

# THE MISSING PIECE



Welcome....

to the latest issue of *The Missing Piece*, the monthly legal bulletin from *In House Lawyer*. *In House Lawyer* is my individual and exclusive legal service with strong ideals and a bespoke approach.

In this issue I'll be focusing on SMEs and what modern slavery means for them and also guidance on data protection and IT security.

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Contrary to expectations SMEs are finding that they are affected by the Modern Slavery Transparency Supply Chain provisions because they are required to give assurances to those they supply that they comply with the Modern Slavery Act 2015.

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**Who is caught?** Under the Modern Slavery Act 2015 commercial organisations, supplying goods or services, with a turnover of £36 million or above must publish an annual statement setting out what they are doing to ensure that there is no modern slavery both in their own organization and in any of their supply chains. The turnover calculation includes those organisations that are only carrying out part of their business in the UK, as well as including the turnover of foreign subsidiaries, so supply chains can be complex particularly as services are caught as well as goods.

Transitional provisions provide that organisations with a financial year-end from 29 October up to and including 30 March 2016 will not be required to make a slavery and human trafficking statement for the financial year 2015/16. Organisations with a financial year-end of 31 March 2016 will be required to publish a slavery and human trafficking statement for the financial year 2015/16 within 6 months of their financial year-end.

### Why does the Modern Slavery Act 2015 affect SMEs?



#### Enquiries from larger companies

SMEs are affected because they form part of the supply chain of larger companies who are caught by the provisions. SMEs are being asked to give assurances to the larger companies that their supply chains are free of modern slavery and human trafficking in order that the larger companies can complete their risk assessment and publish their statement



#### Tenders, new contracts and contract renewals

Tender documentation now routinely includes questions about Modern Slavery Act compliance and associated policies irrespective of the turnover of the company being invited to tender. Similarly, when new contracts and contracts are being renewed, anti-slavery clauses are being included as part of Modern Slavery Act 2015 compliance. SMEs must be able to point to relevant policies and procedures if they want to win the tender and/or be awarded the contract and continue doing business with the larger company. They risk losing business if they are unable to do so.

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The Information Commissioner's Office (ICO) has launched a Data protection self assessment toolkit for small and medium sized enterprises (SMEs) on its website. The new tool is designed to help SMEs evaluate and improve their compliance with the Data Protection Act 1998 (DPA). It has also published an updated guide to IT security aimed at small businesses. The ICO encourages businesses to use the guide to assist with putting appropriate IT security systems in place, avoid data breach fines and comply with obligations under the Data Protection Act 1998 (including the seventh data protection principle, which requires appropriate technical and organisational measures to be taken to keep data secure).

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The tool incorporates checklists for various areas of data protection compliance which can be assessed separately or together, including data protection assurance, records management, information security, data sharing and subject access, and direct marketing. Background information and guidance is provided to assist with checklist responses. A compliance rating is automatically produced upon completing assessments, along with detailed suggestions and links to relevant ICO guidance for areas where compliance could be improved.

The tool is a helpful starting point and reference guide for data protection compliance for SMEs, which, according to recent government statistics, make up 99% of all UK businesses. It should assist with identifying compliance gaps and the next steps to remedying these, so that DPA breaches and enforcement action by the ICO can be averted.



The guide was first published in 2012. The updated version covers broadly similar subject matter and provides general guidance in a short and simple style. This version updates previous advice on the cloud and contains additional guidance on security of mobile devices. A new ten-step format sets out recommended action steps, including to assess threats and risks, get in line with the government's "Cyber Essentials Scheme", train staff, back up data and minimise data. Links to further useful resources are also provided. The guide is a helpful starting point for small businesses to use to address their IT security compliance.

THAT'S ALL FOR THIS MONTH...

If you have any queries, comments or request for future bulletins then get in touch, I would be delighted to talk to you or meet at your convenience.



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