What we've learned talking to 150 directors about trust and modern slavery

With the introduction of modern slavery legislation in Australia, the responsibility of boards just stepped into another complex area.

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It is hard being a director, and it should be. Corporations reach into our everyday lives. They shape and influence societies and economies. The decisions directors make impact all of us.

During 2018, board accountability was once again in the spotlight. Royal Commissions, the APRA Prudential Inquiry into the Commonwealth Bank of Australia, and proposed changes to the ASX Corporate Governance Principles all indicate that there is a fundamental question that boards must answer.

How do we earn and maintain trust?

During October and November 2018 we spoke to 150 directors across Australia. All of these discussions centred on the intersection between trust and board accountability for non-financial risks.

The non-financial risk we focused on was the introduction of modern slavery reporting legislation in Australia, which will require boards to approve a mandatory, public, annual statement on the risk of forced labour, debt bondage, trafficking and other slavery-like practices in their operations and supply chains.

So what does Australia's director community think? We've distilled our discussions into two key learnings: business and human rights is not a zero sum game, and director accountability for non-financial risk is not going away.

1. Human rights is not a zero sum game

Directors are clearly grappling with how to balance ideas that seem diametrically opposed. We heard three clear positions in response to the introduction of Australia's Modern Slavery Act.

Strategy or compliance: A compliance-based approach to the legislative requirement to report on modern slavery is the easiest path.

Opportunity or risk: Responding to modern slavery is about risk management.

Trust or profit: Making decisions that support growing trust comes at a cost to growth and company profit.

The collegiate conversation demonstrated that these are not 'either or' propositions.

In fact, profit, and in particular growth, are only secured with stakeholder and community acceptance of your business. While you comply with the modern slavery legislation by reporting, you manage your risk by responding. This means business needs a strategic approach to dealing with the impact of its decisions on people.

We've all been thinking about harm to people 'inside the fence' for years. For those that haven't already, it's time to start thinking about those 'outside the fence'.

While it is appropriate to take a risk-based approach to prioritising the most severe and likely modern slavery practices in your operations and supply chains, leading directors are clearly examining this through an opportunity lens. We heard about opportunities to create supply chain efficiencies, deeper supplier relationships, and to cultivate community partnerships. Others were already creating differentiated products in the market using technology to assure quality, origin, and the absence of harm to people.

Directors showed us that this is not a zero sum game. Profit, compliance and risk management are central considerations to appropriately exercising director duties. However, prioritising human rights considerations can build trust, offer a framework for strategic decision making, and create opportunities for doing business better.

2. Director accountability for non-financial risks is not going away

No-one outright accepts slavery. Well, except it is complicated, isn't it? What about when we operate in, or procure from, a country where child labour is a way of life? Or where any job, irrespective of the conditions under which it is performed, is better than nothing? Or where choosing to cut off a supplier could destroy a region's economy?

We were surprised by how often directors wanted to talk about the difficult intersection between human rights, culture and values. The most frequent question underlying this discussion is: Where does it end?

Importantly, business alone does not need to solve this. Accountability for non-financial risk, particularly social risk, is linked to two broader debates.

The first is about governance. When the APRA CBA report said directors had a 'tin ear' to community expectations about fair treatment, it was talking about a fundamental failure to listen to people, particularly the most vulnerable.

The second is about the corporate responsibility to respect human rights. The *United National Guiding Principles* on *Business and Human Rights* draw a line in the sand by clarifying that business can no longer chose to be willfully blind to how its activities impact on people.

The introduction of a mandatory modern slavery reporting requirement in both the Australian and New South Wales legislation crystallises these evolving expectations by asking business to take the first steps: exercise due diligence to identify where people are at risk of harm, take action to prevent it, or remediate when you find it.

Many directors shared with us that they are overwhelmed by what the modern slavery legislation is asking of them. We frequently heard very valid questions about scope and scale. How can we possibly have visibility over our entire supply chain? Do we need to have a new program to manage this risk? Who will pay for this?

So where does it end? This is in no way to minimise the challenge that business faces in performing these tasks, but there are now well-trodden paths to follow and innovative approaches from which to learn.

The honest answer is that it won't end. Director accountability for non-financial risks is not going away. Set your risk appetite and start where the risk of harm is greatest. Examine your assumptions about who your stakeholders are, and then listen to them, and learn from leading practice.

If you choose to not listen, then beware the consequences of your business having a 'tin ear'.