the risks of human trafficking.** Organisations who are in the supply chain of those required to publish statements, are likely to be asked to demonstrate what actions they are taking as part of ongoing supplier selection and management processes.

The Home Office has produced ['Transparency in Supply Chains – a Practical Guide'](#). This is not a legal document but does provide some specific guidelines.

What are the business risks associated with human trafficking?

It is impossible to guarantee that human trafficking will not occur in any supply chain and many businesses find it difficult to acknowledge the risks in their own supply chain. However, it is better to identify and acknowledge that there is a risk and explain what steps have been taken in mitigation than to ignore the issue until violations are discovered. Any business which states a 'zero tolerance' approach and suggests



that their supply chains are ‘trafficking free’ is exposing itself to the risk of being **robustly challenged** if trafficking is found. Leading businesses have already begun to talk about issues where they occur, and provide examples of what they are doing in response.

Public awareness and understanding of human trafficking is growing. The number of consumers who will directly challenge a business on its approach to human trafficking is limited but consumers are likely to respond negatively if a business is found to have trafficking within its business operations or supply chains and not to have taken any action to prevent it.

Additionally, businesses who provide goods or services to **the private and public sector** have a growing requirement to demonstrate what they are doing to address the risks associated with their business or supply chain through tender processes.

Investors are increasingly focussing on human trafficking as a key risk. For instance, a 2016 report from Schrodgers, [Modern slavery: how new regulation will impact consumer companies](#) suggests “As active owners we will engage with the companies identified as high risk to encourage them to strengthen their practices and provide more transparency and evidence that they are mitigating potential risks along their supply chains.” Additionally, investors are becoming increasingly interested in corporate compliance with section 54 as failure to comply with the requirements of the Act is seen as a governance failure, as evidenced

by the joint intervention in May 2018 by the Independent Anti-Slavery Commissioner and investors including Rathbone Greenbank, Aviva Investors, Edentree Investment Management, CCLA, Ircantec and two further anonymous investment houses.

Organisations may be subject to **investigation and legal action** which holds considerable risk for time, cost and reputation and there is a move by some to seek remediation through civil actions.

In addition, the Gangmasters and Labour Abuse Authority and HM Revenue and Customs have an **enforcement** role in relation to trafficking and exploitation. HMRC will seek to disrupt human trafficking by taxing profits derived therefrom, by investigating businesses exploiting labour to maximize profitability and by applying the National Minimum Wage rules.

The GLAA takes both an investigative and prevention role. It continues to license those organisations that supply labour into the agricultural sector to ensure they are compliant with the law, and do not mistreat workers. In England and Wales it is able to investigate the offences of forced labour directly. Whilst it does not currently have a similar power in Scotland it works closely with Police Scotland, and advises their investigations on the manner in which deceptive recruitment and employment practices can manifest themselves as forced labour. The GLAA uses its expertise to educate and encourage business on how to spot and prevent forced labour.

PART 2

What does my business need to do? (Annual turnover £36 million plus)

Businesses with an annual turnover of £36 million or more have a legal duty under the Modern Slavery Act 2015.

Who should take the lead in my business?

It is vital that the individual or team leading the activity should have a direct link to the Senior Management team and should also have the ability and authority to engage with all parts of the business. Accountability/responsibility should be allocated at Director level.

The issue of human trafficking impacts all types of business and is of particular relevance to those responsible for:

- supply chain and procurement of goods and services, whether for resale or not;
- HR (responsible for recruitment, and managing labour providers/agencies);
- operations (e.g. logistics, facilities management and estates); and
- ethics or sustainability in larger businesses.

However, **all employees of a business have the potential to identify human trafficking and exploitation** and it is best practice to ensure that all employees understand the issue and what to do if they have any concerns, i.e. contacting Police Scotland or the UK Modern Slavery helpline.

Ultimately, for those businesses who are covered by the Modern Slavery Act 2015, it is the **responsibility of the Board** to produce and publish the annual Slavery and Human Trafficking Statement.

However, all businesses must ensure that they are not complicit in any act of Human Trafficking.

Where is this happening in businesses?

Human trafficking can occur in any part of a business, in all parts of its supply chain and in its own operations, both within the UK and abroad. In order to maximise the effectiveness of any response, efforts should be focussed on areas of greatest risk.

For instance, within the UK, sub-contracting to multiple tiers involving low-skilled workers is considered high-risk. Examples could include motor insurers contracting with a supplier who in turn sub-contracts to individual body shops for car repair or a house builder contracting with a builder who sub-contracts to bricklayers, plumbers etc.

Outside of the UK, some jurisdictions present a higher risk depending on the strength of labour laws, enforcement, the nature of the workforce, (such as whether they are predominantly migrant or lower skilled) and the presence of enabling factors, such as the payment of recruitment fees.

Wherever it occurs, exploitation is most likely to happen where there are vulnerable workers.




What should businesses do?

Regular risk assessments should be undertaken involving ongoing research, using information from others working in similar areas and from organisations such as Police Scotland, National Crime Agency, Gangmasters and Labour Abuse Authority, business and human rights non-government organisations (NGOs) and consultancies. Particular attention should be paid to known areas of risk, for example construction, agricultural labour and recruitment agencies (though areas of risk may change over time). The [Scottish Government human trafficking webpage](#) includes links to organisations and resources that may be helpful.

This risk assessment should be used to prioritise action, channelling resources appropriately. For example, if particular suppliers are deemed higher risk, an engagement programme could be undertaken with those to ensure they have adequate standards in place. This might include educational events, a revised code of conduct, social audits and timebound corrective action plans. A social audit is an internal examination of an organisation's operating procedures, [code of conduct](#), and other factors to evaluate its effect on a society.

There are many actions which might be taken by businesses, including:

- Mapping suppliers – Where are they? Do they sub-contract? What issues are present? What happens within their own supply chains? What is the rate of pay? Are there any collective agreements in the sector? Are they enforced?
- Advertising a whistleblowing number and/or the Modern Slavery Helpline number to employees and sub-contracted workers
- Undertaking periodic social audits with a significant proportion of the workforce interviewed away from management oversight. This could be done by an external agency or an internal team with sufficient independence. Trade unions can also have a useful role
- Working with inspectorates and law enforcement to share information
- Working with expert NGOs on the ground to identify and remediate issues (particularly relevant for non-UK areas)
- Interrogating bids for contracts which are too low-cost to ensure labour is being properly paid
- Setting contract costs at a fair price, instead of pressuring suppliers to squeeze labour costs
- Involving workplace unions and/or employee engagement processes
- Communicating to labour providers and suppliers that no worker within the supply chain should be paying recruitment fees and undertaking appropriate diligence checks

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- Raising the awareness of smaller suppliers to understand the issues and take appropriate action
 - Training frontline staff in spotting the signs of potential victims with clear communication pathways for what to do if an incident is observed
 - Collaboration with other businesses working in similar sectors and/or geographic areas. There are networks that facilitate such collaboration, including trade union structures
 - Including information on human trafficking in induction training programmes or ongoing compliance processes

Worker representatives should be included in preparing these risk assessments, agreeing action plans, and ensuring that actions are carried out. Providing workers with relevant information and a voice and/or fostering positive union relations, can help progress these actions.

In Scotland, [The Fair Work Framework](#) has five indicators of Fair Work – security, opportunity, respect, fulfilment and effective voice. Viewing workplaces through the lens of these five indicators can be helpful in creating a difficult atmosphere for trafficking to breed.

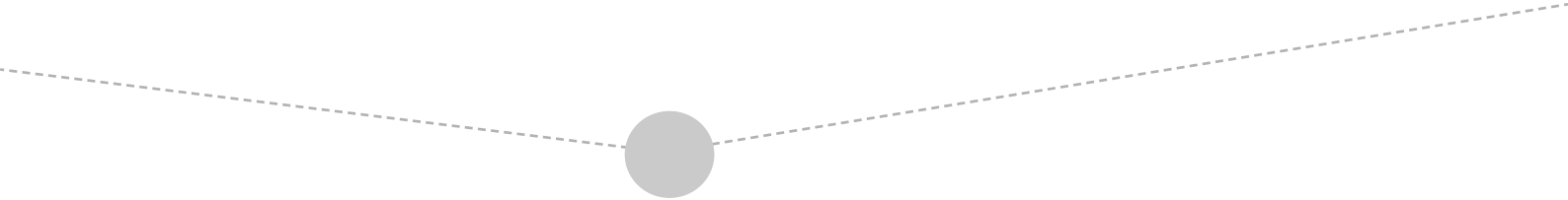
What type of support is available to businesses to put such measures in place?

The Home Office has produced '[Transparency in Supply Chains – a Practical Guide](#)'. This is not a legal document but does provide some specific guidelines.

Additional support and guidance is available from a variety of sources such as consultants, charities, government funded bodies or auditing companies. They offer one or more of the following:

- on-line or published resources, e.g. information and literature, toolkits and templates;
- services e.g. face-to-face training, e-learning, auditing, helplines; and
- bespoke support e.g. consultancy, tailored training and facilitation, research.

The [Scottish Government human trafficking webpage](#) includes links to organisations and resources that may be helpful. The Scottish Government has established a Corporate Group to support implementation of the Trafficking and Exploitation Strategy. Through this group and other networks, there are opportunities to share good practice and experience. There are also regular stakeholder forums on Strategy implementation which are often relevant to businesses. To find out more or join the stakeholder contact list, email human.trafficking@gov.scot.



Trade unions can play an important role in preventing trafficking and exploitation, and in raising awareness within the workforce of issues of Fair Work, which feeds into the strategy for eradicating trafficking. Trade union reps are trained to actively scrutinise issues in the workplace around pay, health and safety, and working conditions which are all indicators for trafficking.

What will it cost?

The cost will primarily be determined by the size and scope of the business, its supply chain and the associated risks. All businesses should be taking action which is reasonable and proportionate based on the resources available and the outcome of ongoing risk assessments.

Here are some questions to consider to identify potential activities and the associated costs:

- Where are your prioritised risks?
- Are the risks predominantly in the UK or overseas?
- How big is the gap in your existing policies and processes?
- Who requires training in your organisation and/or supply chain?
- What type of training is required? Face-to-face or e-learning?

- Is there resource/expertise available internally or do you require specialist external support?
- Do you have an existing audit function with relevant knowledge or will you require external support?
- What level of support would your organisation prefer: standardised templates or bespoke design?

The aim of any measures is to address the organisation's risk of human trafficking and to test how robust those measures are.

There is a lot that can be done at relatively low cost, but it's vital that all organisations are investing appropriate resources and time to address and prevent trafficking. It's important to remember that costs around prevention and detection are likely to be much less than potential costs of doing nothing, when risks turn into reality:

- What is the cost involved in executive crisis management to resolve an incident of human trafficking?
- What is the cost to a business to recover its reputation and retrieve the loss of consumers, customers and investors?

PART 3

What does my business need to do? (Annual turnover under £36 million)

Whilst the legal duty is restricted to businesses with an annual turnover of £36 million and above, the need to address human trafficking is the responsibility of all businesses

Do smaller businesses have a duty to act?

The issue of human trafficking impacts on all types of business.

While businesses covered by the Transparency in Supply Chains regulations of the Modern Slavery Act 2015 (commercial organisations with a turnover of more than £36 million) are required to file a Slavery and Human Trafficking Statement, the impact will still be felt by commercial organisations with a turnover of less than £36 million who are likely to be in the supply chains of such larger businesses.

Therefore, they will be asked to consider and report on what steps they have taken to seek out and prevent human trafficking occurring in their supply chains by businesses that they supply to. In addition, businesses may find that as part of the procurement process they are asked by public sector bodies how they are addressing the risk of human trafficking occurring within their own business, and in their supply chain.

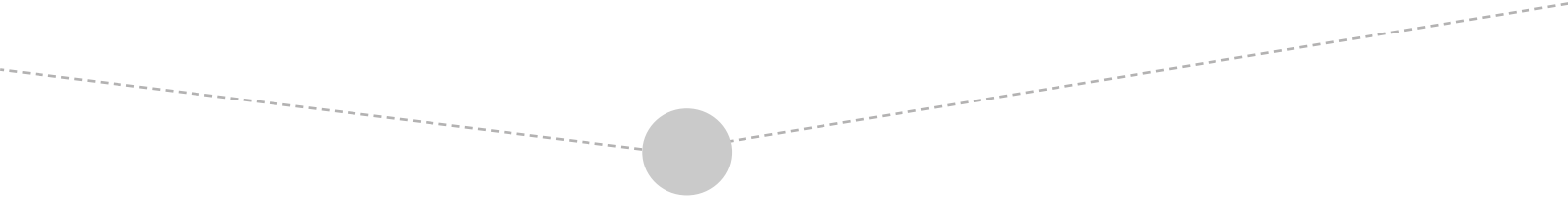
Within a business, the issue of human trafficking is of particular relevance to teams and individuals who are responsible for:

- supply chain and procurement of goods and services, whether for resale or not;
- HR (responsible for recruitment, and managing labour providers/agencies);
- operations (e.g. logistics, facilities management and estates); and
- ethics or sustainability in larger businesses.

However, **all employees of a business have the potential to identify human trafficking and exploitation** and it is best practice to ensure that all employees understand the issue and what to do if they have any concerns, i.e. contacting Police Scotland or the UK Modern Slavery helpline.

Where is this happening in businesses?

Human trafficking can occur in any part of a business, in all parts of its supply chain and in its own operations, both within the UK and abroad. In order to maximise the effectiveness of any response, efforts should be focussed on areas of greatest risk.



For instance, within the UK, sub-contracting to multiple tiers involving low-skilled workers is considered high-risk. Examples could include motor insurers contracting with a supplier who in turn sub-contracts to individual body shops for car repair or a house builder contracting with a builder who sub-contracts to bricklayers, plumbers etc.

Outside of the UK, some jurisdictions present a higher risk depending on the strength of labour laws, enforcement, the nature of the workforce, (such as whether they are predominantly migrant or lower skilled) and the presence of enabling factors, such as the payment of recruitment fees.

Wherever it occurs, exploitation is most likely to happen where there are vulnerable workers.

What measures are needed for smaller organisations?

Regardless of size, companies should all seek to understand human trafficking, for example through training programmes which are made a standardised part of recruitment or annual performance processes. Diligent checks of all workers should be undertaken to ensure they have access to ID documents, are not being held in debt bondage and are not being coerced by another party. For businesses such as hotels and transport, which have additional risks of traffickers using their operations for criminal ends, extra work must be undertaken to train frontline staff in spotting the signs of potential victims with clear communication pathways for what

to do if an incident is observed. For many, there will be benefit in collaboration with other businesses working in similar sectors and/or geographic areas. There are networks that facilitate such collaboration, including trade union structures.

What type of support is available to businesses to put such measures in place?

The Home Office has produced [‘Transparency in Supply Chains – a Practical Guide’](#). This is not a legal document but does provide some specific guidelines.

Additional support and guidance is available from a variety of sources such as consultants, charities, government funded bodies or auditing companies. They offer one or more of the following:

- online or published resources, e.g. information and literature, toolkits and templates;
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What will it cost?

The cost will primarily be determined by the size and scope of the business, its supply chain and the associated risks. All businesses should be taking action which is reasonable and proportionate based on the resources available and the outcome of ongoing risk assessments.

Here are some questions to consider to identify potential activities and the associated costs:

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- What type of training is required? Face-to-face or e-learning?
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