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Organisational responses to mandatory modern slavery disclosure legislation: a failure of experimentalist governance?

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Organisational Responses to Mandatory Modern Slavery Disclosure Legislation: A Failure of Experimentalist Governance?

Purpose: This paper investigates how organisations are responding to mandatory modern slavery disclosure legislation. Experimentalist governance suggests that organisations faced with disclosure requirements such as those contained in the UK Modern Slavery Act 2015 will compete with one another, and in doing so improve compliance. We seek to understand whether this is the case.

Methodology: Our study is set in the UK public sector. We conduct interviews with over 25% of UK universities that are within the scope of the UK Modern Slavery Act 2015 and examine their reporting and disclosure under that legislation.

Findings: We find that, contrary to the logic of experimentalist governance, universities' disclosures as reflected in their modern slavery statements are persistently poor on detail, lack variation, and have led to little meaningful action to tackle modern slavery. We show that this is due to a herding effect that results in universities responding as a sector rather than independently; a built-in incapacity to effectively manage supply chains; and insufficient attention to the issue at the board level. We also identity important boundary conditions of experimentalist governance.

Research limitations: The generalisability of our findings is restricted to the public sector.

Practical implications: In contexts where disclosure under the UK Modern Slavery Act 2015 is not a core offering of the sector, and where competition is limited, there is little incentive to engage in a 'race to the top' in terms of disclosure. As such, pro-forma compliance prevails and the effectiveness of disclosure as a tool to drive change in supply chains to safeguard workers is relatively ineffective. Instead, organisations must develop better knowledge of their supply chains and executives a more critical eye for modern slavery to be combatted effectively. Accountants and their systems and skills can facilitate this development.

Originality: This is the first investigation of the organisational processes and activities which underpin disclosures related to modern slavery disclosure legislation. This paper contributes to the accounting and disclosure modern slavery literature by investigating public sector organisations' processes, activities and responses to mandatory reporting legislation on modern slavery.

Keywords: disclosure legislation; inter-organizational dynamics; intra-organizational practices; modern slavery; response to disclosure legislation; higher education; public sector

Paper type: Research paper

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Introduction

Recognition of the persistence of extreme forms of labour exploitation in the sourcing of everyday products including chocolate, garments, and electronics has prompted increased attention to the problem of modern slavery in supply chains. Defined as "the exploitation of a person who is deprived of individual liberty anywhere along the supply chain, from raw material extraction to the final customer, for the purpose of service provision or production" (Gold et al., 2015: 487), modern slavery in the supply chain is a key issue for any organisation and has become a prominent area of focus for governments seeking to combat modern slavery in its various guises.

In recent years, governments have introduced mandatory modern slavery disclosure legislation[1] to tackle the problem of modern slavery in supply chains. Although the various manifestations of this 'transparency in supply chains' (TISC) legislation to date have been subjected to both praise and criticism (e.g. English, 2019; Prokopets, 2014), there has been relatively little empirical research examining the effectiveness of its underlying logic. The UK Modern Slavery Act 2015 (MSA) is a form of experimentalist governance, a mode of legislation aimed at using public oversight to govern private action by mandating that organisations regularly inform stakeholders of what they are doing and allowing consumers to judge their actions (Sabel and Zeitlin, 2012). This is done through a process in which a goal is set and those in scope encouraged to respond in their own way provided they comply with this goal. This initiates a process in which responses are compared by other respondents, enabling a cycle of improvement through peer review and adoption of best practice (Overdevest et al., 2010).

The experimentalist governance process is of particular interest to scholars of disclosure-related issues for several reasons. First, it has become the mode through which supply chain anti-slavery legislation has largely been enacted. Second, the intended self-reinforcing feedback loop offers not only a temporal aspect – through annual reporting – but also a multiplying factor, by encouraging reporting to 'cascade' down the supply chain, with large organisations expected to leverage the legislation to encourage their suppliers to report on their own risks. Third, while some organisations have voluntarily disclosed information on human rights risks (e.g. Christ et al., 2019), the experimentalist governance form of modern slavery reporting requires disclosure on what is a largely under-researched area of organisations' operations.

Analyses of responses by organisations to MSA have so far focused on providing metrics of (non-)compliance and content analysis of reports (e.g. Stevenson and Cole, 2018; Voss et al., 2019). Consequently, there is little understanding of how organisations have engaged with

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[1] This form of disclosure legislation is known to accounting scholars as follows (see example of environmental disclosure regulation in Cho et al. (2008): "[…] More specifically, this study examines how the chemical and petroleum industries, through their PAC contributions, appear to have intended to suppress the passage of a *piece of legislation requiring the disclosure of environmental information*." (p. 451, our emphases)

MSA, or of the behavioural change that is necessary in order to follow the logic of experimentalist governance.

This is particularly true for public sector organisations (PSOs). The public sector was initially exempted from MSA. While this has subsequently changed, following a review of the legislation (Field MP et al., 2019), universities were deemed sufficiently commercial to fall within scope from the outset (Coultas, 2016). Analysis of higher education institutions' (HEIs') disclosures in response to MSA suggests that significant learning remains to be done in order to understand the impact of their activities on people in their supply chains (Martin-Ortega, 2016). There are several reasons unique to the public sector that might explain this, including the conflicting pressures for value and sustainability coming from the same stakeholders (O'Brien et al., 2018).

The literature suggests that there are doubts over HE's capacity to undertake supply chain due diligence and that the sector lacks the competitive dynamics required by the cyclical reporting stipulations of MSA. We therefore pose the following research questions: *How do UK universities respond to and engage with the experimentalist governance process represented by the UK Modern Slavery Act 2015? What are the barriers to engagement?*

Based on interviews with key university personnel responsible for managing and reporting on modern slavery in supply chains in 33 UK universities our findings show that, contrary to the logic of experimentalist governance driving MSA, universities show little engagement beyond basic compliance. This is due to (1) a herding effect that results in universities responding as a sector rather than independently, removing the competitive element of performance improvement that the experimentalist governance relies upon; (2) a built-in incapacity to effectively manage supply chains; and (3) insufficient attention at the board level to the issue.

In seeking a deeper understanding of organisational responses to MSA, this study contributes to several literatures. First, the paper adds to the nascent body of knowledge on modern slavery in the accounting and disclosure literature. While other disciplines have been investigating modern slavery for decades (Bales, 2000), accounting scholars have only recently begun to research the topic, leaving the discipline with a paucity of knowledge upon which to build. Specifically, we begin to understand the organisational level processes and practices that facilitate or hinder how public sector organisations react to disclosure legislation on modern slavery. Second, we add to accounting and public sector research where, despite significant interest in universities, little is known about their responses to modern slavery legislation (Martin-Ortega and Krupinska, 2018). We highlight the structural and leadership challenges faced by HEIs which have limited the value of their disclosures. Third, we establish empirically informed boundary conditions for experimentalist governance, the form of reflexive law (Deakin, 2009) upon which MSA is based. Third, Finally, the paper has managerial implications, as we highlight the problems of outsourcing and deskilling.

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Modern slavery

In the accounting literature, research on topics around forced labour appear rooted in a literature that views older forms of slavery through an accounting lens (e.g. Irvine, 2012; Sharma and Irvine, 2016; Tyson, et al., 2004). More recent studies in accounting which have focused on exploitation have been concerned with organisational responses to human rights (e.g. Frankental, 2011; Hazelton, 2013; O'Dwyer and Unerman, 2008). While a body of research around disclosure on human rights (e.g. Cooper et al., 2011; Islam and van Staden, 2018; McPhail and Ferguson, 2016; McPhail et al., 2016) has existed in the accounting literature for a decade, this research focuses on disclosures that are largely voluntary rather than, as with the MSA, being enshrined in law.

In contrast to voluntary human rights disclosures, MSA is a legal obligation. MSA is a unique piece of legislation in that it mandates organisations, for the first time, to report on actions they are taking to protect individuals in their organisations and supply chains from modern slavery. In requiring this disclosure, MSA aims to inspire focal organisations to encourage their supply chains to respond in an ethical way, particularly since the law is based on the logic that stakeholders will hold those focal organisations responsible for instances of modern slavery within them (Voss et al., 2019).

However, there are problems with this market-driven approach to the use of disclosure for delivering indirect openness. Michelon et al. (2020) offer evidence that pressure for increased disclosure does little to encourage change in organisational activities and, in fact, can damage genuine action as reporting becomes an organisational tool demonstrating compliance rather than driving change. In particular, instances of organised hypocrisy, where firms seek to reconcile disparate or contradictory stakeholder demands, and in doing so say one thing yet do another, abound (Cho et al., 2015). Boiral (2013), for example, finds that 90% of negative events in a sample of firms reporting against the Global Reporting Initiative (GRI) framework were not disclosed. Chauvey et al. (2015) conclude that this is potentially a problem of legitimacy, and add non-compliance as a firm response to demands for disclosure.

Studies of organisational responses to modern slavery disclosure legislation focus largely on the fashion, textiles, and apparel sectors, which are considered high-risk in terms of labour abuses (New, 2015). These articles demonstrate poor levels of compliance with the relevant legislation across the board. Ma et al. (2016) cite apparel firms within the scope of CTSCA as having compliance levels below 50%. Similarly low levels of engagement have been found in firms reporting under MSA (Voss et al., 2019), a failure which reflects poor detection practices and a homogeneity of policies that has prevented sufficient tailoring of approaches to the various contexts in which firms reviewed operate (Stevenson and Cole, 2018). In an attempt to explain this failure, English (2019) concludes that MSA has turned concern for labour rights into an extension of corporate social responsibility (CSR) which, generally, is too superficial to combat modern slavery, a task requiring a greater engagement with, and depth of understanding of, supply chains. Christ et al. (2019) describe a similarly poor level of engagement among large Australian firms, albeit before the Australian Modern Slavery Act came into force.

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The wider management literature has both partial explanations of issues identified in the accounting research and new questions on modern slavery. First, there is a lack of understanding of what happens further down the supply chain, particularly since this is where much of the risk lies. Supply chains, by their nature, exceed the boundary of any one organisation (Crane et al. 2018). This is particularly important to note because the extremely complex nature of global supply chains (Stringer and Michailova, 2018) means the subcontracting of a lot of production in high-risk industries, and that this accumulates sourcing in areas of the world in which smaller firms will knowingly evade the law (Chesney et al., 2019; Soundararajan et al., 2018).

Secondly, it creates an assumption that the focal organisation can ultimately be held responsible when, as McGuire and Laaser (2018) highlight, there are national governments in some parts of the world – Uzbekistan's cotton farming sector, for example - mandating forced labour.

Thirdly, some large organisations may be at the mercy of established industry practices, leaving them exposed to modern slavery in their supply chains Pinheiro et al. (2019). Industries such as coffee (Thiruchelvam et al., 2018) and cocoa (LeBaron and Gore, 2019), both of which are considered high-risk areas for modern slavery, have structures and practices which make it hard for individual organisations that source from them to create the visibility necessary for change.

While this may be the case, there are examples in the literature of efforts by organisations to tackle modern slavery in their supply chains. These efforts take a number of forms, including organisations collaborating with smaller companies and retailers to build competitive advantage (Benstead et al., 2018), and using technologies such as blockchain (Rogerson and Parry, 2020) and worker feedback mechanisms to identify incidences (Taylor and Shih, 2019). Byerly et al. (2012) demonstrate that even sectors known to be high-risk – in this instance brick kilns – can be identified in unusual ways, finding that, such is the uniformity of these sites, they can be recognised using satellite imaging and algorithmic searches.

The complexities of these contexts have led not only to a dislocated assortment of obligations, but, ultimately, a failure to deliver information to consumers (Christ and Burritt, 2018). Looking generally at the legislative landscape, Nolan and Bott (2018) observe a lack of due diligence, of detail in disclosure, of the use of other stakeholders' leverage and knowledge, and, perhaps most vitally of all, of regulatory consequences. Prokopets (2014) highlights this lack of enforcement in particular as a factor in the California Transparency in Supply Chains Act (CTSCA)'s failure to force disclosure. It has been posited that criminal liability may even be necessary to induce the desired levels of detail in reporting under MSA (e.g. English, 2019).

Our understanding of organisational MSA compliance to date shows that organisations face a complex set of considerations, many of them not directly under the focal firm's purview. This has resulted in varying degree of MSA compliance, including some instances of organisational hypocrisy, which may in part be explained by the experimentalist governance nature of the legislation itself.

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Experimentalist governance

The theoretical underpinning of the mechanisms through which experimentalist governance operates – experimentalist governance theory – has been most clearly espoused by Sabel and Zeitlin (2012). They posit that the process of experimentalist governance involves a four-stage iterative cycle to achieve legislative aims. First, the legislature enacts a law setting out framework goals or principles; second, entities within the scope of the regulation are given significant discretion in how they respond in order to encourage a diversity of response that provides the basis of the following stage; third, those entities report regularly on the actions they have taken and take part in a peer review process intended to identify best practice and therefore drive up standards; finally, goals are revised periodically as the report-and-review process identifies problems. In doing so, such legislation anticipates the development of competitive dynamics as organisations attempt to respond to stakeholder concerns.

In forcing all commercial organisations with a turnover above £36m to report on their supply chain activities, the avowed aim of MSA is to create a level playing field for commercial entities by setting minimum standards, allowing organisations to demonstrate how seriously they take the issue (LeBaron and Ruhmkorf, 2017). Accountants will recognise in this a form of the principles-based approach to standards setting (e.g. Baker and Hayes, 2004; Carmona and Trombetta, 2008; Nelson, 2003; Schipper, 2003). This flexibility is borne of early twentieth century thinkers' belief that, in order to be practical, governance should be adaptable (e.g. Dewey, 1927). It is intended to drive up standards in successive reporting cycles (Lindsay et al., 2017).

In the context of MSA, we would anticipate something akin to the following process. First, following engagement with organisations which will be in scope, the UK government enacts the law; second, each organisation individually creates a plan to undertake due diligence in order to establish the impacts their purchasing has on workers in their supply chains by engaging with suppliers and experts to identify risks, and then works to that plan, recording results against key performance indicators and building a narrative of the organisation's work to minimise risk to workers; third, each organisation publishes its own statement describing the actions it has taken in the prior year and those to be taken in the next, comparing planned against delivered in statements from year 2 onward. This is followed by a rigorous peer review process in which organisations investigate actions taken by their peers in order to adopt best practice from across all reporting organisations; fourth, the UK government, having identified issues independently and in consultation with stakeholders, periodically updates the legislation.

Experimentalist governance emerged as an attempt to move away from the traditional methods of developing and implementing privately-developed standards, which had failed to mandate behaviour (Bartley, 2014). Originally used in a closely-related format in the USA for governance of food standards (Wengle, 2016), the method recognises the limitations of imposing rules on organisations in a fast-moving context such as commerce, preferring bottom-up flexibility overseen by a wider range of stakeholders than the state (Sabel and Zeitlin, 2012). Deakin (2009) suggests that, used as a complementary system, experimentalist governance can harmonise with national policy to deliver wider goals, a

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view that emphasises the essential transnational nature of experimentalist governance (De Búrca et al., 2014).

Significant issues with the experimentalist governance approach have been identified. Mendez (2011) asserts that reporting mechanisms allied with a peer review process are key to the success of the system, and that, lacking greater structure and robust reflexive assessment, the system is unlikely to improve from an ineffective base. It relies on a level of variation in performance, for the continuous improvement cycle to drive organisational change, of which legislators are generally wary (Hess, 2008). Indeed, the process appears to work best in conditions that promote freedom for those under its obligations to derive unexpected, experimental solutions (Heilmann et al., 2013). Where the process has been applied to tackle modern slavery in supply chains, Cossart et al. (2017) claim that the French Duty of Vigilance law rests on the assumption that organisations will seek to reduce harm to individuals on the basis of mitigating organisational risk. While this method is thus far unproven, Brazil's National Pact to Eradicate Slave Labour ('The Pact') has demonstrated the success that strict legal enforcement might offer (Feasley, 2015).

A further criticism that emerges from the literature is that, in setting intentionally loose initial standards (Zeitlin, 2005), experimentalist governance allows those organisations in jurisdictions in which liberal, democratic principles have not been institutionalised (Kumm, 2012) to avoid full participation. This may go some way towards explaining why focal organisations with supply chains in, for example, less democratic countries find compliance difficult.

The public sector as a context

The only part of the public sector obliged to involve itself in the iterative process of the experimentalist governance-informed MSA is higher education (HE) (Martin-Ortega, 2017), which is the chosen context for our study. UK HE is also obliged to comply with public sector procurement legislation. HE spends significant amounts on high-risk goods, including technology, textiles and food (Keenan, 2017). Research on university responses to MSA is scarce. What we do know is that "a significant number of universities are yet to undertake fundamental steps towards identifying risks in their own supply chains and developing suitable and effective due diligence processes" (Martin-Ortega and Krupinska, 2018: 14), a key aspect of engagement with the spirit of the law.

Problems with taking transformative action over sustainability issues may be seen as a result of the traditional desire within the sector to get the best value for taxpayer money, a key consideration in public contracts (Loader, 2007). This has led to the adoption of collective purchasing mechanisms, which the public sector has used to deliver economies of scale for several decades (Blome et al., 2014; Murray et al., 2008). The resulting organisations – purchasing consortia – negotiate purchasing frameworks on behalf of PSOs, leaving ordering to local organisations (Meehan and Bryde, 2015). This has raised doubts about the role and effectiveness of procurement departments in contributing to organization-level strategy (Schiele and McCue, 2006).

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The requirement to deliver cost efficiency through economies of scale highlighted by the structure of public sector purchasing is not the only pressure on PSOs, however. Political influence has brought expectations of social and environmental responsibility which can conflict with price obligations (Boeger, 2017; Loader, 2011; Murray, 2009). While there has been a degree of success in progress towards environmental sustainability in parts of the UK public sector, social sustainability has lagged despite the collective potential to bring about change in labour conditions (Martin-Ortega, 2018; Martin-Ortega et al., 2015) and an increased focus on social implications of procurement (Walker and Phillips, 2009).

The UK Modern Slavery Act 2015 represents an attempt, through disclosure, to tackle a major social problem which has recently gained significant attention across public and private sectors. The nature of the law, as a piece of experimentalist governance (which necessitates regular disclosure and peer review), offers scholars an opportunity to investigate the process of legal compliance through investigating how organisations go about reporting as well as what those disclosures state. Public sector organisations offer both a highly visible and under-researched context for such study.

Methodology

We focused our empirical study on the UK HE sector. As a sector, UK HE spends over £15bn a year on goods and services (Universities UK, 2018), much of which is known to be from categories and geographies which pose a high risk of modern slavery (LUPC, 2020). There is a total of 164 HEIs in the UK (Universities UK, 2019), of which 131 had a turnover of £36 million or more in 2017/2018 (HEFCE, 2019). These 131 institutions are therefore required to comply with MSA.

Pilot study
Before commencing the main study, we conducted a small but important pilot study. We began in November 2018 by downloading all publicly available modern slavery statements from UK universities' websites, which allowed us to conduct a preliminary content analysis on the 118 universities in scope which had a findable report. It quickly became apparent that there was a significant similarity across most of the reports. To understand this phenomenon further, we contacted the University Secretaries of five universities which were within the scope of MSA. University Secretaries were chosen specifically as their role comes with overarching responsibility for university regulatory and governance compliance. However, it became clear from talking to them that MSA compliance had been delegated to the Procurement department, to which we were thus directed. Upon interviewing these professionals, it also became evident that similarities between statements might be attributable to structural qualities in HE, and we therefore approached the main study better informed and with a clear theoretical perspective.

For the interviews conducted as part of the pilot study and the full research, all respondents were given anonymity from the point of interview transcription. The sample of university statements and the sample of respondents are therefore separate and, although we quote from statements, we have ensured that no interviewee can be identified from this paper.

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Sample

We were able to obtain an e-mail address for the person responsible for MSA compliance for 104 of the 131 universities in scope of MSA. Of those 104, 56 did not respond to our request for an interview, and a further 15 engaged in some limited email exchange before deciding against further participation. Our final sample thus consisted of professional services staff from 33 universities, which represented over 25% of the total population of universities required to comply. Of the 33, only seven were not part of the Procurement function. These individuals were legal (5) or sustainability professionals (2). This sample size compares favourably to other studies which have sought to investigate social and/or environmental issues pertaining to UK HE (e.g. Snelson-Powell et al., 2016). The positions of these respondents and their anonymised universities can be seen in table 1.

[Insert table 1 around here]

Data collection

Interviews were conducted between December 2018 and July 2019. One author conducted all interviews to ensure consistency in questioning, approach and style throughout the data collection process (Kong and Ramia, 2010). The average length of the telephone interviews was 55 minutes, with a range of 40-65. Once the data had been recorded, each interview was transcribed using voice recognition software before transcriptions were cleaned for errors, which resulted in 107 single-spaced pages of transcribed data.

We designed an interview protocol which was based on a semi-structured interview approach. Appendix 1 outlines the standardised questions asked of each respondent. Our questions sought to gain a clear sense of how universities considered modern slavery when engaging in procurement, what they did to comply with the legislation and whether or how procurement practices had changed since the introduction of MSA.

Data analysis

We engaged in an abductive analytical approach. Abductive analysis starts from the basis of a provisional explanation of a phenomenon, and through data collection and analysis the researcher pursues that explanation to seek evidence which challenges, confirms or changes it (Kennedy and Thornberg, 2018). Abductive research is often spurred on by an unexpected finding and key to this form of analysis is the continued commuting between data and theory, with a view to provide the best possible explanation for the phenomenon. Abductive reasoning encourages continued and iterative theoretical engagement and knowledge of the phenomenon, in a way that is generally not encouraged with pure inductive reasoning. Since we had a baseline working assumption of how universities engaged with MSA through consortia purchasing from our pilot study, and we had a conceptual frame of experimentalist governance, abductive analysis was appropriate for our investigation (e.g. Timmermans and Tavory, 2012).

With our knowledge of intra- and inter-organisational collaboration on compiling modern slavery statements from the pilot study, we had a foundation upon which to build our analyses. Once the interviews were complete, we began carrying out microanalysis on the transcripts. This involved the "detailed, line-by-line analysis necessary at the beginning of a study to generate initial categories" (Strauss and Corbin, 1998: 57). We drew these initial

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categories out through multiple readings of the data by highlighting patterns that appeared across interviews, repeated and contradictory claims in several different interviews, and also unusual or outlier data (Laughlin, 1995). These pre-codes (Layder, 1998) were titled with direct quotes from respondents to keep the emergent analysis as close to the original data as possible.

Once we had completed the first stage of coding, we followed Braun and Clarke's (2006) step-by-step process for qualitative data analysis. We began by linking similar codes into preliminary themes. First order codes on existing modes of collaboration and pre-benchmarking therefore became the second order code *safety in numbers;* inability to see the sector's collective buying power and fear of a lack of supply chain knowledge became *procurement deskilled*; the view that MSA lacks teeth and Board inaction became *Act not seen as a priority*. By repeatedly re-examining the data and by revisiting the literature on the failures of disclosure legislation to drive supply chain action, candidate themes began to emerge from our data. As we revisited both our dataset and the literature, particularly on experimentalist governance, it became clear that some of these candidate themes had insufficient data to support them or that the data of which they consisted were not similar enough to be meaningfully considered together. The whole dataset was then reread in order to ensure both that the themes were an accurate reflection of the data and that nothing had been missed. Our second order codes of 'safety in numbers' and 'reinforcing limits to engagement' therefore became the final theme *Herding;* 'Procurement not treated as strategic' and 'Procurement deskilled' became *Organised incapacitation*; and 'Act not a priority for Councils' and 'lack of a critical eye at Board level' became *Atrophied accountability*.

The process by which these themes were generated can be seen in figure 1.

[Insert figure 1 around here]

Findings

Our findings offer important new insights into universities' responses to MSA disclosure. We start here with an overview of key trends in that disclosure.

Given the public mission of universities, we might expect that HE would engage fully with MSA. However, relatively limited engagement with MSA is in evidence, despite a greater level of compliance compared with companies. While our data suggest that there are significant problems of commitment to compliance with the spirit of the law, it is worth noting that when this research was conducted, over 90% of universities had published a statement, compared to only 73% of organisations overall (TISC Report, 2019), 27% of HE organisations were fully compliant, against 23% across all organisations (Business and Human Rights Resource Centre, 2019). HE effort, as well as failing to translate into meaningful supply chain action, is therefore also largely limited to publication of a statement rather than a deeper engagement with the aims of the Act, and which is in any case fully compliant with MSA in only around a quarter of cases.

This limited engagement can be found in the modern slavery statements published by universities, which broadly show significant similarities in content. For example, without offering explanation of how risk assessments are carried out, or what actions are taken as a result of this work, many universities include statements such as:

- "Within the University Supply Chain, category spend in key industries such as, Construction, Travel, Catering, Furniture, IT/Computer Supplies and Utilities, has been identified as high risk in relation to Modern Slavery" (University of Glasgow, 2019).
- "The principal areas which carry material risks are office supplies, laboratory consumables, ICT and AV equipment, and some estates services, such as cleaning and construction" (Imperial College London, 2019).
- "High-risk categories such as office supplies, laboratory consumables, ICT equipment and some estates (facilities management) services" (Swansea University, 2018).

Similarly, in terms of expectations universities state that they place on their suppliers, there is a lack of rationale, of evidence of action, and of variation. Many organisations include in their report statements such as:

- "The University's standard contractual terms and conditions used when procuring goods, service and works include provisions that embed the requirements of the Modern Slavery Act and provide the University with the powers to request information from our suppliers on the nature of their supply chains where necessary" (University of Bath, 2018).
- "We only use reputable Contractors and expect them to have adequate monitoring procedures and certifications in place" (University of Wolverhampton, 2018).
- "We require suppliers to conform to our Corporate, Social and Environmental Responsibility Policy" (Durham University, 2019).

This lack of variation is caused by both pre-existing and new conditions. Our data show that a number of different modes of collaboration have resulted in universities responding in a largely similar manner – and that there are issues of structure underlying this. We describe here the themes and dimensions of these cooperative responses. We find that the sector is *herding* together in a way that subverts the avowed spirit of MSA and, though the structures that enable this pre-date MSA (sometimes by decades), their use enables respondent organisations to ensure that scrutiny on the sector is reduced; that an *organised incapacity* brought about in response to prior operational and legal considerations has created structural boundaries to a more serious engagement with the Act; and that it has responded with an *atrophied accountability,* which describes deficiencies at the executive level of organisations. Together, the factors explained by these inter-related constructs undermine the logic behind MSA as a piece of experimentalist governance legislation. Figure 2 represents the experimentalist governance process outlined by Sabel and Zeitlin (2012) and demonstrates where this process is subverted by university actions around MSA. In the following sub-sections, we explain these factors and their effects on experimentalist governance in detail.

[Insert figure 2 around here]

1. Herding

We find that universities have attempted to ensure that attention on the sector is kept to a minimum through a practice of *herding*. Among the most common topics raised during the interviews was that of collaboration, including the longevity of cooperative support services mechanisms such as purchasing consortia. HEIs have for many decades conducted their purchasing through consortia. The consortia have negotiated contract frameworks with suppliers on behalf of universities, who in turn have relied on these frameworks to place orders and access more competitive prices as a result of the frameworks the consortia negotiated.

This collaborative spirit has extended to MSA. A significant amount of collective effort has been spent by many HEIs on ensuring that smaller universities are helped in their disclosure efforts through sharing of what larger organisations are doing, and by production of a template statement to be completed to ensure compliance. By comparison, we found no evidence of inter-university collaboration on due diligence efforts in supply chains: several respondents stated that they could not do this.

From these insights we understand that universities have effectively engaged in *herding* – not so as to evade their responsibilities, but in the true sense of herding, i.e. to protect the collective. Ultimately, this ensures that organisations are broadly compliant with MSA, which reduces the risk of the sector (which sees itself as under scrutiny given its public visibility), from receiving unwanted attention. We describe this practice as having the dimensions of *collaborative responses*, created by universities interacting during the reporting process rather than once statements are published, and *templating,* characterised by the use of shared, standardised responses to guarantee compliance. We now explain these themes.

1.1 Templating

There are modes of collaboration that limit the sector's engagement with MSA through a process of templating. Our data show examples of a significant reliance on sources of advice which encourage box-ticking. We encountered both examples of the use of an actual template developed by a consortium soon after MSA came into force. There were also examples of advice from legal advisors which suggested that universities should go no further than baseline compliance with the Act. There was also some evidence of a lack of advice and resources from a professional body representing procurement professionals that limits professionals' ability to learn and develop their universities' responses which is a key assumption of MSA (Voss et al., 2019).

Several respondents discussed using a template at various times since MSA came into force. This included a Head of Procurement who stated that, "in year one we got a template actually from someone else and we pretty much just wrote down what they'd done" (University 26). Similar to others who mentioned a template that had been sent out by a purchasing consortium, this respondent did not see the problem with 'anchoring' their organisation's response in such a rudimentary way. Given that MSA invites organisations to improve their disclosures year-on-year, and the differences in those responses can be compared to draw out best practice, the lack of depth in engagement seen to date might be attributable to universities beginning the process by starting from the same statement.

Similarly, advice (and lack of it) has shaped the limited response to MSA from universities to date. Several respondents discussed legal seminars they attended in 2015 at which lawyers explained that universities were in scope of the Act, what was expected, and how to comply. This focus on compliance, while understandable as a baseline, is not in the spirit of the legislation. One respondent described how their Finance Director had attended a seminar at which the speaker had advised "this pragmatic approach: you don't need to have policy, just be focused on the criteria they put in the legislation so we had to say what our business was and how big our turnover and that kind of thing; who are the suppliers are that kind of thing over the last 3 years" (University 9). While a potentially rational approach to basic compliance, this advice does not give universities anything to build on in future years, which is an experimentalist governance mechanism through which MSA was designed to drive a continuous improvement in reporting standards (Deakin, 2009; Flynn and Walker, 2020).

While many respondents agreed that they or someone else from their organisation had attended one of the many seminars that were held in 2015, some respondents were also clear that they had expected advice from procurement's professional body, the Chartered Institute of Procurement and Supply (CIPS). One interviewee stated that he was a regular attendee of his local CIPS group and had not heard the topic of modern slavery come up once.

As well as initial advice that was made available by professional services firms, most of our respondent universities are using supplier data sharing products such as NETpositive. These are platforms and other useful tools which enable members to view data for suppliers they share with other members. This helps to prevent duplication of contact with those suppliers who might otherwise be approached by dozens of customers about the same issue. These platforms enable universities to see, for example, which of these shared suppliers has published a modern slavery statement for the period. However, our data show limited knowledge of how these platforms actually work, and evidence that universities have not engaged sufficiently with them to take advantage of the potential for developing policies and practices to tackle modern slavery more broadly and engage with the legislation more fully.

1.2 Collaborative responses
In contrast to the use of an actual template from a consortium from the outset, *collaborative responses* refers to inter-university cooperation during the reporting phase. HE professional services cooperation, which pre-dates MSA, is used by universities to collaborate in response to meeting their organisations' obligations under MSA. This occurs in a variety of ways along a spectrum of formality. We note that their contribution to the lack of variation in reporting can be gauged from some examples, which we highlight for their uniqueness or as examples of more or less formal arrangements outside the scope of the purchasing consortia.

Two organisations – Loughborough University and the University of Leicester – share a Director of Procurement (Trotter, 2019). This has led to the production of near-identical statements, including a section on,

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"Supplier adherence to our values:

We have zero tolerance to modern slavery. As well as taking mitigating measures through the procurement/contract management process (including adding appropriate pre-qualification/tender questions and standard contract clauses), the University expressed this policy, explained the Modern Slavery Act and the related measures we have added to our processes, at local supplier events" (Loughborough University, 2018; University of Leicester, 2018).

Similarly, Queen Margaret University has outsourced its Procurement function to the University of Edinburgh (Queen Margaret University Edinburgh, 2018). In terms of reporting under MSA, this comes with results that might be anticipated. Both organisations' reports are almost identically laid out, beginning with the phrase, "[we] are committed to protecting and respecting human rights and have a zero tolerance approach to slavery and human trafficking in all its forms" (Queen Margaret University Edinburgh, 2018; University of Edinburgh, 2018).

Other examples include procurement staff from the twelve universities in the West Midlands coming together several times a year to discuss responsible purchasing issues. This manifests itself in the shared use of phraseology such as, "We are committed to ensuring that there is no modern slavery or human trafficking in our supply chains or in any part of our business" (Aston University, 2018; Coventry University, 2018; De Montfort University, 2018). While these meetings pre-date MSA and are used to ensure the sharing of best practice, there is certainly an element of the spirit of the law being undermined as a consequence of these interactions. Experimentalist governance relies on a feedback process which involves individual action *followed by* rigorous peer review (Deakin, 2009; Sabel and Zeitlin, 2012). Our data show that responses to MSA are discussed at these meetings. We do not suggest that there is anything untoward in this but question the application of the law to an industry with a long history of collaboration, which would need to be unwound (at significant cost and damage to operations).

There are other, less formal, forms of cooperation, which include former private sector colleagues sharing pre-publication statements, and three Heads of Procurement at similarly sized universities meeting, and engaging their teams to meet, to discuss ethical procurement practices, including responses to MSA.

In MSA terms, these collaborative efforts have at times been employed to ensure that no individual industry member strays too far from the collective. A Sustainability Manager at a large organisation (University 8) sees this as one of the main goals of the sector's collaborative efforts:

"I think in terms of improving sector reporting, the question is how can we work together to help institutions with less capacity and less background in this area to improve their statements and thus their actions. A well-facilitated workshop via existing networks [...] might help, but I suspect an issue is people not having enough time to devote to this."

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A Procurement Manager at a large university supported this, informing us that they send their unpublished statement to smaller HEIs so that those universities can see if there is anything to be borrowed. This suggests a duality of purpose for sector-wide collaboration. First, that larger, wealthier, and more mature universities have a duty to help smaller organisations which are deemed less able to meet their obligations under MSA. This contrasts sharply with the collaboration for improved monitoring and due diligence that Benstead et al. (2018) observed in private firms' supply chains, which operates at a deeper level to share meaningful data on suppliers further up supply chains. Secondly, even given this assistance, there are Procurement departments too resource-constrained to be able to attend to receive help.

Perhaps unsurprisingly in the sector, academics have become involved to help with benchmarking. Dr. Olga Martin-Ortega at the University of Greenwich publishes an annual report on the state of university MSA compliance (Martin-Ortega and Islam, 2017; Martin-Ortega and Krupinska, 2018) which highlights good practice, pinpoints areas for improvement, and elucidates how universities could progress both individually and collectively. We encountered respondents who claimed that these reports are more important to them than their own benchmarking exercises, for example: "I haven't looked at any other statements. I have looked at Olga Martin-Ortega's report. And we got a particularly good commendation for something that we've done on our report but it's not necessarily a proactive thing so actively nothing at all" (Head of Procurement, University 28). Some respondents described Dr. Martin-Ortega's work as akin to doing the benchmarking for the sector.

This collective view of the sector is a common one. A Procurement Manager at a large university (University 17) was very clear about this:

> "We're part of the same club, anyway, overall flying the flag for British education and in a way and we continue to raise standards. Yeah, and the Russell Group universities certainly should be seen leading and some of the smaller universities don't have the same resource that we do."

Inherent in this comment is the assertion that, at least in terms of MSA, the collaborative ecosystem around university Procurement departments exists to ensure that none are 'left behind' regarding MSA. Rather than acting as a mechanism for the aspirational continuous improvement in MSA, these structures are being seen and used to ensure *sector herding*.

In sum, HE procurement professionals expend significant effort on a wide range of intra-sectoral collaborations. Although in a broader sense these mechanisms provide valuable bases for knowledge exchange and cost savings, in terms of responding to MSA they have ensured that organisations comply with their basic obligations. While this has had the intended effect, it has reinforced the limitations inherent in the actions taken, focusing attention on the letter of MSA and subverting the discretion organisations are given under MSA to develop different practices.

2. Organised incapacity

UK universities make a significant proportion of their purchases, particularly of products such as electronics, apparel, and food, which are known to be high-risk in modern slavery terms, through framework agreements negotiated by purchasing consortia. The role of these organisations is that of a "shared service with the aim of delivering maximum value from the purchase of goods and services. With institution income reducing and costs rising [they] have an ever increasingly important role to play." (North East Universities Purchasing Consortium, 2019).

Our data reveal that since universities have come to rely on purchasing through consortia to ensure financial value for money and legal compliance, many university Procurement departments have either lost the ability to actively manage supply chains or have not felt the need to develop these skills. The historical focus of procurement was cost, and both the skill sets of relevant university departments and the consortium structures around them have naturally developed to fit these transactional requirements. In our context, this has left universities lacking the capabilities to engage with MSA much beyond compliance. HE has, for example, used its collective consumption, through regional purchasing consortia, to negotiate lower prices for high-volume, repeat goods from IT equipment, stationery and furniture to laboratory chemicals. MSA, however, requires a depth of knowledge about, and active management of, supply chains which our data suggest is incompatible with this structure. In terms of MSA, the consortia are currently an unintentional barrier to universities' ability to fully engage with the Act. A Procurement Manager offered a refrain encountered in most interviews – that universities "don't have the resources to send staff to check factories" – before adding that they "have skills as buyers," (University 22) contrasting that particular ability with that of supply chain management.

This organised incapacity – a structural removal of issues of supply chain management from universities – has led to a significant reliance on the consortia. Expounding a commonly expressed dependence, a Procurement Manager at a medium-sized university stated that, "we kind of rely on the purchasing consortia to address a lot of the sustainability issues" (University 5). While sustainability, and even sustainability disclosure, is arguably best managed collectively, the experimentalist governance underlying MSA anticipates a different approach (Deakin, 2009; Voss et al., 2019), which is difficult to envisage happening in the present HE context in the UK.

2.1 Procurement not treated as strategic

At the heart of this structural incapacity is a common belief among our respondents that universities do not treat Procurement as a strategic function. This sentiment manifests itself in several ways. First, the only respondent universities with direct Procurement representation on their Boards were those small enough for Finance to physically carry out tasks generally assigned to a separate Procurement department. Without exception, despite between a third and a half of universities' "influenceable" spending being the responsibility of Procurement, purchasing staff report through Finance.

Often, the perception that purchasing functions are not viewed as strategic comes down to the resources such functions are able to expend on complying with legislation such as MSA.

The majority of respondents spoke in terms such as, "we don't have the resource to explore supply chains" (University 10; University 31). Deprived of the means to conduct genuine supply chain monitoring and management, those tasked with complying with MSA have little choice but to adopt basic legal compliance as the goal and not a foundation to be built on. By way of both contrast with experience in the private sector and a potential rationale for Procurement being used as a basic value and compliance function, a Deputy Head of Procurement stressed that,

> "When I worked in private industry, I knew my suppliers, even though some of the ones we spoke to didn't seem up to much with the origin of their products. But from our perspective, what we buy does not necessarily have that link to what we produce (i.e. students)" (University 26).

This apparent disconnect between what is seen as the ultimate purpose of a university and the work required for that purpose emphasises the awareness among HE procurement professionals that their role is not viewed as strategic at Board level. This method of administration constrains Procurement's ability to conduct the supply chain due diligence required, removing what would constitute progress under MSA and limiting the purpose of post-publication peer review.

2.2 Procurement deskilled
The skills shortage highlighted by our data, while observable on a spectrum of proficiency levels, is best captured by a Director of Finance, who asserted that their organisation had "identified the supply chain as the highest risk area for modern slavery and human trafficking" (University 16). That the pertinent section of MSA is called Transparency in Supply Chains (Modern Slavery Act 2015 c.30, 2015) makes it clear that the area of concern is the supply chain, but such is the rudimentary nature of many universities' approaches, they are still discovering these issues years after MSA was enacted.

The lack of supply chain management skills at universities has led to the adoption of a rudimentary level of assurance, for example through updating the terms of contracts to reflect the need for modern slavery statements, where applicable. Administrative efforts such as this show a clear desire – evident across respondents – to demonstrate organisational responsibility. However, while there is a widespread feeling that compliance so far has been about "trying to figure out the university's role in all this beyond some generic statement," (Procurement Manager, University 5) there is also the knowledge that contract amendments do not create the necessary action. In the words of one Head of Procurement, while a clause allowing the university to perform an unannounced supplier audit is in a contract, "I think we would be the first university ever to do that" (University 22).

In combination, the lack of supply chain management skills and management perception of procurement as not strategic have reduced much of the university response to MSA to box-ticking. That is, rather than have a strategy for how to approach wider issues of worker exploitation and modern slavery and then disclose activities which have been undertaken in order to build towards tackling those problems as experimentalist governance requires (Deakin, 2009; Sabel and Zeitlin, 2012), Procurement functions have had to engage

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reactively with the legislation. Several respondents admitted that consideration for disclosure often comes in the few weeks or months leading up to publication of the statement, and that the basic idea from the previous year is built on by summarising changes to circumstances that have occurred in the prior financial period. This is most starkly captured by a University Solicitor who conceded that the high-level process involved in collating information at their small organisation consists of "making sure we capture anything good that's come out of the university" (University 5).

The experimentalist governance ambition of MSA – that activities at focal organisations will force first tier suppliers to take action, creating flow of expectation and action through the lower levels (Flynn and Walker, 2020) – is therefore undermined at lead universities in HE. A Head of Procurement explained that,

> "I haven't witnessed a lot of cascading down the supply chain since I came here. We do talk about it in terms of us being a university that does a lot around [sustainability], but I think one of the problems is that there is so much to do anyway, and [tackling] modern slavery is a really hard thing to realistically do" (University 31).

Since the disclosure encouraged by MSA is perceived as overly difficult by HE, engaging tiers further down supply chains cannot happen and the limited engagement that does occur is therefore often confined to attempting to ensure compliance.

While 'cascading' may not have taken root in HE practices, attempts are at least made by some to ensure that they do not miss developments in practice made elsewhere. Many respondents use some form of benchmarking in order to underpin their compliance approach. This is partly held responsible by some in HE for the uniformity of statements in the sector. Some have looked beyond their own industry to discover best practice from private sector organisations. However, while this allows universities to better understand how firms with experience and expertise in supply chain management are engaging with the legislation, this knowledge appears to have had little impact on their own statements. These have remained reactive and policy-driven, adopting none of the risk assessment, performance measures, due diligence, monitoring, or governance mentioned in statements by firms cited. As a result, the cycle anticipated by experimentalist governance (Deakin, 2009; Sabel and Zeitlin, 2012) has been circumscribed, making periodic review of the legislation difficult since it inhibits meaningful progress.

In short, the HE sector has been facing faced consistent pressure over a number of years to ensure that value is delivered through procurement and is structurally not set up to engage effectively with a law such as MSA. Much of the contact that universities would ordinarily have as buyers with suppliers has been outsourced to small, specialised purchasing consortia which have existed to reduce costs rather than to involve themselves with lower tiers of supply chains, and which are themselves too resource-constrained to do so.

3. Atrophied accountability
While universities have engaged in a practice we term *herding* in order to reduce the chances of HEIs coming under the spotlight on MSA and demonstrated an *organised*

incapacity in their ability to engage more fully with the legislation, the sector has also exhibited, with regard to modern slavery, what we term an *atrophied accountability*. This final theme to emerge from our analysis, which refers specifically to executive functions at HEIs, speaks to a widespread reluctance of executives to engage with the process both in terms of driving action and conducting the necessary governance to ensure that HEIs are fully compliant. We would expect a lack of shareholders at Board level at HEIs to translate into a more considered, longer-term, and risk averse approach, whereas we find instead the absence of a key critical eye. The governance deficit on MSA can be seen as perhaps the most important facet in the failure of experimentalist governance since it removes a central element of organisational governance and the leadership required to engage in an iterative process of continuous improvement (Christ et al., 2019; Voss et al., 2019). It also therefore underpins the perpetuation of the first two themes.

3.1 The UK Modern Slavery Act 2015 is not a priority for Boards
While respondents uniformly stated that the resources necessary to engage more deeply with regards to modern slavery reporting were not available, the lack of importance attached to purchasing functions by universities manifests itself in other ways. We encountered several respondents who had heard about their university's obligations under the UK Modern Slavery Act 2015 not through their organisation's Board or legal department, but through the Higher Education Procurement Association (HEPA) or their regional consortium. Although University Secretaries are responsible for receipt and dissemination of the legal obligations of HE organisations neither they, nor legal departments generally, informed Procurement that legislation was being drafted, had been enacted, or what organisational responsibilities were under it. One Head of Procurement explained that they had relied on an external stakeholder for the news, saying, "When it came into force, we were approached by HEPA to check that we were aware of the modern slavery requirements" (University 19). While this demonstrates the functioning of collaborative ecosystems around Procurement, it might also show that third party stakeholders are aware of universities' inability to act top-down on the legislation.

Internally, this inability seems already clearly understood. Respondents made a variety of comments to this effect, explaining that, "there was a bit of information out there" (University 10); "when I came into post [we didn't have a statement]" (University 12); "we tried to get our heads around what it actually is, does it apply to universities" (University 29); "luckily, my predecessor had picked it up" (University 27); "it probably would have been through LUPC [London Universities Purchasing Consortium] [that I heard about it]" (University 28). Many HE professionals tasked with disclosure under MSA appear to have no expectation that they would be informed about the legislation by their organisation's Board. Given the level of engagement with the legal process required by experimentalist governance, Procurement departments, left to make decisions of significant public visibility and supply chain importance, have been neither empowered nor enabled to contribute.

3.2 Lack of a critical eye at board level
Among the factors influencing this Board-level abdication on the reporting process, our data show a large number of organisations at which the Boards are insufficiently questioning of their organisations with regard to MSA. Respondents explained that it is a struggle to make MSA a priority with the Board. Several told us that they had inherited poor statements

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which had gone unnoticed by executives. Except for one organisation, which had recently appointed to its executive a former Board member from a large private sector corporation, there was little to suggest that boards are providing a level of scrutiny likely to push performance beyond pure compliance.

Some universities have had problems complying at all. The Head of Procurement at a small university asserted that "there still isn't ownership from the university, it's probably not high on the agenda" (University 19) before explaining that for a second year in a row they have not been able to find a Board member willing to sign the statement, one of the three actions required to comply fully with the legislation. Another Head of Procurement had similar issues getting a signature, while the Head of Procurement at a medium-sized organisation asserted that they had been unable to convince the Marketing department that the statement needed to be displayed on the home page of the university website, another aspect of legal compliance.

Perhaps a key indicator of the lack of attention Boards are paying to MSA comes from a Procurement Manager at one of the regional purchasing consortia. In October 2018, the Home Office sent a letter to all organisations required to comply with MSA suggesting that non-compliant firms would have action taken against them (Home Office, 2018). Despite the threat of legal action, the consortium Procurement Manager received no questions or feedback about the letter. Interestingly, some respondents claim to have not seen the letter, or heard of it, suggesting that the letter may be arriving at Board, which is not informing Procurement of the news. This suggests a level of disconnection which renders the reporting cycle inherent in experimentalist governance (Flynn and Walker, 2020; Sabel and Zeitlin, 2012) legislation beyond the reach of Procurement and outside the interest of the Board.

This separation of Board and Procurement functions also affects the latter's ability to influence responsible purchasing day-to-day. A Procurement Manager stated that, "departmental and academic staff routinely make purchases outside agreed frameworks, and there is currently little we can do to influence that" (University 2). This leaves Procurement attempting to manage a supply chain process without knowing which product (i.e. supply chain) to oversee.

There is ample evidence of how little attention Boards are paying to their purchasing departments. Our data show the widespread absence of an impediment to collaboration at executive level. HE Procurement departments appear not to see themselves as competing. A Head of Procurement explained that, "there is no competitive advantage to be gained by keeping your approach to yourself" (University 2). This comment suggests two things to us. First, that such little consideration is given to Procurement at Board level that purchasing departments are free to view themselves as not in competition with one another. Second, there are insufficient leading universities and assistance from the procurement infrastructure around HE to enable the sector to engage in any level of supply chain management practices beyond the rudimentary measures of contract clauses and modern slavery statement checks. If the more mature universities are free to share their approaches, and across the sector there persists little evidence of deep engagement with the legislation, a lack of proficiency in those practices is both a logical explanation and one

that is clear in our data. From an experimentalist governance perspective, this interruption of the iterative process (Flynn and Walker, 2020; Sabel and Zeitlin, 2012) from the outset brings into question the sector's inclusion in the scope of the Act.

The legislative burden that universities deal with, and the lack of cases brought against organisations which have not complied with MSA, has led to MSA not being treated as a priority by university Boards. This has isolated Procurement functions, reduced compliance levels, and increased the risk of scrutiny on the sector which inter-organisational collaboration has worked to reduce.

Discussion

In this article, we provide a greater sense of the activities involved in how organisations react to modern slavery disclosure legislation. Specifically, we examine the intra- and inter-organisational practices that have emerged in the UK HE in response to the UK Modern Slavery Act 2015. Our data suggest that they engage with the legislation superficially, and that three main aspects of their activities explain this. Feeling unable to examine their supply chains in depth through resource constraints, universities have herded together to ensure that no single institution is left behind. Largely responsible for this is an organised incapacity brought about by a long-held focus on cost, which has led to purchasing consortia creating a barrier between universities and their suppliers, depriving universities of the ability to effectively manage those supply chains. This has been exacerbated by an atrophied accountability at Board level, meaning that insufficient time and focus is given to MSA by executives. The result is a widespread proforma compliance which has enabled universities to outperform the average reporting organisation in terms of pure compliance – but means that there is little depth to engagement with supply chains on labour issues and therefore limited behavioural change driven by that reporting.

Our study makes three contributions. First, research on slavery is not new. For decades, scholars across disciplines have been exploring the topic from multiple perspectives. However, notwithstanding attention to the role of accounting in historical slavery (e.g. Irvine, 2012), the topic of "modern" slavery is new to accounting scholars and thus research on the topic is still at a nascent stage. We have built on this emerging literature (e.g. Christ et al., 2019) in a way that begins to develop the accounting discipline's understanding of the processes underlying organisational activities around responses to modern slavery disclosure legislation. We begin a conversation on the organisational processes that inform what organisations publish by exploring in more depth than prior studies the inter- and intra-organisational practices that underpin disclosure. This enables explanations of why a sector with such a public mission, under scrutiny from government, has engaged so little with the aims of MSA, and opens up the potential for a dialogue between the accounting profession and the public sector, which can inform both parties' approaches to strategically and practically responding to MSA in substance, rather than solely in form.

We contribute to these discussions by identifying consistencies between the extant literatures and our findings and by highlighting what we add that expands our understanding of these studies. Parsa et al.'s (2018) suggestion that Global Reporting

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Initiative (GRI) disclosure is used as a source of organisational legitimacy rather than a mode of material reporting used to drive positive change in workforce conditions extends to our findings on HE modern slavery disclosure. However, our findings strongly suggest that failure to engage in substance with MSA is not intentional on the part of HE institutions. The combination of a lack of internal oversight in HEIs and the paring down of the relevant departments have left Procurement departments unable to engage more deeply. This, in turn, means that the continuous improvement cycle envisaged in the law is initiated but not continued, preventing organisations from learning from one another.

Such unintended organisational hypocrisy is not new in the UK HE sector (see e.g. Snelson-Powell et al., 2019). However, with proliferating demands for reporting and disclosure on social management practices in the sector, the HE sector urgently needs to address its reporting and disclosure issues in such a way as to inspire confidence in their practices rather than have reporting requirements undermine efforts. Increased reliance on due diligence processes and more cooperation in sharing data on purchasing and supply chains such as those observed by Hazelton (2013) may be one way to encourage better reporting and disclosure and subsequent meaningful change in practice (Islam and van Staden, 2018; McPhail and Ferguson, 2016).

While the collaboration we identify has not enabled HE to respond to the spirit of MSA, other forms of collaboration might empower them to do so. In this regard, the management accounting profession can play a central role. With its detailed knowledge of internal accounting and management control systems (Schaltegger and Csutora, 2012), and expertise on what constitutes appropriate levels and forms of expenditure, management accountants, through their formal expertise and professional experience, are well placed to track accounting information obtained through, for example, due diligence of tenders. Such due diligence could work to ensure that minimum wages were appropriately costed and that the design of data to be reported by suppliers conformed to accounting and disclosure requirements for modern slavery. It would also enable decision makers to determine differences between anticipated and realised data in order to identify any problems and ultimately drive better decision-making (Maas et al., 2016). This in turn would require a degree of transparency in accounting that is only possible in initiatives built on trust (Free, 2007) and which have been aligned accounting with supply chain strategy (Anderson, 2006). However, through such measures the management accounting profession stands to play a decisive role in rooting out modern slavery practices.

In building on other literatures to begin accounting research on modern slavery disclosure, we deviate from the extant literature on organisational responses to modern slavery disclosure legislation (e.g. Stevenson and Cole, 2018; Voss et al., 2019). We do so by focusing exclusively on the practices that organisations in a specific sector adopt to respond to the legislation. A key assumption of the enactment of experimentalist governance – and therefore modern slavery disclosure legislation – is that reporting on risks and action taken to mitigate them will lead to improved endeavours and organisational change as outlined by Overdevest and Zeitlin (2012). In finding that UK universities have taken their obligations at face value, we introduce nuance to the position that disclosure can help to promote human rights (Gallhofer et al., 2011; Lauwo and Otusanya, 2014). HE has been rendered unable to

respond meaningfully to the legislation, meaning that it discloses little that is likely to uphold the rights of workers in its supply chains.

In herding together to prevent increased scrutiny on the sector, universities have mirrored Stevenson and Cole's (2018) assessment of the textile and fashion industries in which a homogeneity of policies precludes the customisation of approaches. This short-circuits the experimentalist governance process, which relies upon individual reporting before a rigorous peer review process and incremental, repeated implementation of best practice. The sector has, sometimes literally, adopted a template approach to reporting. While this denies stakeholders the opportunity to effectively scrutinise organisations' approaches, it also impedes the ability of those universities which see themselves as taking the legislation seriously from gaining the competitive advantage that Cousins et al. (2017) see in those private sector firms that engage extensively with the Act, and which experimentalist governance envisages.

A significant impediment to deeper engagement with modern slavery is a lack of leadership, and one of the compelling factors in this is the absence of enforcement to date. The notion that MSA has not been prioritised because there is a perceived lack of punishment for non-compliance confirms English's (2019) prediction that criminal liability might be necessary and speaks to Feasley's (2015) argument that The Pact worked in Brazil because it came with strict legal enforcement. Prokopets (2014) finds that, without this legal threat, CTSCA failed to deliver the expected levels of disclosure from reporting organisations.

Second, we contribute to the literature on accounting and public sector procurement, and in particular to HE. By introducing a specific example of how HE has responded to a law which grants flexibility to those in scope, we demonstrate a key outcome of the conflicting pressures on the sector. We shed light on the structural and leadership issues underpinning HE's inability to undertake the due diligence and other supply chain action highlighted by Martin-Ortega and Krupinska (2018). In doing so, we show the work required of public sector purchasing ecosystems simultaneously expected to deliver value and social and environmental sustainability, having themselves been reduced to "clerical" 'processors' (Schiele and McCue, 2006). This goes some way to demonstrating why a sector which spends so much appears, despite a focus on social sustainability (Walker and Phillips, 2009), so unable to bring that scale to bear on one of the most visible and important social ills of the day, modern slavery (Martin-Ortega, 2018). Issues with public sector engagement with modern slavery disclosure legislation are also important both because public sector organisations are now within scope and also because the Australian Modern Slavery Act 2018 (2018) obliges *all* entities with a turnover above AUD$100m to report on modern slavery risks in their supply chains.

Third, we contribute to the experimentalist governance literature by suggesting some boundary conditions for experimentalist governance that emerged from our study. First, for the governance mechanisms based on experimentalist governance to work there is a need for all reporting entities to engage fully with their obligations in order to generate as many examples as possible from which the collective might later draw. Second, without the rigorous peer review process set out in the experimentalist governance (and envisaged in MSA), the continuous improvement and integration of practices cannot happen. Third,

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although experimentalist governance is a form of self-governance, it needs monitoring and enforcement features embedded in them. Without this, some organisations can evade or free-ride. Fourth, for experimentalist governance to work, organisations need to see actual improvement in practices rather than reporting as their priority. This requires the element of competition between organisations to drive up standards. Reporting must be seen as an intermittent pause to reflect on their own practices and improve overall performance.

Limitations and Future Research Directions
It can be useful to consider the limitations while interpreting our study's findings. First, although extant literature (e.g. Stevenson and Cole, 2018) finds similar disengagement in the textiles and apparel sector, our study focuses on UK HE and thus the findings may not be generalisable to other sectors or contexts - symptomatic of any qualitative study. The centrality of politics (McCrudden, 2006) and uniquely conflicting pressures PSOs are under (O'Brien et al., 2018) make analogy with the private sector problematic. Future research can explore the similarities and differences that may emerge in organisational responses to modern slavery disclosure legislation in other sectors and contexts.

Second, this research comes with inherent methodological limitations. We were not able to engage with all universities and there were some organisations in which responsibility was more widely spread that one Procurement professional. Third, our study highlighted some boundary conditions for governance mechanisms based on experimentalist governance. Future studies could exclusively explore the conditions under which experimentalist governance can work effectively. Also, future research, using longitudinal case studies, could examine how and why organisational responses change over time to modern slavery disclosure legislation.

Practical implications
Our findings suggest that universities in the UK have not engaged deeply enough with the legislation to either positively impact on labour conditions or use the outputs of their supply chain work to demonstrate their commitment to action. The main cause is that universities do not have the necessary capabilities. Two reasons underpin this. First, universities have not previously had to deal with regulation that required deep engagement with their supply chains. Second, HE has outsourced much of its buying functions' duties to purchasing consortia. Combined, these factors have led to the deskilling of their Procurement departments. While previously supply chain management has not been a priority for universities, the legal and reputational risks associated with MSA might undermine this logic. In order to engage more fully and discharge their obligations under MSA, HE organisations need to develop the relevant skills. They have private sector suppliers who have both the capabilities and experience of managing supply chains and it is likely that the opportunity to work more closely with a customer would be welcomed. Universities could learn about the processes involved in this way and magnify the benefit of this approach through sharing supply chain data via the consortia.

Our results also show that executives have not involved themselves in the process of responding to MSA, have not been sufficiently involved in decision-making on the issue, and have not been the critical eye required for competent governance. Our finding that many universities have failed to find a signatory for their statement (sometimes because nobody

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wanted to sign the document), and that a Marketing department has prevented an organisation from fulfilling its legal obligations certainly adds to the lack of engagement we find among Boards. Modern slavery is an organisational risk gaining increasing traction in the media and with various stakeholder groups (LeBaron and Rühmkorf, 2019). Executives would do well to take the reputational aspect of that risk seriously. This involves a realisation that focal organisations in supply chains have influence over supplier behaviour. By contrast, there is also significant opportunity for leadership on the issue of modern slavery in supply chains. As legislation develops in the UK and elsewhere, managers will need to choose whether to prioritise action in this sphere immediately to take that opportunity, or to delay and risk the significant compound resources required to catch up.

A notable absence from our study was the lack of engagement with accounting professionals in preparing modern slavery disclosures. Management accountants are well placed to advise on the design of the data collection processes, measurement of outcomes, and internal reporting necessary to inform disclosure that can drive genuine, positive change in HE supply chains (e.g. Agndal and Nilsson, 2009; Cooper and Slagmulder, 2004). The use of accounting management as a lever to influence sustainability decisions is already understood in the literature (e.g. Arjaliès and Mundy, 2013). A specific example of this might be management accountants' insights into tenders for production outsourcing. Based on knowledge gained through previous bids, management accountants could analyse tenders to ascertain the likelihood that a bid is sufficiently low, given the volume of work required, to raise red flags regarding potential under-payment of workers. Similarly, when costing contracts, management accountants could ensure that their organisations have taken worker pay and, where applicable, the cost of acceptable levels of accommodation and food (a relevant concern in many countries in the construction industry, for example (e.g. Becker et al., 2014) into account.

Conclusion

Modern slavery is a human tragedy and a significant organisational risk. Recent attempts to tackle the problem have focused on imposing obligations on organisations to disclose actions they are taking to drive responsible behaviour down into their supply chains. Such disclosure legislation, which we investigate by examining university responses to the UK Modern Slavery Act 2015, relies on organisational behaviours which cannot be guaranteed, particularly given the limited scope and sanctions imposed thereunder. We find that organisations have engaged to a limited extent with the Act, taking a box-ticking approach to compensate for the sector's collective and individual inability to manage its supply chains. Yet the point of such mandatory disclosure is not to "just" report on it and then forget about the issue, but to drive transformative change in supply chains through encouraging action down the supply chain tiers. UK universities have so far been unable to do this, leaving them disclosing internal processes rather than reporting on and managing the prevalence of modern slavery in supply chains. Accounting for modern slavery has proven difficult across industries but establishing the kind of data-driven processes that steer other accounting tasks would introduce robust procedures that are currently lacking in HE disclosures.

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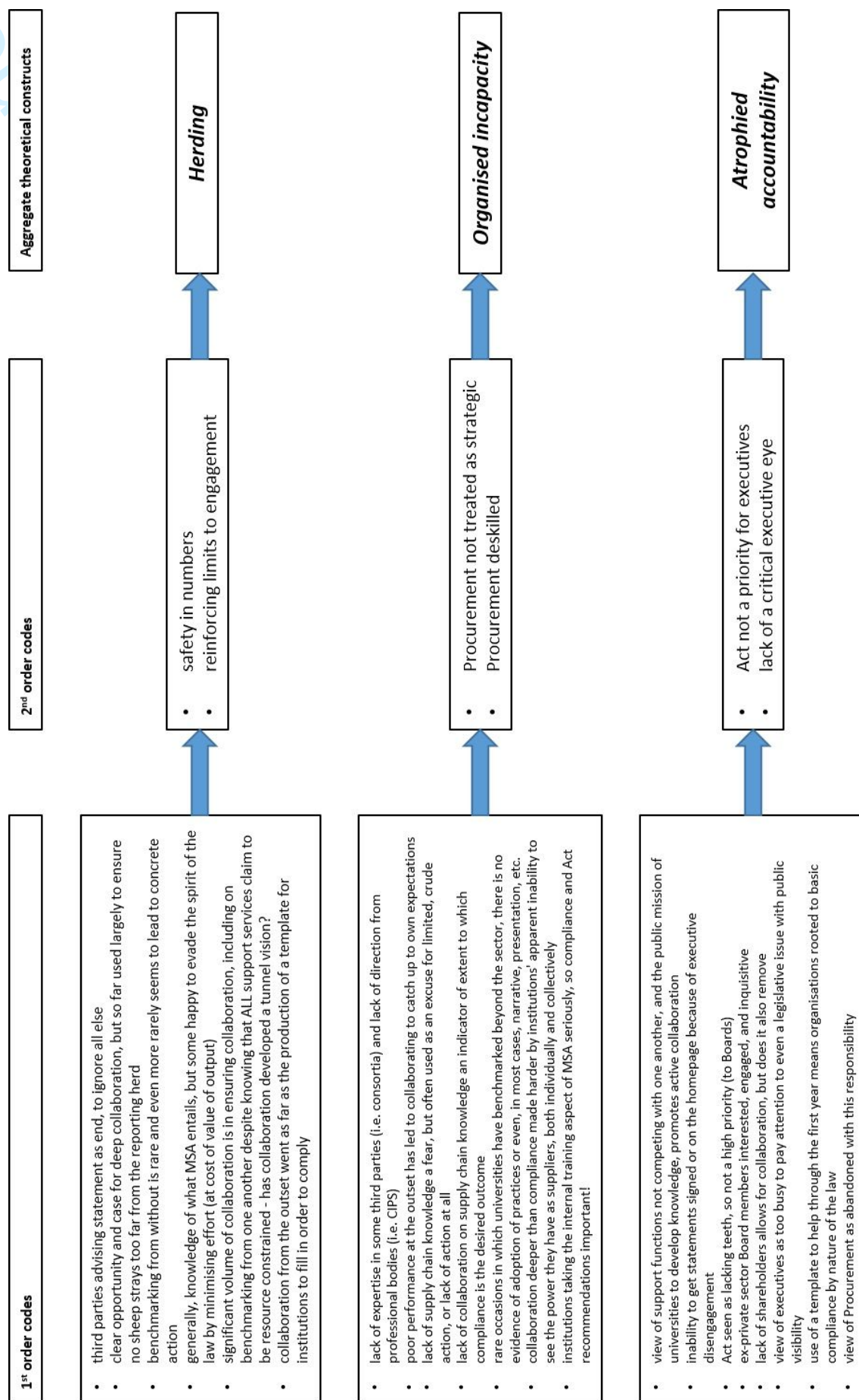Murray, J. G., Rentell, P. G. and Geere, D. (2008). "Procurement as a shared service in

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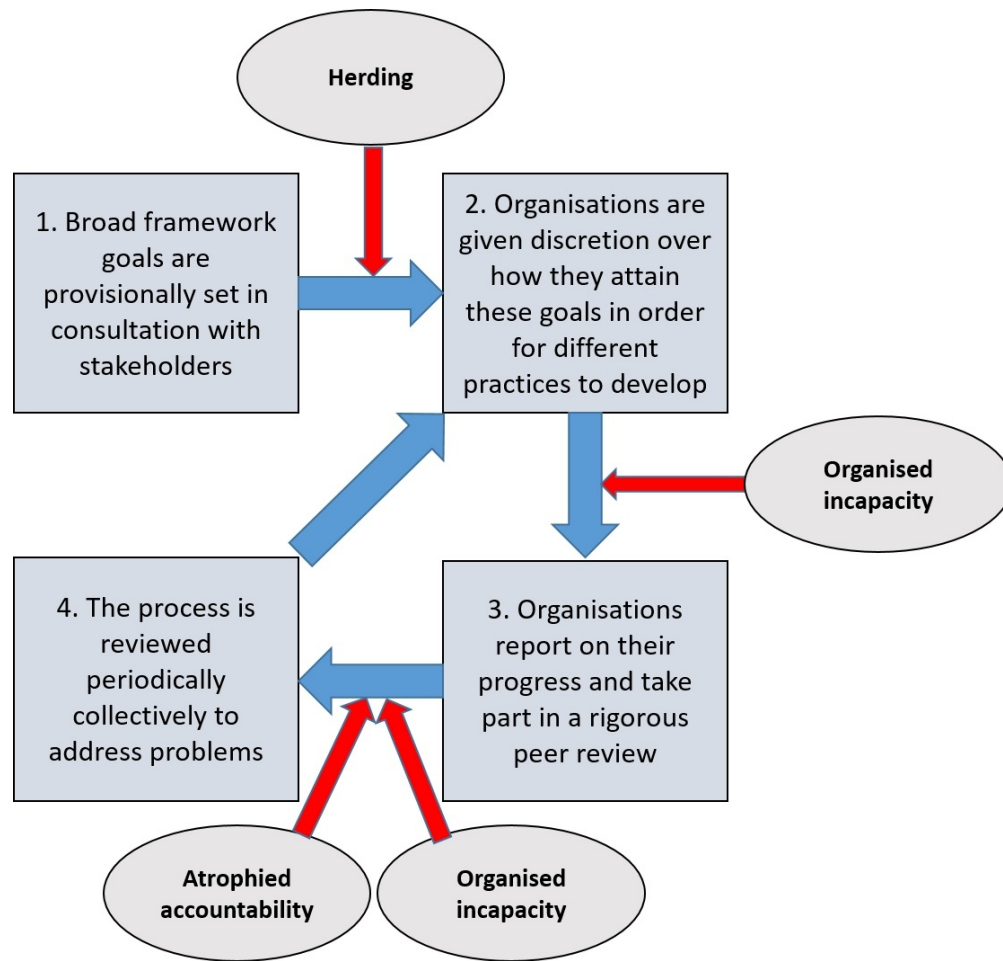Schiele, J. J. and McCue, C. P. (2006). "Professional service acquisition in public sector

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Appendix 1
Interview schedule

Question	To discover
How was the process of reporting initiated? When, by whom, why?	Why the organization reported (at that exact time), who the relevant 'leaders' are.
What is the process involved in modern slavery reporting? How they go about reporting, who is involved, what are the hand-offs?	What information is gathered and how, who does what, the decision process for data included/excluded is.
What is the organization's modern slavery strategy?	How the report is supplemented; what non-reporting actions are being done; are there wider aspirations, either to lead the industry or go beyond that; what the org's future plans are.
What work has been done with the organization's supply chain?	How the organization has approached modern slavery as an issue rather than as a reporting necessity alone
How has the organization engaged with other external bodies on modern slavery? With whom, what are the drivers? How has this helped?	Mop up earlier Qs to find out the extent to which the org has relied on/borrowed from other orgs on reporting; if the org has engaged to enable/improve reporting and/or for broader supply chain action
How does the organization see itself compared to others? How has it benchmarked what it does? What's still missing?	What success looks like relative to peers, and what has been learned from them.

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Aggregate theoretical constructs

Herding

Organised incapacity

Atrophied accountability

2nd order codes

- safety in numbers
- reinforcing limits to engagement

- Procurement not treated as strategic
- Procurement deskilled

- Act not a priority for executives
- lack of a critical executive eye

1st order codes

- third parties advising statement as end, to ignore all else
- clear opportunity and case for deep collaboration, but so far used largely to ensure no sheep strays too far from the reporting herd
- benchmarking from without is rare and even more rarely seems to lead to concrete action
- generally, knowledge of what MSA entails, but some happy to evade the spirit of the law by minimising effort (at cost of value of output)
- significant volume of collaboration is in ensuring collaboration, including on benchmarking from one another despite knowing that ALL support services claim to be resource constrained - has collaboration developed a tunnel vision?
- collaboration from the outset went as far as the production of a template for institutions to fill in order to comply

- lack of expertise in some third parties (i.e. consortia) and lack of direction from professional bodies (i.e. CIPS)
- poor performance at the outset has led to collaborating to catch up to own expectations
- lack of supply chain knowledge a fear, but often used as an excuse for limited, crude action, or lack of action at all
- lack of collaboration on supply chain knowledge an indicator of extent to which compliance is the desired outcome
- rare occasions in which universities have benchmarked beyond the sector, there is no evidence of adoption of practices or even, in most cases, narrative, presentation, etc.
- collaboration deeper than compliance made harder by institutions' apparent inability to see the power they have as suppliers, both individually and collectively
- institutions taking the internal training aspect of MSA seriously, so compliance and Act recommendations important!

- view of support functions not competing with one another, and the public mission of universities to develop knowledge, promotes active collaboration
- inability to get statements signed or on the homepage because of executive disengagement
- Act seen as lacking teeth, so not a high priority (to Boards)
- ex-private sector Board members interested, engaged, and inquisitive
- lack of shareholders allows for collaboration, but does it also remove view of executives as too busy to pay attention to even a legislative issue with public visibility
- use of a template to help through the first year means organisations rooted to basic compliance by nature of the law
- view of Procurement as abandoned with this responsibility

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Interruptions of experimentalist governance in UK higher education

294x280mm (96 x 96 DPI)

Code name	Size	Respondent position
University 1	Large	Head of Procurement
University 2	Large	Head of Procurement Procurement Manager
University 3	Large	Head of Procurement
University 4	Large	Sustainability Manager
University 5	Large	Head of Procurement Procurement Manager
University 6	Large	Director of Compliance
University 7	Large	Procurement Director
University 8	Large	Sustainability Manager
University 9	Large	Head of Governance
University 10	Large	Head of Procurement Head of Assurance
University 11	Large	Head of Procurement
University 12	Large	Head of Procurement
University 13	Small	Head of Accounts
University 14	Small	Head of Procurement
University 15	Medium	Procurement Manager
University 16	Small	Finance Director
University 17	Large	Procurement Manager
University 18	Large	University Solicitor
University 19	Small	Head of Procurement
University 20	Small	Procurement Manager
University 21	Large	Head of Procurement
University 22	Large	Head of Procurement
University 23	Small	Procurement Manager
University 24	Small	Head of Procurement
University 25	Large	Head of Procurement
University 26	Large	Head of Procurement
University 27	Medium	Head of Procurement
University 28	Medium	Head of Procurement
University 29	Medium	Head of Procurement
University 30	Large	Data Protection Officer
University 31	Medium	Head of Procurement
University 32	Small	University Solicitor
University 33	Large	Procurement Director

Table 1: interview respondents