

Office of the
Anti-slavery
Commissioner

Guidance on Reasonable Steps

NSW Anti-slavery Commissioner's Guidance on Reasonable Steps to Manage Modern Slavery Risks in Operations and Supply-Chains

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Not legal advice

Nothing in this Guidance is legal advice.

Short form references

Key resources and references are cited throughout this document using short-form names. These are explained in *Appendix B Key references and resources*.

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Acknowledgement of Country

As New South Wales Anti-slavery Commissioner, I acknowledge that Aboriginal and Torres Strait Islander peoples are the first peoples and traditional custodians of Australia and the oldest continuing culture in human history.

I acknowledge that First Nations communities in New South Wales have survived practices that today we call modern slavery. The legacies of that treatment continue to affect Aboriginal and Torres Strait Islander people today, and through them affect the New South Wales community and economy.

My Office and I pay our respects to elders past and present and commit to respecting the lands we walk on, and the communities we walk with.

We celebrate the deep and enduring connection of Aboriginal and Torres Strait Islander peoples to country and acknowledge their continuing custodianship of the land, seas and sky. We acknowledge their ongoing stewardship and the important contribution they make to our communities and economies.

We reflect on the continuing impact of government policies and practices and recognise our responsibility to work together with and for Aboriginal and Torres Strait Islander peoples, families and communities, towards improved economic, social and cultural outcomes, self-determination and for real freedom.

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Foreword from the Anti-slavery Commissioner

Since 1 July 2022, more than 400 public entities in New South Wales have had legal obligations to take steps to address modern slavery risks and operations in their supply-chains, and to report on those risks.

As soon as I commenced in the new role of New South Wales Anti-slavery Commissioner on 1 August 2022, I started receiving requests from NSW government departments, local councils and other covered entities, for guidance on what constitutes ‘reasonable steps’.

It quickly became clear from these discussions that there were many senior executives, procurement professionals, legal advisers and other personnel across New South Wales public buyers who were keen to take action. They recognised the opportunity that the state has to prevent and address the tragedy of modern slavery, through implementation of these new statutory obligations.

With over \$42 billion of average annual procurement spending across these covered entities, we have a unique opportunity to make a real impact. Public procurement is an important lever through which states can discharge their duty to protect human rights and influence how business meets its responsibility to respect human rights – including the right to be free from slavery.

Between 2019-2023, NSW Government agencies made payments of \$104.7 billion to more than 127,000 suppliers. A significant proportion of these suppliers have long-standing relationships with the NSW Government and supply to multiple agencies across clusters. Around 38,000 suppliers provide goods and services to more than one government agency, receiving payments of \$87.6 billion, while just over 30,000 suppliers received payments from more than one cluster totalling \$68.3 billion.

This Guidance, developed through extensive consultations with relevant stakeholders over the last year, is the central plank of a Shared Implementation Framework designed to give public buyers in New South Wales greater certainty about what constitutes “reasonable steps” to ensure they do not procure products of modern slavery. It is addressed not only to NSW Government agencies, but also local councils, Local Aboriginal Land Councils, universities and other organisations.

It includes detailed information about how to organise operations and procurement to address modern slavery risks, with extensive Good Practice Examples drawn from current commercial practice in Australia and beyond, and a range of tools and resources.

The Guidance also sets out a clear Implementation Timeline, stretching to FY 2026, to provide transparency about expectations for implementation by covered entities. Over those three years, I and my Office will stand ready to support covered entities working to implement this Guidance, by providing advice, training, materials, learning opportunities and analysis of reported data and trends.

Working together, we can take reasonable steps to realise the right to freedom from slavery, not only in New South Wales, but wherever our public commerce impacts peoples’ lives around the world.

Dr James Cockayne
NSW Anti-slavery Commissioner
December 2023

How to use this Guidance

Things to Know

Do I have statutory obligations under the NSW Modern Slavery Act?

Legislative changes came into effect on 1 January 2022, requiring over 400 public entities in New South Wales to take various risk identification, management and reporting steps. These new obligations started from **1 July 2022**.

Learn if your entity is subject to these obligations at *Appendix E Which entities are covered?*.

What is modern slavery?

'Modern slavery' describes situations where offenders use coercion, threats or deception to exploit victims and undermine their freedom. It is an umbrella term used to encompass a number of exploitative practices including forced labour, slavery, servitude, debt bondage, human trafficking, deceptive recruiting for labour services, the worst forms of child labour and forced marriage. The relevant definitions are contained in the *Modern Slavery Act 2018* (NSW).

You can find more information about modern slavery at page 18.

The Appendices to this Guidance provide a range of resources, materials and tools that you may find useful to understand modern slavery and implement the Guidance. See in particular *Appendix B Key references and resources* and *Appendix D Key international norms*.

What is a 'product of modern slavery'?

NSW law gives certain public entities the obligation to take reasonable steps to ensure that they do not procure goods or services that are 'products of modern slavery', and in relation to managing modern slavery risks in their own operations.

A good or service, including construction, is a 'product of modern slavery' if produced in whole or in part through modern slavery (as defined in the *Modern Slavery Act 2018* (NSW)). Modern slavery at any point in the supply-chain – including during the production or distribution of components or goods – renders any downstream good or service, at any subsequent tier, a product of modern slavery.

You can find more information about products of modern slavery at page 27.

What are modern slavery risks?

A 'modern slavery risk' is the potential for an organisation to **cause, contribute** or be **directly linked** to modern slavery through its operations and supply-chains. It is about risks to people arising from an activity.

For more information about modern slavery risks and forms of connection, see page 20 below.

Modern slavery risks can arise from intersecting factors, including:

1. **regulatory context** in which the goods and services the entity procures are produced, or in which the entity's own operations are undertaken
2. **vulnerable populations**: vulnerability of the workers and communities involved
3. **supply chain models** that generate or facilitate exploitation.

Identifying risks

The easiest way to determine the inherent riskiness of a product that your entity is procuring is to look it up on the **GRS Inherent Risk Identification Tool (IRIT)**.

The IRIT assigns one of four GRS Inherent Modern Slavery Risk Levels (High, Moderate, Low or Minor) to each of the 374 product categories in the NSW Government procurement environment (as of early December 2023). These represent the level of salient modern slavery risk exposure involved in the acquisition of a particular product category, in the absence of risk controls or effective mitigation (to understand ‘salience’, see below and page 28). Risk scores are assessed by reference to the presence of the three risk factors listed above in the production and supply of particular product categories (regulatory context, vulnerable populations, supply chain model).

For more detail on GRS Inherent Modern Slavery Risk Levels and the IRIT, see page 28.

In conducting due diligence, you will need to go beyond the GRS Inherent Modern Slavery Risk Levels and the IRIT. The IRIT can only tell you about the general risk associated with a category of product, not the risk associated with buying a specific good and service from a specific provider. This **residual risk** should be identified and managed in the context of each procurement. For more information on due diligence, see below.

For guidance on identifying forced labour risks, see *Appendix M Good practice in identifying forced labour*.

How do you manage modern slavery risk?

Understand salience

Prioritising risks to people means that covered entities must allocate risk management resources to focus on those operational and procurement activities that represent the most significant (i.e., **salient**) modern slavery risks to people – not based on spend, nor based on the buyer’s existing influence over suppliers.

The salience of modern slavery risks is defined on three dimensions:

1. **Scale** refers to the gravity of the adverse impact – e.g., how seriously could someone be harmed?
2. **Scope** concerns the reach of the impact – e.g., how many people could be affected?
3. **Irremediable character** means any limits on the ability to restore the individuals to a situation equivalent to their situation before the adverse impact – e.g. how hard would it be to fix or remediate the harm?

Where prioritisation is necessary, entities should begin with those modern slavery risks and impacts that would be most salient, recognising that a delayed response may affect whether the impacts can be remediated.

You can learn more about salient modern slavery risks at page 28.

You can learn about how to conduct a Salient Modern Slavery Risk Assessment under **Part 1.2 Identify salient risks**.

Work with peers, suppliers and stakeholders to manage risks

Effective modern slavery risk management requires continuous collaboration among buyers, suppliers and other stakeholders. A buyer cannot simply ‘set and forget’ – impose risk management obligations on suppliers, and then walk away. Modern slavery risks must be actively monitored, and actively mitigated and remediated. For this reason, the Guidance adopts a performance-based contracting model underpinned by a ‘shared responsibility’ approach.

For more information on the performance-based contracting model, see **Part 3.2 Adopt a shared responsibility approach in contracting**.

For model contract clauses which operationalise this approach to shared responsibility, see *Appendix J GRS Model Contract Clauses*.

Understand leverage and capability

Leverage is the ability to influence or change another entity’s conduct. Your leverage will determine how you carry out due diligence and effective modern slavery risk management. It may be affected by factors such as the size of your organisation, the context of its operations, its business or service-delivery model, its position in a supply chains, and the nature of its own products and services.

While all covered entities must prioritise their risk management efforts based on risks to people, covered entities have different capabilities and different potential for influencing their suppliers and other business partners – different levels of leverage.

To accommodate this diversity, the Guidance introduces the concept of **GRS Capability Levels**. These classify covered entities into three levels: Low, Moderate and High.

For information about how to determine your entity’s capability level, see *Appendix G What GRS Capability Level is your entity?*

Due diligence levels

Under this Guidance, which steps are considered reasonable is determined by:

1. the **inherent modern slavery risk level** of a particular activity or procurement (determined in accordance with the IRIT) and
2. the **capability** of the buyer (per the **GRS Capability Levels**).

The Guidance classifies modern slavery due diligence (MSDD) into four different levels: Light, Minimal, Standard and Heightened. From 1 July 2024, new Heightened MSDD procurements with a value of AU \$150,000 (including GST) or more must be reported within 45 days of any contract or agreement coming into force.

The GRS Due Diligence Level due should be identified for each operational activity or procurement transaction that a covered entity undertakes in a reporting period, as well as any contracts entered into after 1 July 2022 that remain on foot during the reporting period.

GRS Inherent Modern Slavery Risk Level	High	Heightened	Heightened	Heightened
	Moderate	Light	Standard	Standard
	Low	Minimal	Light	Standard
	Minor	Minimal	Minimal	Light
		Low	Moderate	High
Entity’s GRS Capability Level (for this kind of procurement or activity)				

For more information, see **What level of diligence is due?**

International obligations on Government Procurement

Entities must abide by Australia’s commitments under the WTO Agreement on Government Procurement. Your entity may be subject to enforceable procurement provisions of this or other international agreements. (See PBD 2019-05 Enforceable procurement provisions.) Nothing in this Guidance requires any entity to discriminate against any supplier due to its degree of foreign affiliation or ownership, location, or the origin of its goods and services.

Things to Do

Take Reasonable Steps

Covered entities have an obligation to take reasonable steps to ensure that goods and services procured by and for the entity are not the product of modern slavery.

The second half of this Guidance is divided into numbered Parts 1 to 7. Each of these sets out specific guidance on Reasonable Steps you can undertake at different points of the risk management cycle, with a particular focus on procurement. The 7 Reasonable Steps are:



For each of these Reasonable Steps, the Guidance provides practical advice on what measures covered entities can take to identify and mitigate modern slavery risks in their operations and supply chains. Each Part includes information about and examples of good practice, hallmarks of best practice, as well as tools and resources for further study and capability development. Additional guidance on best practice can also be found in *Appendix F Hallmarks of best practice due diligence*.

Each Part also provides instructions on what information and data covered entities must collect in order to report annually on their reasonable steps.

Due diligence

Due diligence is the ongoing risk management process to prevent, identify, mitigate, address and account for actual or potential negative impacts in the organisation's own operations and its business relationships.

Covered entities must undertake supplier due diligence throughout the procurement process to manage risk in their supply chains. This includes steps at each part of the Plan, Source, Manage cycle, and beyond, such as:

- Early market engagement to understand how best to integrate modern slavery risk into the sourcing process
- Incorporating modern slavery risk management criteria into pre-qualification schemes, e.g. by requiring interested suppliers to make commitments to take reasonable steps not to buy or use products of modern slavery
- Including the *Appendix I GRS Model Tender Clauses* in tender processes
- Conducting tailored due diligence to identify the residual risks associated with specific suppliers. This could involve tools like supplier self-assessment questionnaires and evaluation procedures
- Establishing a contractual framework for ongoing due diligence and remediation, e.g. by incorporating the *Appendix J GRS Model Contract Clauses* in supplier agreements.

If your entity is acting or procuring through a NSW Government scheme or through some other collaborative mechanism, such as a Joint Organisation (for local councils), different aspects of due diligence may fall to different actors. For example, a scheme owner may be responsible for addressing modern slavery risks when suppliers access or join the scheme, while either a scheme owner or a scheme user may be responsible for addressing modern slavery risks during contractual performance, depending on how the contract is managed. Your entity may decide to work with other

buyers to address some aspects of due diligence, for example through collaborating to map risky supply-chains, or to provide joint grievance mechanisms.

The Reasonable Steps you should take to conduct due diligence on a particular procurement will depend on your entity's GRS Due Diligence Level. Heightened MSDD procurements will require an entity to collect additional data on supplier actions, impose additional tender requirements, and include more stringent contractual safeguards.

At the same time, you should be cautious not to over-burden suppliers, especially SMEs and Aboriginal and Torres Strait Islander entities, with complex or lengthy due diligence requirements.

For more information on supplier due diligence, see **Part 3. Source**, *Appendix I GRS Model Tender Clauses*, and *Appendix J GRS Model Contract Clauses*.

Reporting

Annual reporting

Many covered entities have annual reporting obligations under NSW law.

The legislative provisions governing the publication of annual modern slavery reporting information differ depending on the type of covered entity (see further information at *Appendix E Which entities are covered?*). Entities should carefully review their relevant legislative provisions to confirm their obligations and seek legal advice if required.

Covered entities with annual reporting obligations should report in two places:

1. By including relevant information in their entity's formal annual report.

The timing for this report is determined by other legislation or your entity's policies. *Appendix K GRS Annual Reporting Template* provides a template that you can use in preparing the modern slavery section of your annual report, or as a stand-alone report.

2. Using the online GRS Annual Reporting Form.

The GRS Annual Reporting Form is an online form on the OASC website which allows covered entities to share data directly with the Office of the Anti-slavery Commissioner. You should complete and submit this form upon publishing your Annual Report.

Information about the implementation milestones for annual reporting is set out in the *Implementation timeline*.

More guidance on annual reporting is set out at **Part 6.2 Report on your modern slavery risk management efforts**.

Transactional reporting on HMSDD procurements

Starting **1 July 2024**, covered entities will be expected to file an online report about each contract the entity is a party to that:

- commenced on or after 1 July 2024
- has a value of AU \$150,000.00 (including GST) or more, and
- requires Heightened modern slavery due diligence on the GRS Due Diligence Level scale. (See Figure 16 GRS Due Diligence Levels.)

The online report must be submitted within **45 working days** after the contract becomes effective.

An online reporting mechanism will be rolled out in the second quarter of 2024, to allow covered entities time to prepare. The exact data fields to be captured will be finalised in 2024.

Further information is set out at *Appendix L Heightened MSDD reporting*.

About this Guidance

Who should use this Guidance?

This Guidance on Reasonable Steps ('Guidance' or 'GRS') is aimed at public entities in New South Wales. Since 1 July 2022, more than 400 of these entities have had obligations to take steps to identify, address and report on modern slavery risks in their operations and procurement activities (including goods, services (including financial services), construction and commissioning). These obligations are summarised in *Appendix C Oversight of modern slavery due diligence in NSW public procurement*. *Appendix E Which entities are covered?* explains which entities are covered. The group includes NSW Government departments and other agencies, local councils, certain universities in New South Wales, local Aboriginal land councils, and others.

The Guidance aims to assist covered entities in applying clear policies, consistent procedures and effective risk management strategies for modern slavery risks in their operations and supply-chains. It provides guidance on how to prevent, identify, mitigate, address and remediate modern slavery risks and harms in operations and in supply-chains. This includes activities in procurement and some grant-making and commissioning activities, and acquisition of some investment and other financial services.

Within covered entities, the Guidance should be read and understood by senior management, legal, human resources, risk, procurement and commercial practitioners at all levels. It may also prove useful to public buyers in other jurisdictions, and to suppliers to NSW public entities.

Importantly, the Guidance is not intended only for those entities that cause modern slavery or find it in their own workforce, though this is a significant risk. Organizations can cause, contribute or be linked to modern slavery practices. (See *Three forms of connection: causation, contribution and direct linkage*.)

This Guidance does not constitute legal advice. It sets out the main issues and concepts that you need to understand, and tools and materials that may help you, to meet reporting and due diligence expectations. You can access additional support and advice by contacting the Office of the Anti-slavery Commissioner at GRS@dcj.nsw.gov.au.

Why is this Guidance needed?

This Guidance on Reasonable Steps ('GRS') provides covered entities guidance for managing modern slavery risks in their operations and supply chains. It uses a risk-based approach to help organizations understand the risk of modern slavery and to manage and reduce this risk in line with statutory obligations. This risk management involves the systematic application of policies, procedures and practices to effectively identify, manage, report and otherwise govern modern slavery risk.

This Guidance is needed for five reasons:

To help covered entities meet their statutory obligations

Legislative changes came into effect on 1 January 2022, requiring over 400 public entities in New South Wales to take various risk identification, management and reporting steps, commencing 1 July 2022. While limited guidance on what constitutes 'reasonable steps' has been available through Buy.NSW since mid-2022, covered entities expressed their desire for more substantive guidance, materials and tools to the Anti-slavery Commissioner almost as soon as he took office on 1 August 2022.

Figure 1 Reporting under the Commonwealth *Modern Slavery Act 2018* (Cth)

- The vast majority of organisations with due diligence and reporting obligations under the *Modern Slavery Act 2018* (NSW) (NSW Act) do not have reporting obligations under the Commonwealth *Modern Slavery Act 2018* (Cth) (Commonwealth Act).
- A small group of universities – those established by NSW legislation – are covered by the NSW Act, as they fall within the definition of 'government agency' in the NSW Act and are subject to reporting obligations for entities treated as 'government sector finance agencies' under the *Government Sector Finance Act 2018* (NSW). These universities may also have reporting obligations under the Commonwealth Act if they meet the definition of a reporting entity under that Act.
- Sections 25A and 25B of the NSW Act require State-owned corporations to report under the Commonwealth Act.
- If you are reporting under the Commonwealth Act, please refer to the guidance material published on the Commonwealth [Modern Slavery Register](#).
- If you are reporting under the NSW Act, please refer to this Guidance.

To protect the interests of covered entities

Modern slavery in entities' operations and supply-chains presents substantial risk to the organisation and its business. Effective modern slavery risk management can consequently create and protect commercial value for the entity in at least four areas:

- **reputational, regulatory and legal risks:** entities that are plausibly linked to modern slavery face growing reputational and legal risks. Government investigations or prosecutions linked to modern slavery in supply-chains are currently taking place in Canada, France, Germany and USA.
- **business continuity:** the development of effective modern slavery risk management capabilities gives an entity greater understanding of, and improved ability to exert leverage over, its supply-chains. It can also lead to more stable, collaborative supplier relationships. This can have important benefits when supply-chains are put under stress, for example due to pandemic, economic or political disruption.
- **workforce retention:** workers, especially younger workers, are more likely to join and stay with employers that are committed to responsible business practices.
- **costs of capital:** there are growing opportunities to attract discounts on capital costs through demonstrated responsible business practices. The development of effective modern slavery risk management capabilities may offer a pathway to capturing these discounts.

To protect human rights

The International Labour Organization, International Organisation for Migration, and Walk Free estimate that there are 49.6 million people suffering modern slavery around the world (Global Slavery Estimates). Using the same, best-available survey-based method, Walk Free estimates that there are 41,000 people suffering modern slavery in Australia. (Global Slavery Index).

If historical reporting patterns are accurate and consistent, this suggests there are around 16,400 people in modern slavery in New South Wales – and many more in the supply-chains of NSW public entities, which typically stretch far beyond New South Wales.

Modern slavery has grave implications for victims and their families. Victimisation by modern slavery produces long-lasting medical, psychological, financial and social harm, deprives victims of income, wealth and human capital development opportunities. These impacts are so significant that many of them transmit to subsequent generations.

For all these reasons, freedom from slavery is a universally recognised human right, from which governments may not derogate at any time or for any reason. Governments have a duty to protect this human right, including when operating in a commercial context.

In the interests of the people of New South Wales

Modern slavery not only poses risks to people, but also to communities. It distorts markets, reduces productivity and competition, and undercuts responsible business. This produces significant costs, inefficiency and waste for NSW taxpayers.

Organisations that rely on inputs made through modern slavery show reduced innovation, productivity and human capital investment. They become wasteful, living off the rents they extract from stealing workers' wages and agency. The resulting costs fall not just on workers, but on the whole economy. These organisations are less competitive than they would be under effective regulation. Capital shifts away from sectors of the economy where competition is high, to segments where competition is low and rents are high.

The net effect is to drive down the median wage and productivity – not just for the coerced workforce, but for the workforce as a whole. Organisations that can rely on coerced labour, even deep in their supply-chains, also risk becoming less innovative, with knock-on implications for resilience.

Meanwhile, the exploitation of vulnerable workers also imposes other direct and indirect costs on the economy. The sums involved are significant: in 2009, the International Labour Organization calculated underpaid wages connected to forced labour at around USD 21 billion each year, globally. This obviously impacts public revenue, because wages unpaid are also unspent and untaxed.

On the expenditure side, modern slavery increases public expenses, including law enforcement, criminal justice, health services and victim services, and in some cases also compensation costs. The UK Home Office found that costs of 3.3 to 4.3 billion pounds sterling hit the UK public purse in this way. Translating that to the NSW context, allowing for differences in the size of our estimated victim population and exchange rates, the Anti-slavery Commissioner has estimated that somewhere between AU \$350 million and AU \$3.5 billion in direct costs to the public purse result from modern slavery. (See further *Developing Freedom; Costs of modern slavery.*)

To help ensure Australia meets its international commitments

In December 2022 the Australian Government adhered to the OECD Council *Recommendation on the Role of Government in Promoting Responsible Business Conduct*. By doing so, Australia committed to “support effective implementation of [responsible business conduct] standards... through the provision of reliable information, tools, and incentives, including, where feasible, aligning economic benefits and incentives for business with the implementation of [responsible business conduct] standards”. Australia has also committed to “lead by example and take measures to promote and exemplify [responsible business conduct] in [its] commercial activities, particularly by ... Using public procurement as a strategic tool ... and including [responsible business conduct] in procurement policies... as well as promoting due diligence for responsible business conduct] in public

procurement”. Notably, this commitment extends beyond narrow procurement of non-financial products to include financial transactions: Australia has committed to “supporting the implementation of [responsible business conduct] standards through the integration of environmental, social, and governance criteria in the provision and management of equity, debt, loans, guarantees, or insurance”.

This commitment aligns with several other international commitments that the Australian government has made to use public procurement to tackle modern slavery, including:

- Sustainable Development Goals 8.7 and 12.7
- the Recommendation of the OECD Council on the OECD Due Diligence Guidance for Responsible Business Conduct
- the 2014 Protocol to the ILO Forced Labour Convention, 1930, in which Australia committed to “supporting due diligence by ... the public ... [sector] to prevent and respond to risks of forced or compulsory labour” (Art 2(e))
- a 2018 commitment, together with Canada, New Zealand, United Kingdom and United States of America, to “[a]nalyze, develop, and implement measures to identify, prevent and reduce the risk of human trafficking in government procurement supply chains,” and to “*provide tools and incentives and adopt risk assessment policies and procedures that require their procurement officers and contractors to assess the nature and extent of potential exposure to human trafficking in their supply chains; and take targeted action, including adopting appropriate due diligence processes, to identify, prevent, mitigate, remedy, and account for how they address human trafficking.* (Five Eyes Principles).

The Guidance has also been drafted to align with various international standards, notably:

- ISO 20400:2017 Sustainable Procurement – Guidance.
- ISO 31000:2018 Risk management – Guidelines.
- BS 25700:2022 Organizational responses to modern slavery – Guidance.

Entities must also abide by Australia’s commitments under the WTO Agreement on Government Procurement. Your entity may be subject to enforceable procurement provisions of this or other international agreements. (See PBD 2019-05 Enforceable procurement provisions). Nothing in this Guidance requires any entity to discriminate against any supplier due to its degree of foreign affiliation or ownership, location, or the origin of its goods and services.

How was this Guidance developed?

This Guidance has been developed through extensive consultation with covered entities and other relevant stakeholders between September 2022 and December 2023. Figure 2 below sets out the key milestones in the development of this Guidance.

Figure 2 GRS Development milestones

1 August 2022	Anti-slavery Commissioner takes office
September 2022	Anti-slavery Commissioner publishes Discussion Paper #001, <i>NSW Public procurement and modern slavery</i> . Thirteen formal submissions received in response from NSW government departments and agencies, local councils, suppliers, industry associations and research stakeholders.
October 2022	Anti-slavery Commissioner briefs the NSW Procurement Leadership Group and receives endorsement to develop a Shared Implementation Framework
November 2022	Anti-slavery Commissioner consults with the NSW Procurement Board on the development of the Shared Implementation Framework
January 2023	Anti-slavery Commissioner convenes an open Working Party to consult on the development of the Shared Implementation Framework. The Working Party meets 10 times between January and August 2023, with over 20 entities represented and over 70 different individuals participating. Participants include representatives from NSW Government departments and agencies, local councils, NSW Health entities, the Australasian Procurement and Construction Council, and the ACT Chief Minister, Treasury and Economic Development Directorate.
May-August 2023	Anti-slavery Commissioner works with the Responsible Contracting Project and Allens to develop the Model Contract Clauses.
June-September 2023	Anti-slavery Commissioner works with the University of Sydney Business School to develop the Inherent Risk Implementation Tool
August 2023	Anti-slavery Commissioner again consults with the NSW Procurement Board. Commissioner circulates draft Guidance to Working Party members, as well as Commonwealth departments, for feedback.
September-November 2023	Anti-slavery Commissioner revises Guidance in line with Working Party and Commonwealth departments' feedback.
December 2023	Guidance finalised and published

How does this Guidance work?

A single approach across different procurement policy environments

The Guidance on Reasonable Steps is the central plank of the Shared Implementation Framework developed by the NSW Anti-slavery Commissioner in consultation with the NSW Procurement Board and covered entities.

It is anticipated that it will be integrated with existing procurement policy frameworks through:

- consideration and potentially endorsement, perhaps through a Direction, by the NSW Procurement Board
- incorporation by reference into the Office of Local Government Tendering Guidelines.

The Shared Implementation Framework is designed to apply not only to entities that participate in the NSW Government Procurement Policy Framework – governed by the NSW Procurement Board – but also to other entities that do not participate in that framework, such as local councils, certain universities in New South Wales, Local Aboriginal Land Councils, and others. This is necessary due to the drafting of the relevant provisions in the *Modern Slavery Act 2018* (NSW). (On which see, *Appendix C Oversight of modern slavery due diligence in NSW public procurement*.) By providing a single, Shared Implementation Framework, we maximise collective leverage in common supply-chains, and have a significant opportunity for shared learning and economies of scale.

The Shared Implementation Framework is also designed to integrate with existing authorities and policies. It does not alter or supersede existing authorisations, delegations or reporting frameworks, but rather supplements them, providing an authoritative ‘single source of truth’, a common language, a process for understanding and managing modern slavery risks, and a coherent reporting and data collection system that will facilitate the overall evaluation of the effectiveness of due diligence efforts by covered entities.

An approach that aims to be effective at the systemic level

The need for attention to the system-level effectiveness of these reforms is made plain in the legislation, which charges the Anti-slavery Commissioner to “regularly consult with the Auditor-General and the NSW Procurement Board to monitor the effectiveness of due diligence procedures in place to ensure that goods and services procured by government agencies are not the product of modern slavery” (*Modern Slavery Act 2018* (NSW) s 25).

The NSW Auditor-General is also empowered to conduct, at their discretion, “a risk-based audit of all or any particular activities of a government agency to determine whether the government agency is ensuring that goods and services procured by and for the agency are not the product of modern slavery”. The Auditor-General is to consider whether the agency has “exercised due diligence”, and, if the *Public Works and Procurement Act 1993* (NSW) applies to the agency, whether it is following relevant Board Directions. In this case, due diligence is specifically defined to include “taking reasonable steps (whether by way of contractual terms or otherwise) to ensure [Tier 1 suppliers are] responsible for implementing processes to eliminate or minimise” modern slavery risks. (*Government Sector Audit Act 1983* (NSW) ss 38F, 38G, 38H.) The Shared Implementation Framework will provide a risk-based standard against which an agency’s conduct can be reliably audited.

A dynamic framework

The Shared Implementation Framework is not limited to the Guidance itself, but also encompasses the tools, materials and resources that accompany the Guidance. To date these include:

- the GRS Inherent Risk Identification Tool, discussed in the next Part of this Guidance
- the GRS Model Tender Clauses, contained in *Appendix I GRS Model Tender Clauses*
- the GRS Model Contract Clauses, contained in *Appendix J GRS Model Contract Clauses*

- the GRS Public Register, adopted under section 26 of the *Modern Slavery Act 2018* (NSW) and discussed in section 6.2 *Report on your modern slavery risk management efforts*.

Additional materials and resources may be added to the framework from time to time. This will include the GRS High Risk Product List, described in *Appendix H GRS High Risk Product List* and potentially a GRS Supplier Self Assessment Questionnaire.

The Shared Implementation Framework also includes any sector- and supply-chain specific Code of Practice issued by the NSW Anti-slavery Commissioner under section 27 of the *Modern Slavery Act 2018* (NSW).

Not legal advice

While this Guidance offers an authoritative reference point on the expectations on covered entities in meeting their statutory obligations, nothing in this Guidance constitutes legal advice. You should exercise commercial judgment when using this Guidance and seek legal advice where appropriate.

Implementation timeline

This Guidance is considered to be operative ('take effect') from 1 January 2024. It will however take time for covered entities to be able to fully conform with the Guidance. Entities are expected to show continuous improvement. In the coming years, the Office of the Anti-slavery Commissioner will support covered entities in developing the capability to effectively implement this Guidance. (See further Part 7 Improve.)

Appendix F Hallmarks of best practice draws on a decade of global efforts to strengthen responsible business conduct, to provide insights into what best practice Heightened modern slavery due diligence (MSDD) looks like. This is the standard that covered entities should be aiming to reach in implementing this Guidance, notably in procurement activities requiring Heightened modern slavery due diligence. Few covered entities will reach this standard quickly. Entities' progress will depend on their resources and senior management's commitment.

In the interests of transparency, the Anti-slavery Commissioner has determined that in assessing conformance and considering effectiveness (as they are required to under the *Modern Slavery Act 2018* (NSW)), they will adopt the approach to continuous improvement set out in Figure 3 below. This includes information on specific reporting milestones and areas in which the Commissioner will focus their own resources in supporting capability development, considering covered entities' reasonable steps, and ensuring effectiveness. These areas have been identified as areas in which there is both identifiable modern slavery risk for multiple covered entities, and real prospects of identifiable improvement in effective response.

Figure 3 GRS Implementation milestones

Date	Milestone
1 January 2024	Guidance takes effect
Contracts pre-dating 1 January 2024	<p>Do contracts need to be renegotiated?</p> <p>There is no general expectation that contracts or agreements pre-dating this Guidance will be re-negotiated.</p> <ul style="list-style-type: none"> • <i>Exceptionally</i>, where modern slavery risks in an ongoing operational activity or procurement are Heightened, covered entities must not only use leverage but also develop it where they lack it. This is consistent with Australia's commitment to the UN Guiding Principles on Business and Human Rights and recent adherence to the OECD Council <i>Recommendation on the Role of Government in Promoting Responsible Business Conduct</i>. In some cases, especially where there is a salient risk of ongoing modern slavery in the performance of the contract, this could mean that entities do need to consider exploring contractual adjustments in order to develop this leverage. <p>What steps are reasonable where earlier contracts are still on foot?</p> <p>Where a contract pre-dates 1 January 2024 but remains on foot, reasonable steps may be required – for example in relation to contract management. This may necessitate an assessment of the GRS due diligence level associated with a contract already entered into, and still on foot – see Part 4.</p> <ul style="list-style-type: none"> • Contract management may require using existing forms of leverage, such as contractual obligations to abide by workplace health and safety standards (locked accommodation, excessive working hours, abusive behaviour). Some procurement contracts or agreements may already include references to ISO 45001 Occupational Health and Safety Management Systems, ISO 26000 Social Responsibility, or ISO 20400 Sustainable Procurement. • Ongoing contracts may also activate expectations under this Guidance relating to supplier capability development, grievance mechanisms and remediation.

Date	Milestone
	<p>Do entities have to report on activities and procurement prior to 1 January 2024?</p> <p>Many covered entities had obligations to take reasonable steps that commenced on 1 July 2022. They must report on the reasonable steps they have taken since that time. (See <i>Appendix K GRS Annual Reporting Template</i>.) While the Guidance only takes effect from 1 January 2024, it may provide inspiration for reporting on earlier activity. Further clarifications about reporting expectations are set out below, with reference to when reporting takes place.</p>
<p>Reporting between 1 January 2024 and 30 June 2024</p>	<p>Entities reporting in 2024 on activity undertaken from 1 January 2023 to 31 December 2023 need only use the Guidance as inspiration. They are however still expected to report using the provided template and online form. In monitoring this reporting, the Commissioner will take into account that the Guidance was not available until December 2023 and only takes effect on 1 January 2024.</p>
<p>1 July 2024</p>	<p>Transactional reporting obligations relating to heightened modern slavery due diligence (HMSDD) procurements commence.</p> <p>Entities should file an online report with the Office of the Anti-slavery Commissioner within 45 days of the entry into force of any contract:</p> <ul style="list-style-type: none"> • arising from a ‘Heightened’ modern slavery due diligence procurement process; and • with a value of AU \$150,000 (including GST) or more. <p>For more detail see <i>Appendix L Heightened MSDD reporting</i>.</p>
<p>Annual reporting occurring between 1 July 2024 and 31 December 2024</p>	<p>Entities reporting on activity undertaken from 1 July 2023 to 30 June 2024 should endeavour to report against the Guidance for the full year of activities – see Part 6. These entities may find it necessary to assess the GRS due diligence level associated with transactions that took place before 1 January 2024, in order to meet the annual reporting obligations set out in this Guidance. In monitoring this reporting, the Commissioner will take into account that the Guidance was not available until December 2023 and only takes effect on 1 January 2024.</p> <p>In reviewing this reporting, the Anti-slavery Commissioner will focus in particular on:</p> <ul style="list-style-type: none"> • conformance with Part 1 of this Guidance; • Heightened MSDD contexts; • procurement related to <ul style="list-style-type: none"> – information and communication technologies (ICT) – cleaning services.
<p>Annual reporting occurring between 1 January 2025 and 31 December 2025</p>	<p>Guidance in effect. Covered entities expected to make best efforts to conform with all aspects of this Guidance. In reviewing this reporting in 2025, the Anti-slavery Commissioner will pay attention to:</p> <ul style="list-style-type: none"> • Heightened MSDD contexts; • procurement related to <ul style="list-style-type: none"> – information and communication technologies (ICT) – cleaning services – renewable energy and – domestically produced food and agriculture
<p>Annual reporting between 1 January</p>	<p>Guidance in effect. Covered entities expected to make best efforts to conform with the Guidance. In reviewing this reporting in 2026, the Anti-slavery Commissioner will pay attention to:</p>

Date	Milestone
2026 and 31 December 2026	<ul style="list-style-type: none">• modern slavery risk management in Heightened MSDD contexts;• procurement related to<ul style="list-style-type: none">— information and communication technologies (ICT)— cleaning services— renewable energy— domestically produced food and agriculture and— construction.

Public register

Section 26 of the *Modern Slavery Act 2018* (NSW) requires the Anti-slavery Commissioner to keep a register in electronic form that identifies any government agency failing to comply with directions of the NSW Procurement Board concerning procurement of goods and services that are the product of modern slavery and whether the agency has taken steps to ensure compliance in the future.

It also provides for the public register to contain certain other information regarding reporting by State owned corporations, and gives the Commissioner discretion to include “other information the Commissioner thinks appropriate”.

The NSW Anti-slavery Commissioner will publish this register on their website in 2024. It will comprise up to eight (8) schedules, as follows:

Schedule No.	Content	How compiled
1	Schedule of non-complying government agencies (section 26(1)(c)), including any identified by the Auditor-General under section 38H of the <i>Government Sector Audit Act 1983</i> (NSW)	Commissioner’s monitoring of annual reporting and other sources
2	Schedule of non-complying State owned corporations (section 26(1)(c1) of the <i>Modern Slavery Act 2018</i> (NSW))	Reporting by SOCs to the Commissioner
3	Schedule of other NSW public buyers with modern slavery reporting obligations that are not conforming with the Guidance on Reasonable Steps	Commissioner’s monitoring of annual reporting and other sources
4	Schedule of annual reporting by covered entities	Reporting by covered entities
5	Schedule of reported Heightened modern slavery due diligence procurements	Reporting by covered entities
6	Schedule of codes of practice developed under section 27 of the <i>Modern Slavery Act 2018</i> (NSW)	Commissioner’s compilation
7	GRS High Risk Product List (under development for publication in 2024)	TBC
8	Schedule of operations and suppliers considered to have significant risk of modern slavery	All other Schedules, additional information received by the Commissioner

Understanding modern slavery risks

Defining and identifying modern slavery

‘Modern slavery’ describes situations where offenders use coercion, threats or deception to exploit victims and undermine their freedom. It is an umbrella term used to encompass a number of exploitative practices including forced labour, slavery, servitude, debt bondage, human trafficking, deceptive recruiting for labour services, the worst forms of child labour and forced marriage.

In New South Wales, ‘modern slavery offences’ are those set out in Schedule 2 of the *Modern Slavery Act 2018* (NSW), which is reproduced in Figure 6 below.

Some of the key terms encompassed by the umbrella concept of ‘modern slavery’ are explained in more detailed in the Glossary in *Appendix A Glossary*, and defined in international norms set out in *Appendix D Key international norms*.

Modern slavery is a system failure: it results from a failure to intervene to address other harmful practices that do not rise to the level of modern slavery, such as workplace abuse and harassment, discrimination, wage theft, substandard working conditions, fraud, and violations of freedoms of movement and association. It is consequently important to be able to recognise and identify key forms of modern slavery likely to arise in your operations or supply-chain, notably forced labour.

Figure 4 and Figure 5 below introduce some of the basic types of modern slavery and child labour. The Figures on the following pages introduce some of the key modern slavery offences and types of modern slavery relevant for implementing this Guidance.

Figure 4 Basic types of modern slavery

<p>Forced or compulsory labour is defined by the International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29) as ‘all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily’. (Art. 2.1).</p>	<p>Human trafficking can lead to situations of forced labour and is defined under the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the Trafficking Protocol), which was adopted to go alongside the UN Convention against Transnational Organized Crime. According to the Trafficking Protocol, trafficking involves the ‘recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion ...for the purpose of exploitation.’</p>	<p>Slavery and servitude are referenced in various international instruments, separately and in conjunction with one another (e.g. the Universal Declaration of Human Rights, 1948, and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956). The High Court of Australia has confirmed that under Australian law, the slavery pertains to situations where one person exercises <i>de facto</i> powers of ownership over another. (<i>R v Tang</i> (2008) 237 CLR 1. See also the Harvard-Bellagio Guidelines. .</p>
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Figure 5 Child labour and modern slavery

<p>Work performed by children does not necessarily constitute modern slavery. Even where child labour is seen as harmful, and it is prohibited under most national legislation and all international standards on its own grounds, it cannot automatically be equated with modern slavery. Harmful child labour is that which is economically exploitative or likely to be hazardous, or which interferes with a child’s education, is harmful to the child’s health, physical, mental, spiritual, moral or social development. ILO Conventions on child labour (C138 and C182) are seen as ‘core labour standards’.</p> <p>Some forms of child labour, however, do constitute modern slavery. This includes some of the worst forms of child labour as defined by the ILO’s Worst Forms of Child Labour Convention, 1999 (No. 182), which includes the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour; the use, procuring or offering of a child for prostitution; and the use, procuring or offering of a child for illicit activities.</p> <p>Responding to instances of harmful child labour requires particular attention to safeguarding and protecting children, in particular by making the best interests of the child a primary consideration (UN Convention on the Rights of the Child, Art 3.1). This may affect how you implement this Guidance. You may also have different obligations in relation to children than to adults, for example around mandatory reporting of risks of significant harm to children in New South Wales. For more, see the Mandatory Reporter Guide at https://reporter.childstory.nsw.gov.au/.</p> <p>For further information on dealing with child labour, see especially: ETI Child Labour; IFC Good Practice Note; and ILO-IOE Child Labour Guidance. (See <i>Appendix B Key references and resources</i>).</p>
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Figure 6 Modern slavery offences in New South Wales

An offence against the following sections of the <i>Crimes Act 1900</i> (NSW) –	
Section	Description of offence
80D	Causing sexual servitude
80E	Conduct of business involving sexual servitude
91G (1) and (2)	Children not to be used for production of child abuse material
91G (3)	Aggravated offence of using children for production of child abuse material
91H	Production, dissemination or possession of child abuse material
91HAA	Administering a digital platform used to deal with child abuse material
93AA–93AC	Slavery and slavery-like offences
An offence against the following section of the <i>Human Tissue Act 1983</i> (NSW)–	
Section	Description of offence
32, but only in relation to tissue that is an organ	Trading in tissue prohibited
An offence against any of the following sections of the <i>Commonwealth Criminal Code</i> –	
Section	Description of offence
270.3	Slavery offences
270.5	Servitude offences
270.6A	Forced labour offences
270.7	Deceptive recruiting for labour or services
270.7B	Forced marriage offences
270.7C	Offence of debt bondage
270.8	Slavery-like offences – aggravated offences
271.2	Offence of trafficking in persons
271.3	Trafficking in persons – aggravated offence
271.4	Offence of trafficking in children
271.5	Offence of domestic trafficking in persons
271.6	Domestic trafficking in persons – aggravated offence
271.7	Offence of domestic trafficking in children
271.7B	Offence of organ trafficking – entry into and exit from Australia
271.7C	Organ trafficking – aggravated offence
271.7D	Offence of domestic organ trafficking
271.7E	Domestic organ trafficking – aggravated offence

Figure 7 Not all compelled labour is unlawful modern slavery

Not all situations of compelled labour amount to unlawful forced labour. The table below identifies several types of compelled labour that in some instances *may* constitute forced labour or modern slavery, but in other instances do not. The ‘Yes’ column here describes cases which are likely to meet the ILO’s tests (penalty and involuntariness) for identifying forced labour.

Modern slavery	Yes	No
Work exacted by military	State military personnel force local farmers to tend military-owned fields and maintain local military infrastructure by limiting their freedom of movement AND through threats or instances of violence.	All men between the ages of 18 and 25 eligible for compulsory military conscription are required to serve in the military for a defined period of time.
Compulsory participation in public works	People living in a rural area are summoned by the public authority to build a road and are deceived about the conditions of work AND those who fail to participate are liable to financial penalties or imprisonment.	Once a month, every household must send at least one family representative to participate in half a day of community work, which is focused on cleaning and tidying public spaces.
Prison labour	Prisoners are forced to make products for a company in the private sector AND are not paid the legal minimum wage.	Prison workers are hired to work on a private sector project on terms that are equivalent to non-prison workers. Work is paid, there are written contracts that set out these terms, and work is voluntary.
Debt bondage	A worker gets into debt to pay fees to secure a job AND they are forced to sign contracts they do not understand and are paid very low sums by the employer who says most of their wages are needed to pay off debts and food and accommodation provided by the employer.	A migrant worker borrows a small sum from a money lender to secure a job and the loan terms are reasonable (e.g. it can be paid off by the worker within a few months of starting the job). The worker’s family has not incurred long-term debt because of this loan.
Forced overtime	Factory workers are given no choice on whether they work overtime or not and are threatened with dismissal or violence if they refuse AND the hours worked are in excess of those allowed by national law.	Workers in a factory are contractually required to work overtime up to the legal monthly limit to meet production targets.
Document retention	An employer confiscates important ‘permission to work’ documents belonging to migrant workers when they start work AND these workers are told that their documents will be returned after they complete the work that they are assigned.	All company employees are asked to give their passports to their manager when they start work. However, the worker freely provides consent to this as the passport is held for safekeeping by the employer and the worker is able to access their own documents at any time.

Based on CDC Good Practice Note, p. 18.

What are ‘modern slavery risks’?

A ‘modern slavery risk’ is the potential for an organisation to cause, contribute or be directly linked to modern slavery through its operations and supply-chains.

Identifying these risks requires understanding the distinction between three different types of connection to modern slavery – causation, contribution and direct linkage; and the sources of that potential connection.

Three forms of connection: causation, contribution and direct linkage

An entity may be linked to modern slavery by causing it, contributing to it, or by having a direct link to another entity that causes or contributes to it. Under the prevailing international norms, such as the UN Guiding Principles on Business and Human Rights, the expectations of an entity’s role in preventing and mitigating modern slavery, and remediating harms it produces, are commensurate to that linkage. Figure 8, below, explains this.

Figure 8 How causation, contribution and direct linkage impact expectations on buyers

	Causation	Contribution	Direct linkage
Nature	Buyer’s actions have caused or may cause negative impact	Buyer’s actions, together with those of others, caused or may cause adverse impacts	Buyer did not contribute to the adverse impact, but is directly linked to a business actor that did
Prevention and mitigation	Buyer should cease, prevent or mitigate the impact	Buyer should cease or prevent contribution, and use or increase its leverage with other parties to mitigate remaining impact	Buyer should seek to prevent and mitigate the impact, using leverage in the context of its business relationship, based on severity of impact and consequences of termination; and consider using leverage to enable remedy
Remediation	Buyer should provide for remediation through legitimate processes	Buyer should contribute to remediation of harm through legitimate processes	Buyer may take a role in remediation

Adapted from Shift (2014),

Remediation, Grievance Mechanisms and the Corporate Responsibility to Respect Human Rights

Sources of connection to modern slavery

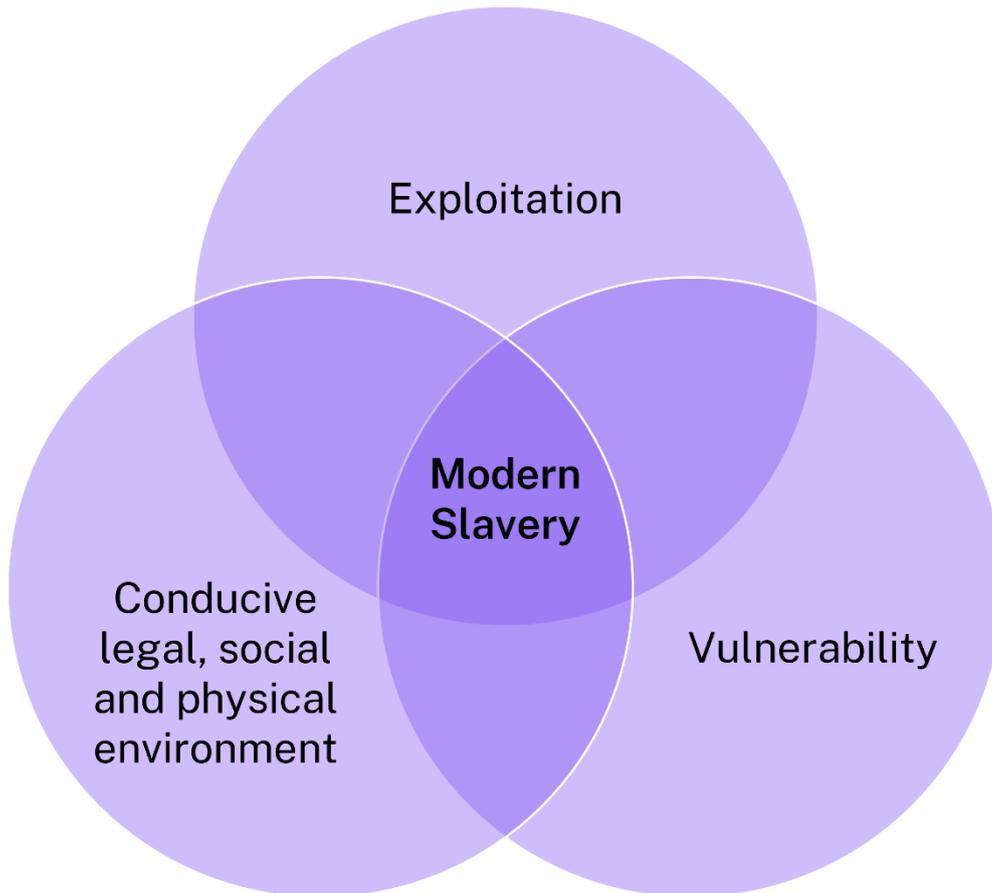
Modern slavery involves one person or organisation exploiting another person’s vulnerability in a particular regulatory context. Understanding modern slavery in these terms provides a basis for identifying the sources of an entity’s potential connections to modern slavery.

These connections may arise from the:

- regulatory context in which the goods and services the entity procures are produced, or in which the entity’s own operations are undertaken
- vulnerable populations: vulnerability of the workers and communities involved
- supply chain model: the way goods and services are made may generate or facilitate exploitation by perpetrators.

These factors are often intersecting. Modern slavery emerges at their intersection. We can think of this in terms of the Venn diagram set out below in Figure 9.

Figure 9 Institutional context, vulnerability and exploitation produce modern slavery



Based on Developing Freedom.

In practice, these three factors are interlinked: change to any one can result in someone falling into a situation of modern slavery. For example, a worker's individual vulnerability may be influenced by a sudden life change, such as the loss of income, family disruption or unexpected health costs. Vulnerability can also be introduced by changes to an individual's regulatory environment, such as the impacts of natural disasters, precarious living conditions related to climate change, the eruption of armed conflict, or the introduction of new laws. Exploitation occurs when a criminal perpetrator identifies this vulnerability and applies coercion to extract value for profit and power, turning the worker's stolen agency into something they own and from which they can materially benefit. If they can do that on a sustained basis, it can become a business model. In this section, we explain how entities can understand these different factors as sources of modern slavery risk, and what this means for their approach to risk management and remediation.

Regulatory context

Weaknesses in institutional and regulatory arrangements can be important sources of modern slavery risk. Absent or poorly enforced labour market governance can elevate the risk of modern slavery. These weaknesses often appear at the sub-national level – for example, where workers in a certain industry are exempted from prevailing labour market regulation or enforcement arrangements.

This implies that modern slavery risks should be assessed at the product level, and not only at the national level. However, modern slavery risk assessment at the product or product-country level is not always easily available or affordable. Many commercial risk information providers instead rely on national-level risk assessments. Risk assessment methods that rely *solely* on national-level risk

indicators are likely to be unreliable. Entities should give preference to risk information based on methods that look below the country level, to risks in specific worksites, products or supply-chains; or that combine country-level risk information with other risk factors (such as those discussed in the sections on Vulnerable Populations and Supply Chain Models, below).

In some contexts, however, country level risk information can prove useful in understanding modern slavery risk. This is particularly the case in relation to corruption and bribery. Modern slavery is illegal, so those who rely on it at scale must invest in corruption and bribery to maintain the ‘domain’ in which they operate, free from intrusion by the law. In certain countries, for example, large-scale labour trafficking in industries as diverse as off-shore fishing and online scamming appear to rely on corruption and political patronage.

It is also important to appreciate that modern slavery risk can arise not only out of the *absence* of legal and regulatory arrangements, but also from their content – especially where they institutionalise discrimination or work to marginalise vulnerable communities. In certain contexts, for example, complex legal frameworks have compelled labour by ethnic and religious minorities, in industries ranging from cotton to tomatoes to polysilicon.

Vulnerable populations

No one is inherently more prone to being enslaved. It is the social and institutional context that makes them so, by constructing their characteristics – gender, race, physical ability, migrant status, language skills – as a source of vulnerability. Vulnerability is a function of power, in a specific social and institutional context. Entities should pay particular attention to people connected to their activities and supply-chains who are marginalised or vulnerable in other ways. These include:

- **Workers in low skill or unskilled work.** Such work is generally menial and repetitive in nature whereby the job can be fully learned in 30 days or less. Historically, lower skilled workers have been more vulnerable to coercion in the workplace because they have less bargaining power.
- **Hazardous work**, including:
 - working underground, underwater, at dangerous heights, or in confined spaces;
 - utilising dangerous equipment, manual handling, or transportation of heavy loads;
 - utilising hazardous substances, agents or processes;
 - exposure to extreme temperatures, noise levels or vibrations damaging to health.
- **Workers in domestic and other isolated and informal settings.** The physical context in which work occurs can itself generate vulnerability. Textile outworkers and domestic service workers, for example, have historically faced greater risks of workplace abuse and exploitation, as have agricultural workers in remote and rural contexts.
- **Workers in historically marginalised, criminalised or stigmatised industries.** Workers in industries such as sex work continue to face stereotyping, disbelief when they report coercion in the workplace, and social stigmatisation. In some locations, industries historically associated with marginalised groups or castes feed into global supply-chains that supply NSW public entities.
- **Workers with intersectional social vulnerabilities**, combining factors such as gender, race or ethnicity, or religion. These workers can be vulnerable to modern slavery due to harmful cultural practices, discrimination, marginalization, harassment, domestic and sexual violence, limited employment opportunities and poverty. These factors can increase the risk of exploitation and hinder the reporting of abuse or modern slavery practices in the workplace.
- **Children.** Young people aged between 15 to 18 years old in work can be vulnerable to physical, psychological or moral exploitation. Children in work under the age of 15, even when permitted by law, are particularly vulnerable to exploitation. They can often be more easily persuaded to lie about their age or working conditions to protect their income. And children may also be more at risk of grooming and commercial sexual exploitation.
- **People dealing with housing insecurity.** Homelessness and housing insecurity increases modern slavery risk considerably, because it reduces people’s agency and undermines their physical and

mental health. Workers operating away from home, or in insecure housing and accommodation, are at greater risk of modern slavery.

- **People living with a disability.** People living with a disability are more at risk of modern slavery in the workplace and at home, due to their dependence on others, limited ability to leave, limited alternative income opportunities, and difficulties accessing grievance mechanisms.

Particular attention should be paid to the situation of **temporary migrant workers**, who face many of these vulnerabilities at once – see Figure 10 below.

For additional resources relevant to the vulnerabilities of particular groups of workers, as well as complaints procedures, entities may consider visiting the websites of [Anti-Discrimination NSW](#); the [Australian Human Rights Commission](#); and the [Fair Work Ombudsman](#).

Figure 10 Vulnerability of temporary migrant workers

While temporary migrant workers are not inherently more vulnerable to modern slavery, numerous factors combine to make them vulnerable in the contexts in which they work, especially where they are working in low skill or unskilled work. These can include:

- indebtedness, including from paying recruitment fees and travelling to work
- limited local language skills and limited literacy and numeracy
- limited access to social support mechanisms to provide accommodation, financial and social support
- limited familiarity with the local regulatory context, rights and entitlements, or ways to access grievance mechanisms
- limited access to personal and travel documents, transport and alternative jobs.

Common patterns of vulnerability in the experience of temporary migrant workers include:

- **Recruitment fees:** Migrant workers may borrow money from unscrupulous money lenders to pay fees to secure employment (e.g. commissions paid to labour agents, cost of visas and travel) leading to debt. This may be compounded by exorbitant interest rates and fees charged by numerous intermediaries (e.g. local brokers, national recruitment agencies and international agencies). Preventing the payment of recruitment fees by workers helps prevent forced labour and trafficking in supply chains.
- **Deception:** Labour brokers or recruitment agencies may not give workers written contracts or contracts in a language the worker understands. Workers may be misled about the job they have applied for or accepted and the terms and conditions under which they are employed. Workers' contracts may also be substituted for terms that are less favourable when they start work.
- **Wages:** Workers' wages may not be paid to them in full because of mandatory deductions (including for rent, access to laundry or kitchen services, transport fees, equipment fees). Wage payments may be delayed or withheld by the employer, or workers' bank accounts may be controlled by their employer.
- **Document retention:** Employers may retain their workers' personal documents such as passports or education certificates to stop them from leaving. This can essentially bond the worker to their employer. However, there are cases where this can be done legitimately for the purpose of safekeeping.
- **Worker accommodation:** Where an employer or a sub-contractor provides accommodation to a migrant worker it may be because no other accommodation is available or viable. This makes the workers more reliant on the employer and can result in poor living conditions.

Taken together, these risks can result in workers finding themselves in situations of debt bondage, and unable to leave their employer despite exploitative working conditions. In NSW, sectors that have higher rates of temporary and newly-arrived migrant workers include agriculture, health and aged care, cleaning and security. For more information on:

- the risks, watch the UN Global Compact Network Australia's Bite-sized Learning video, 'Modern Slavery and Migrant Workers in Australia' (August 2023), available at <https://unglobalcompact.org.au/video-bite-sized-learning-modern-slavery-and-migrant-workers-in-australia/>
- good practice in managing migrant workers in supply-chains, see *Appendix O Migrant Worker Standard*.

Supply chain models

Modern slavery is a social phenomenon, not a natural one. There is no exploitation without an exploiter. Exploitation strategies can take varied forms – from organised criminality (with workforces deliberately hidden from government view) through to hiding in plain sight (for example with workforces organised within formally sanctioned government regulatory arrangements, but defrauded or manipulated in practice).

Exploitation strategies adapt in response to changes in the institutional environment and in vulnerability. Because modern slavery is a form of rent-taking – with workers' agency being stolen and monetised – it typically emerges in parts of the value-chain where power differentials are great and rent-taking is easiest. This is more likely where:

- business is monopsonistic or oligopsonistic (there are one or few buyers in the market, making it difficult for workers to move to another employer), or
- competition for labour supply is restricted (for example where visas are tied to a particular employer, or workers' movement is physically controlled by a buyer or labour hire manager).

For similar reasons, seasonality in work can create significant power differentials between workers and employers. This is also an area where effective workforce oversight is often weak. Seasonal workers are often forced to pay to play – paying significant up-front sums for transport and to recruiters – significantly increasing risks of debt bondage. They are also much less likely to have access to host-country income support, healthcare services or other safety nets, making them more dependent on employers and less likely to report abuse.

Volatility in supply-chains can also be an indicator of heightened modern slavery risk. Rapid, non-seasonal changes in demand – for example in the fast fashion sector – can also have a significant impact on modern slavery risk. Shorter-term, frequently changing, and project-based relationships with no longer-term engagement or repeat business make it more difficult to achieve transparency or ensure responsible behaviour throughout the supply chain. Strong fluctuations in demand and supply lead organizations to prioritise supply continuity and responsiveness over due diligence and compliance considerations. Ad-hoc and transactional relationships lower the ability to scrutinise and monitor potential modern slavery risks. For this reason, workers on zero hours contracts and in the gig economy can also be more vulnerable to abuse.

Foundational concepts

Products of modern slavery

A good or service, including any construction, is a ‘product of modern slavery’ if produced in whole or in part through modern slavery (as defined in the *Modern Slavery Act 2018* (NSW)). Modern slavery at any point in the supply-chain – including during the distribution of components or goods – renders any downstream good or service, at any subsequent tier, a product of modern slavery.

This approach aligns with NSW legislation, feedback from stakeholders, Australian government policy, and international practice.

The *Government Sector Audit Act 1983* (NSW) (see s 38G(3)) makes clear that for relevant NSW government agencies, due diligence obligations include not only examination of primary (i.e. Tier 1 suppliers), but also taking reasonable steps to ensure that primary suppliers are responsible for implementing processes to eliminate or minimise modern slavery risks further down the supply-chain. This Guidance, notably the GRS Model Contract Clauses in *Appendix J GRS Model Contract Clauses*, provides instructions and resources for achieving this result.

Stakeholders provided clear and overwhelming support for this approach in response to the Discussion Paper on these issues published by the Anti-slavery Commissioner in September 2022.

The approach also aligns with the guidance given to Australian businesses in the Commonwealth Guidance, and with international practice in international standards, regulation and legislation, for example under the US *Tariff Act 1930* and the proposed EU Corporate Sustainability Due Diligence Directive.

Prioritising risks to people

The Guidance creates a risk management framework, nested in existing statutory and good practice risk management systems, that prioritises risks to people. This aligns with prevailing international norms, such as the UN Guiding Principles on Business and Human Rights and OECD Guidance, and the Australian Government's approach in the National Action Plan to Combat Modern Slavery and Human Trafficking.

Prioritising 'risks to people' means that covered entities must allocate limited risk management resources to focus on those operational and procurement activities that represent the most significant modern slavery risks to people – not based on spend, nor based on the buyer's existing influence over suppliers.

This approach will maximise the effectiveness of due diligence efforts by NSW public buyers, ensuring they most efficiently and effectively contribute to modern slavery prevention, risk mitigation and remedy. It also represents an important contribution to broader sustainable procurement efforts, in line with international standards such as ISO 20400:2017.

Salient modern slavery risks

In accordance with international good practice, the 'significance', 'severity' or 'salience' of modern slavery risks is defined on three dimensions:

- **Scale** refers to the gravity of the adverse impact.
- **Scope** concerns the reach of the impact, for example the number of individuals that are or will be affected.
- **Irremediable character** means any limits on the ability to restore the individuals to a situation equivalent to their situation before the adverse impact.

Where prioritisation is necessary, entities should begin with those modern slavery risks and impacts that would be most severe, recognising that a delayed response may affect remediability.

For details of how to conduct a Salient Modern Slavery Risk Assessment, see Part 1.2 Identify salient risks below.

GRS Inherent Modern Slavery Risk Levels

The inherent modern slavery risk level is the level of salient modern slavery risk exposure involved in the acquisition of a particular product category, in the absence of risk controls or effective mitigation.

Inherent modern slavery risk factors are factors associated with the production, distribution or use of specific products that increase the likelihood of the presence of modern slavery. Where there are areas of high inherent risk, additional risk mitigation is required to ensure the risk does not become harm.

The Guidance classifies salient modern slavery risks to four levels: Minor, Low, Moderate and High. These are assessed by reference to the presence of risk factors in the production and supply of particular product categories. The method for assigning these risk levels is described below in *Figure 11 How risky is this product?*

Figure 11 How risky is this product?

The easiest way to determine the riskiness of a product that your entity is procuring is to look it up on the **GRS Inherent Risk Identification Tool (IRIT)**. The IRIT forms part of the Shared Implementation Framework, and will be updated from time to time. The first edition of the IRIT will be available from December 2023. It has been developed by the Office of the NSW Anti-slavery Commissioner in collaboration with the University of Sydney Business School.

The IRIT assigns one of **four GRS Inherent Modern Slavery Risk Levels** to each of 374 product categories in the NSW Government procurement environment, using a taxonomy provided by NSW Government and current as of early December 2023. Risks were assigned using the following method:

- The Office of the Anti-slavery Commissioner undertook an initial evaluation of the 374 product categories, identifying 79 that required detailed assessment.
- The University of Sydney Business School project team then coded the remaining 79 products, using a combination of statistical analysis, inter-coder quality checks and feedback from the Office of the Anti-slavery Commissioner to ensure reliability.
- Each product category was assessed for the presence of salient modern slavery risks arising from three sources: Regulatory context, Vulnerable populations and Supply chain model. (These sources are discussed below, at *Sources of connection to modern slavery*.) Each time a source of risk is identified, 1 point is assigned to the product category.
- Each product category was also assessed to identify whether it appears in fact to contain goods or services made with modern slavery, based on an authoritative determination by a reliable government or intergovernmental body. In identifying whether a determination is authoritative, the Anti-slavery Commissioner has reference to the information considered and the determination methodology, including: the nature, date and source of the information; the extent of corroboration; and prevalence. Products subject to an Authoritative Determination are assigned 3 points.
- The cumulative score of the category then determines its GRS Inherent Modern Slavery Risk Level, as follows:

Cumulative score	GRS Inherent Modern Slavery Risk Level
3 to 6	High
2	Moderate
1	Low
0	Minor

The IRIT will be periodically reviewed and updated, drawing on the latest evidence of the link between the factor in question and modern slavery risks in that particular product category.

Buyers can also use the methodology described above to conduct their own assessment of the inherent modern slavery risk level properly associated with a particular procurement process or product category.

Figure 12 Worked Example: Identifying the inherent risk in buying a particular product

I work for a local Council and am procuring printers for the Council. How does the Council identify the GRS Inherent Modern Slavery Risk of this product using the IRIT?

Step 1: Go to the ‘Inherent Risk Analysis’ tab in the IRIT

Open the IRIT and click on the ‘Inherent Risk Analysis’ tab in the IRIT (shown below).



Step 2: Find the relevant Level 3 procurement category

The IRIT lists the 374 procurement categories in the NSW Government procurement environment.

There are three ‘Levels’ of procurement categories in the IRIT. The IRIT provides a GRS Inherent Modern Slavery Risk Level at the **Level 3 procurement category**.

Level 1 is the broadest category level, Level 2 provides subcategories of Level 1, and Level 3 is the relevant level for the GRS Inherent Modern Slavery Risk Level (shown below).

PROCUREMENT CATEGORY Level 1	PROCUREMENT CATEGORY Level 2	PROCUREMENT CATEGORY Level 3
ICT	ICT Software	Software as a Service - SAAS, licensing and maintenance
ICT	Infra and network hardware -non carriage	Network Hardware Maintenance and Support
ICT	End user computing and Peripherals	End User Devices
ICT	End user computing and Peripherals	Computer displays
ICT	End user computing and Peripherals	Printers
ICT	End user computing and Peripherals	End User Asset as a Service
ICT	Telecommunications	Call Centre, Helpdesk Service

The relevant Level 3 procurement category can be identified two ways:

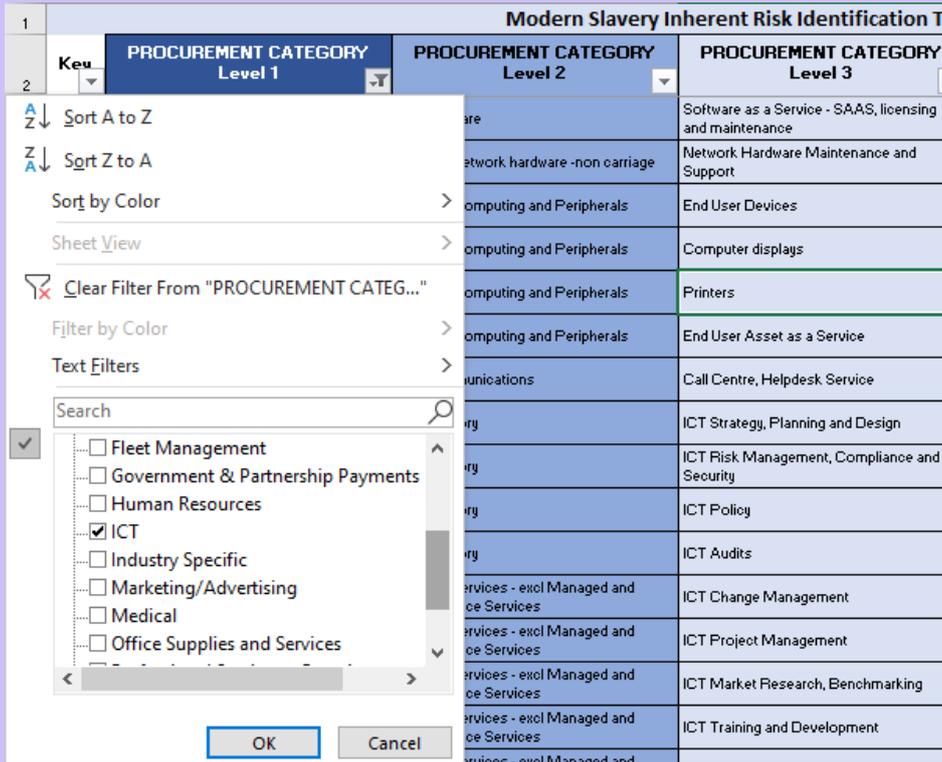
a. Filtering Procurement Category Level 1 and/or Level 2

The Procurement Category Levels can be filtered to help identify the relevant Level 3 procurement category.

To filter, click the drop-down arrow at the top of the Procurement Category Level and tick the relevant categories the particular procurement may fall within.

As the Council is procuring printers which is a form of ICT hardware, Level 1 can be filtered to ‘ICT’ (shown below).

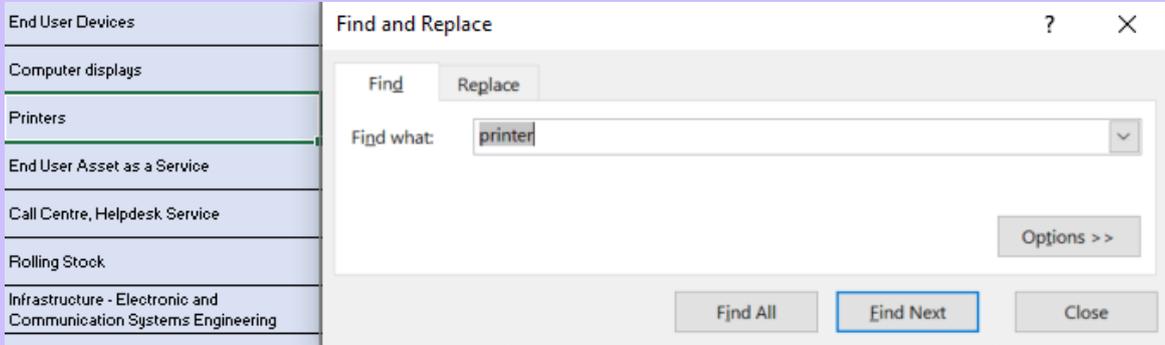
Continues...



The Council can then look through the smaller list of products showing for Procurement Category 3, or filter further in Category 2 by using the same step as above, if required.

a. Using the excel search function (Ctrl 'f')

The Council could also search the IRIT for 'printer' using the Ctrl 'f' search function (shown below).



Continues...

Step 3: Determine the GRS Inherent Modern Slavery Risk Level for the relevant Level 3 procurement category

The GRS Inherent Modern Slavery Risk Levels are colour coded in the IRIT as follows:

Cumulative score	GRS Inherent Modern Slavery Risk Level	Colour
3 to 6	High	Red
2	Moderate	Yellow
1	Low	Green
0	Minor	White

Follow the relevant IRIT row across to find the GRS Inherent Modern Slavery Risk Level for printers.

Printers are coded Red in the IRIT (shown below) and therefore have a High GRS Inherent Modern Slavery Risk Level.

Modern Slavery Inherent Risk Identification Tool			
PROCUREMENT CATEGORY Level 1	PROCUREMENT CATEGORY Level 2	PROCUREMENT CATEGORY Level 3	INHERENT MODERN SLAVERY RISK LEVEL
ICT	ICT Software	Software as a Service - SAAS, licensing and maintenance	White
ICT	Infra and network hardware -non carriage	Network Hardware Maintenance and Support	Green
ICT	End user computing and Peripherals	End User Devices	Red
ICT	End user computing and Peripherals	Computer displays	Red
ICT	End user computing and Peripherals	Printers	Red

The Council has determined the GRS Inherent Modern Slavery Risk Level for printers is High.

Leverage and capability

Modern slavery as a shared responsibility

Modern slavery is a product of the workforce's vulnerability, in a particular regulatory (including workplace) context, combined with the exploitation strategies arising in certain supply chain models. So effective modern slavery risk management requires continuous collaboration among buyers, suppliers and other stakeholders. A buyer cannot simply 'set and forget' – impose risk management obligations on suppliers, and then walk away. Modern slavery risks must be actively monitored, and actively mitigated and remediated.

For this reason, the Guidance adopts a performance-based contracting model, discussed in Part 3, and reflected in *Appendix J GRS Model Contract Clauses*. This contracting model provides a foundation for buyer-supplier collaboration to address modern slavery risks, and facilitates monitoring and evaluation of the effectiveness of modern slavery risk management efforts at the contract, entity and system level.

This does not, however, mean that buyers and suppliers have the *same* responsibilities. In fact, the prevailing international norms make clear that responsibilities depend both on contribution to harm (see above at *Three forms of connection: causation, contribution and direct linkage*) and on their 'leverage'.

Understanding leverage

Leverage is the ability to influence or change another entity's conduct. That ability will depend on numerous factors specific to a particular business relationship, such as your entity's size and capability, its market power, its access to governmental or regulatory authority, and market structure.

Leverage can be applied through a range of means, both commercial and non-commercial, such as:

- engaging business partners to urge them to prevent and/or mitigate impacts through letter-writing, emails, telephone calls or face-to-face meetings at operational, senior management and/or board level;
- building expectations around modern slavery risk management into commercial contracts, and exercising contractual rights of review, inspection, audit, remediation or termination
- communicating the possibility of disengagement if expectations are not respected (e.g. through contractual clauses, enterprise policies, meeting with management of the business partner)
- linking commercial incentives – such as the commitment to long-term contracts and future orders – with performance on modern slavery risk management
- attendance, speaking and voting at Annual General Meetings to encourage improved modern slavery risk management
- engaging with regulators and policymakers to address institutional drivers of modern slavery or address vulnerability in particular supply-chains.

At times your entity may face limitations to using leverage or may not have leverage on its own. In this case, the prevailing international norms call for you to increase or develop leverage, including through collaboration with other stakeholders. Examples of collaborative leverage include:

- entities sourcing from the same supplier may develop and share a common set of modern slavery risk management requirements of the supplier, with due consideration for competition law.
- entities within a given value-chain or sector may work at a sector-wide, regional or local level to identify and engage specific suppliers to address shared risks.
- minority investors may write a joint letter to an investee company signalling expectations on modern slavery risk management and encouraging the company to prevent and mitigate impacts as relevant.

Your leverage will determine how you carry out due diligence and effective modern slavery risk management. It may be affected by factors such as the size of your organisation, the context of its operations, its business or service-delivery model, its position in a supply chain, and the nature of its own products and services.

Figure 13 below provides some examples of how these factors may influence leverage, and the way in which due diligence is carried out. In each example, the entity in question is conducting due diligence in line with this Guidance, but the way in which they do so varies based on their leverage.

Figure 13 Leverage impacts the way in which you conduct due diligence

Factor	Examples
Size of the entity	<p>A small entity with limited leverage over its suppliers and limited resources to allocate towards building the capacity of suppliers to meet this Guidance may consider establishing robust prequalification processes whereby only suppliers that meet high thresholds of modern slavery risk management capabilities are engaged. In doing so the small entity reduces the extent of resources necessary in identifying, monitoring or preventing impacts once a supplier has been engaged.</p> <p>In contrast, a large entity with numerous suppliers and business relationships across a range of higher-risk contexts, may have access to more expertise, industry association learning, or collaborative initiatives, on which to draw in overseeing due diligence on the ground.</p>
Context of operations	<p>As part of its stakeholder engagement efforts, an entity sourcing goods or services within vulnerable communities may work in close collaboration with expert civil society organisations or peak bodies of affected stakeholders. In contrast, entities that operate with less vulnerable communities may be more likely to engage directly with stakeholders and rightsholders.</p>
Business model	<p>An infrastructure enterprise with long-term investments in a community may find that it is effective to engage with local government and help it address systemic issues in the areas where it is operating, alongside other risk prevention and mitigation measures, as a means of preventing adverse impacts linked to its operations in the long term. Conversely, it may not be appropriate for a small entity providing short-term services in the same region to address systemic issues within that region. It might instead focus its efforts on carrying out robust modern slavery risk assessments of its procurement and service contracts.</p>
Position of the entity in the supply-chain	<p>A downstream entity may carry out assessments on mid-stream suppliers to assess how they are carrying out due diligence on their upstream suppliers to identify risks of child labour.</p> <p>An entity operating mid-stream in a supply chain may establish traceability to upstream business relationships operating in higher risk areas to identify risks of child labour. In both cases, child labour would be prioritised, but the way each entity identified the risk is different depending on their position in the supply chain.</p>
Nature of the entity's products or services	<p>An entity that provides an online platform for peer-to-peer services or buyer-supplier matching may not carry out on-site assessments of its individual operators. However, the entity may establish robust grievance mechanisms and stringent requirements for operators that are monitored to guard against any breaches to its code of conduct and operating policies to discourage and quickly react to offenders.</p>

GRS Capability Levels

While all covered entities must prioritise their risk management efforts based on risks to people, covered entities have different capabilities and different potential for influencing their suppliers and other business partners – different levels of leverage.

Leverage exists within a given business relationship. But this Guidance is intended to guide modern slavery risk management efforts undertaken by a highly diverse set of NSW public entities, ranging from large metropolitan councils and state departments, all the way down to small independent agencies and rural local councils, across a diverse array of operational and procurement contexts.

International good practice recognises that expectations of what risk management steps are ‘reasonable’ depend not *only* on risks to people, but also on an entity’s capabilities.

While resource constraints may be a challenge for all entities, small entities particularly may have fewer personnel and financial resources to devote to modern slavery risk management. At the same time, they often have greater flexibility in policy-making and implementation and may have fewer impacts or suppliers to manage as compared to larger entities.

As exemplified in Figure 13, above, the size or resource capacity of an entity does not change its responsibility to conduct due diligence commensurate with risk, but may affect how an entity carries it out. Entities with resource constraints may rely more heavily on collaborative approaches in carrying out due diligence and may have to make more careful decisions in the context of prioritisation. They may also take advantage of existing resources such as model policies or public information on risks in certain supply chains and seek technical assistance from industry associations of which they are members.

To accommodate this diversity, the Guidance introduces the concept of GRS Capability Levels. These classify covered entities into three levels: Low, Moderate and High.

Appendix G What GRS Capability Level is your entity? explains how you can identify your entity’s GRS Capability Level. Understanding your GRS Capability Level is critical for determining which modern slavery risk management steps are reasonable for any given procurement or operational activity. Note that some NSW government entities may have a different GRS Capability Level for construction procurement than for procurement of other goods and services. There are worked examples showing different entities’ GRS Capability Levels available on the OASC website. For entities subject to the *Public Works and Procurement Act 1912* (NSW), GRS Capability Level is determined by the entity’s accreditation level under the NSW Accreditation Programs for Goods and Services Procurement and Construction Procurements.

Figure 14 Do entities with a ‘Low’ GRS Capability Level have to implement this Guidance in full?

Do entities with a ‘Low’ GRS Capability Level have to implement this Guidance in full?

Yes. All covered entities should follow this Guidance as closely as possible. However, the way in which you implement the Guidance may vary depending on your capability. For example:

- Each Part of this Guidance sets out the information that covered entities should collect, to facilitate their reporting. This provides an indication of the different ways in which each Reasonable Step may be implemented, depending on the GRS Due Diligence level involved – which in turn depends in part on an entity’s GRS Capability Level.
- Smaller entities may find economies of scale and other benefits from collaboration, for example in risk assessment, contract management, or remediation.
- Smaller entities may also benefit from guidance on MSDD issued to SMEs, such as the UNGCNA SME Playbook, or the NSW Small Business Commissioner’s factsheet, ‘[Modern Slavery: Information for small business](#)’.

All entities are expected to continuously improve their capabilities. (See *Implementation timeline*, above, and Part 7 Improve.)

Figure 15 Understanding GRS Capability levels in whole of government schemes and other collaborative procurement contexts

There will be many situations where entities collaborate to address modern slavery risks. These include:

- a NSW government agency procures through a whole of government scheme
- a Joint Organisation of local councils undertakes procurement activity
- entities work through a common procurement partner who undertake tendering or supplier management on their behalf
- a NSW government agency lacks accreditation to conduct certain procurement activities and therefore relies on another agency to conduct that activity or to endorse actions it takes
- entities collaborate on modern slavery risk analysis or supply-chain mapping
- entities collaborate on supplier engagement and capability development
- entities collaborate on the development of a grievance mechanism

In all these situations it is the entity's *own* GRS Capability level that determines what steps are reasonable, not the capacity of the organisation with which they are collaborating. *However*, the entity's access to and use of additional capacities, through the partner organisation, points to potential *leverage* available to the first entity, which may affect expectations of what steps are reasonable.

For example:

- Where, under an Accreditation Program, an agency requires endorsement for a particular procurement due to its value, it is the accreditation level of the procuring agency, not the endorsing agency, that is used to determine GRS Capability Level. The endorsing agency will need to comply with their obligations under the relevant Accreditation Program but does not need to report on this activity in their modern slavery reporting information.
- Where a small local entity outsources supplier screening, pre-qualification and contract management activities to a third party, it is the capability of the local entity that sets expectations on reasonable steps. If, however, the third party has significant analytic capacity or potential leverage over suppliers (for example because it works with a wide array of other buyers that, collectively, wield market power), this may be relevant in determining what steps are reasonable on the part of the entity, notwithstanding its own capability level.

What level of diligence is due?

Under this Guidance, which steps are considered reasonable is determined by both the modern slavery risk level of a particular activity or procurement, and the capability of the buyer.

‘Due diligence’ is the ongoing risk management process to prevent, identify, mitigate, address and account for actual or potential negative impacts in the organization and its business relationships.

The Guidance classifies modern slavery due diligence (MSDD) into four different levels: Light, Minimal, Standard and Heightened.

- **Minimal** MSDD requires limited continuous engagement, monitoring and data collection.
- **Light** MSDD requires some engagement with suppliers, and collection of some data for monitoring and reporting.
- **Standard** MSDD requires active engagement with suppliers, ongoing monitoring and collaboration with suppliers to identify and collect relevant data.
- **Heightened** MSDD is due for all modern slavery activities and procurements that involve high inherent modern slavery risk, identified through the method discussed above at *GRS Inherent Modern Slavery Risk Levels*. This involves more extensive and intensive engagement with suppliers and other stakeholders, active monitoring of modern slavery risks during contract performance, and greater attention to governance of risks. From 1 July 2024, Heightened MSDD procurements with a value of AU \$150,000 (including GST) or more should be reported within 45 days of any contract or agreement coming into force (where that is on or after 1 July 2024). (See Part 6 Report.)

The GRS Due Diligence Level due should be identified for each operational activity or procurement transaction that a covered entity undertakes in a reporting period.

If your procurement appears to involve sourcing things at multiple GRS Due Diligence Levels, the correct GRS Due Diligence Level to apply is the highest level required for that specific contract (or secondary procurement activity where there is a standing offer or scheme).

The associated GRS Due Diligence Level is a function of the GRS Inherent Modern Slavery Risk Level associated with procuring a particular product category or engaging in a particular operational activity, and the GRS Capability Level.

Figure 16 shows which level of diligence is due at each combination of GRS Inherent Modern Slavery Risk Level (for a given product) and GRS Capability Level (for a given buyer entity).

Figure 16 GRS Due Diligence Levels

GRS Inherent Modern Slavery Risk Level	High	Heightened	Heightened	Heightened
	Moderate	Light	Standard	Standard
	Low	Minimal	Light	Standard
	Minor	Minimal	Minimal	Light
		Low	Moderate	High
Entity’s GRS Capability Level (for this kind of procurement or activity)				

Figure 17 Worked Example: A NSW local Council identifies the due diligence level associated with purchasing a particular product

I work for a local Council and am procuring printers for the Council. How do I identify the GRS MSDD Level for this procurement?

The associated GRS Due Diligence Level is a function of the GRS Inherent Modern Slavery Risk Level associated with procuring a particular product category or engaging in a particular operational activity, and the GRS Capability Level.

In this example, the Department determined the GRS Inherent Modern Slavery Risk of printers was “High” by using the IRIT.

Refer to *Appendix G What GRS Capability Level is your entity?* to identify the entity’s GRS Capability Level. There are also worked examples of how to identify the entity’s GRS Capability Level on the NSW Anti-slavery Commissioner’s website. In this example, the Council determined its GRS Capability Level was “High”.

Figure 16 (above) shows which level of diligence is due at each combination of GRS Inherent Modern Slavery Risk Level (for a given product) and GRS Capability Level (for a given buyer entity).

For this procurement, the GRS Inherent Modern Slavery Risk for printers is “High” and the Council’s GRS Capability Level is “High”.

Therefore, the GRS MSDD Level is “Heightened”.

Reasonable Steps

1. Commit

- 1.1. Engage key stakeholders
- 1.2. Identify salient risks at the organisational level
- 1.3. Adopt a Modern Slavery Policy
- 1.4. Adopt a Modern Slavery Risk Management Plan

2. Plan

- 2.1. Identify and map your supply-chain risks for this procurement
- 2.2. Develop a risk-reducing sourcing strategy

3. Source

- 3.1. Select appropriate suppliers
- 3.2. Adopt a shared responsibility approach in contracting

4. Manage

- 4.1. Monitor and evaluate supplier performance
- 4.2. Develop supplier capabilities

5. Remedy

- 5.1. Provide or enable access to effective grievance mechanisms
- 5.2. Take safe immediate steps to remedy harm
- 5.3. Use leverage to remediate deficient practices
- 5.4. Withdraw responsibly

6. Report

- 6.1. Establish a victim-centred reporting protocol
- 6.2. Report on your modern slavery risk management efforts

7. Improve

- 7.1. Learn lessons from your performance and others'
- 7.2. Train your workforce
- 7.3. Cooperate with the Anti-slavery Commissioner

1

Commit

About this Part

This Part provides guidance on the reasonable steps that entities can take to commit to effectively address modern slavery risks in their operations and supply-chains.

This requires effective stakeholder engagement, risk assessment, development of a Modern Slavery Policy and potentially a Modern Slavery Risk Management Plan, as well as workforce training.

Each reporting entity has discretion as to how to discharge the Guidance, and must determine which internal stakeholders should be responsible for various activities in the Guidance.

Data to collect and report

Reasonable Steps taken	Form of response	Response mandatory / optional
1 Commit		
<i>1.1 Stakeholder Engagement</i>		
What steps did your entity take to engage with stakeholders during this reporting period in relation to modern slavery?	Describe steps taken	Mandatory
Did you engage with external stakeholders on modern slavery risks in this reporting period?	Yes/No	Mandatory
<i>1.2 Identify salient risks at the organisational level</i>		
What steps did your entity take to identify salient modern slavery risks at the organisational level (i.e. across all operational and procurement activities) during this reporting period?	Describe steps taken	Mandatory
Did you conduct or update a Salient Modern Slavery Risk Assessment in this reporting period?	Yes / No	Mandatory Option to upload copy
<i>1.3 Modern Slavery Policy</i>		
What steps did your entity take to adopt a Modern Slavery Policy during this reporting period?	Describe steps taken	Mandatory
Do you have a modern slavery policy, approved by your senior governing body (e.g. Agency Head / Secretary), in place?	Yes / No	Mandatory Option to upload copy
Does your modern slavery policy include high-level targets?	Yes / No	Optional
<i>1.4 Modern Slavery Risk Management Plan</i>		
What steps did your entity take to adopt a Modern Slavery Risk Management Plan during this reporting period?	Describe steps taken	Mandatory
Do you have a modern slavery risk management plan, approved by your senior management, in place?	Yes / No	Mandatory Option to upload copy
Does your plan assign accountability for performance against high-level targets to specific roles?	Yes / No	Optional

1.1. Engage key stakeholders

Discussion

Modern slavery in supply-chains is a product of how the supply-chain operates as a socio-economic system. It is not typically something that can be effectively ‘solved’ or addressed by any single actor in the supply-chain, even major buyers. Addressing modern slavery requires collective action along the supply-chain. For this reason, a buyer’s relationships with key stakeholders in its supply-chains – suppliers, workers, affected communities – provide the foundation for effective due diligence. They are the bedrock for effective action.

Stakeholder engagement involves interactive processes of engagement with relevant stakeholders and their representatives. This can take place through, for example, meetings, hearings or consultation proceedings. Meaningful stakeholder engagement is characterised by two-way communication and depends on the good faith of the participants on both sides. It is also responsive and ongoing, and includes in many cases engaging with relevant stakeholders before decisions have been made.

Figure 18 Who are your ‘key stakeholders’?

Generally speaking, stakeholders are people or organizations that can affect, be affected by, or perceive themselves to be affected by a decision or activity – someone with a ‘stake’ in the decision or activity. For the purposes of this Guidance, the relevant activities are your operations and procurement.

Not all individuals and groups considered as stakeholders will have interests that can be affected by a specific activity carried out by your entity. You should therefore identify the individuals, groups and organizations that are most likely to be adversely affected, in terms of modern slavery risk, by your operations and supply-chains.

Good practice due diligence will address the concerns of:

- stakeholders that have been actually affected (impacted stakeholders), including survivors and other people with lived experience of modern slavery, and
- those whose interests have not been affected but could be (potentially impacted stakeholders), including rightsholders.

Effective stakeholder engagement can help your entity to:

- better understand issues ‘on the ground’, including in parts of your supply-chain where you may not have visibility or access.
- verify what is happening in your operations and supply-chains by providing access to the views of workers and vulnerable groups.
- access expertise on key issues such as child protection, country or sector specific risks and context specific sensitivities.
- check if your response to modern slavery is effective, by providing a ‘critical friend’ who can impartially review and assess your actions.
- identify actual, or potential, risks of harm as part of your ongoing risk assessment and due diligence processes and develop effective and context appropriate ways to address such risks.
- provide information about what constitutes appropriate remedy in a particular context.
- raise awareness about the risks of harm and pathways to remedy within your own organisation, your suppliers or other business partners such as recruitment firms and supply chain workforce.

Hallmarks of Best Practice

- The entity identifies which stakeholders are most vulnerable to modern slavery impacts in connection with its operations and value chain and seeks insight into their perspectives.

- The entity has structures or processes to hear and respond to the perspectives of affected stakeholders and/or their legitimate representatives, including at senior levels, whose use is not limited to the entity's own needs or transactions.
- The entity's decisions and actions with regard to identifying, assessing and prioritising risks, and tracking how effectively it addresses them, are informed by the perspectives of affected stakeholders and/or their legitimate representatives.
- The entity engages with affected stakeholders and/or their legitimate representatives to identify whether they are aware of and trust existing structures or processes as a way to raise concerns or grievances and have them addressed.

Considerations

What does meaningful stakeholder engagement look like?

- **Two-way engagement** means that the enterprise and stakeholders freely express opinions, share perspectives and listen to alternative viewpoints to reach a mutual understanding. It also means stakeholders should have an opportunity to help design and carry out engagement activities.
- All parties should **engage in good faith**. This means that the entity engages with the genuine intention to understand how relevant stakeholder interests are affected by its activities. It means that the entity is prepared to address adverse impacts it causes or contributes to and that stakeholders honestly represent their interests, intentions and concerns.
- **Safe engagement** requires consideration of the safety and wellbeing of vulnerable stakeholders. You may have to engage workers through trusted intermediaries such as local unions, worker organisations or civil society groups – or not at all, where risks of retaliation are excessive. You may need to consider the context in which these organisations operate, and their ability to speak freely on behalf of workers. Engagement with children should give primary consideration to the best interests of the child, and in general should be designed in collaboration with relevant experts. In engaging survivors of modern slavery and people with lived experience, you should adopt trauma-informed and shame-sensitive practices to ensure they can engage safely and effectively. See further *Appendix N Speaking with victims of modern slavery*.
- **Responsive engagement** means that the entity seeks to inform its decision by eliciting the views of those likely to be affected by the decision. It is important to engage potentially impacted stakeholders and rightsholders prior to taking decisions that may impact them. This involves the timely provision of all information needed by the potentially impacted stakeholders and rightsholders to be able to make an informed decision as to how the decision of the entity could affect their interests. It also means there is follow-through on implementation of agreed commitments, ensuring that adverse impacts to impacted and potentially impacted stakeholders and rightsholders are addressed including through provision of remedies when entities have caused or contributed to the impact(s).
- **Ongoing engagement** means that engagement continues throughout the lifecycle of an operation or activity. This may require ongoing dialogue with trade unions, worker organizations, or directly with workers – for example through 'worker voice' apps.
- **Equitable engagement** means engaging in ways that accommodate the needs of stakeholders, in order to ensure they can engage effectively. This is particularly important. In some cases, it might require ensuring access to interpretation, providing information visually or orally (to assist those with low literacy or visual impairment), or culturally appropriate meeting arrangements.

Further resources

AHRI Good Practice Toolkit. BS 25700:2022 at 9.2.2. Commonwealth Guidance. ISO 20400:2017 section 6.3. OECD Due Diligence Guidance, pp. 48-51.

1.2. Identify salient risks

Discussion

Effective and efficient modern slavery risk management requires first identifying the salient risks in an entity's operations and supply-chains.

A **Salient Modern Slavery Risk Assessment** is an assessment of operational modern slavery risk conducted in accordance with the principles of 'salience' introduced above in *Salient modern slavery risks*, at page 28. It may involve both an initial scoping and a deeper assessment process.

Figure 19 How should my entity conduct a Salient Modern Slavery Risk Assessment?

Begin by conducting an initial scoping or mapping of the activities your entity engages in and the categories of goods and services it procures.

Identify the modern slavery risks associated with those activities, particularly procurement activities. Use the IRIT as a starting point for scoping, to identify the risks associated with specific product categories. Make sure you, or your service provider, safely engage relevant stakeholders to properly identify modern slavery risks. Remember that modern slavery is often hidden.

Conduct a more in-depth assessment of areas identified in your initial scoping as higher-risk. This will require you to identify and evaluate prioritised risks related to a specific business activity or relationship.

Prioritise the most salient, or severe, risks to people in your entity's activities by considering the following dimensions of salience:

- *Scale*: how grave or severe will the harm be?
- *Scope*: how wide will the impact be? How many people are / could be affected?
- *Irremediability*: how hard will it be to fix the harm to people (i.e. by restoring them to their position before the harm)?

Aim to identify whether your entity is causing, contributing to, or directly linked to these salient risks. This will affect how you approach use of leverage, remediation and remedy (discussed later in this Guidance).

Your entity should engage relevant stakeholders to inform each stage of risk analysis, and update its Salient Modern Slavery Risk Assessment regularly.

If your entity is conducting activities or procurements at the Heightened Modern Slavery Due Diligence Level, you should consider publishing your Salient Modern Slavery Risk Assessment.

There are service providers in the market, as well as open-access tools, that can help you to structure and conduct modern slavery risk assessments. You should confirm that these service providers or tools incorporate equivalent concepts of salience into their methodology.

The Office of the NSW Anti-slavery Commissioner can also provide information, resources and assistance: GRS@dcj.nsw.gov.au and dcj.nsw.info/antislaverycommissioner

Hallmarks of Best Practice

- The entity's processes for identifying modern slavery risks:
 - Encompass its operations and business relationships throughout its value chain
 - Include impacts the entity may cause, contribute or be linked to
 - Include risks inherent in its business model and strategy
 - Go beyond identifying impacts that the entity considers it can control or impacts that could lead to liability for harms
 - Draw on a variety of well-informed sources to identify relevant risks
 - Are iterative and responsive to changes in the risk environment.

- The entity's prioritisation of its salient modern slavery risks:
 - is determined by the severity of the potential impacts on people, not by risk to the business
 - is not determined by where the entity has leverage or what it considers easiest to address
 - is updated in light of new or emerging risks.
- Where the entity focuses its initial assessment of risks on certain parts of the business, these are selected based on the severity and likelihood of the risks to people, and the entity progressively expands its focus into other parts of the business.
- Where the entity has a broader risk management system, the entity ensures that its salient modern slavery risks are appropriately reflected in that system.

Considerations

You will first need to conduct an initial scoping. You should then conduct a deeper in-depth analysis in specific areas that your initial scoping identifies as sources of higher modern slavery risk. These two concepts are further explained below.

- **Scoping** refers to an initial process of identifying general areas of significant risk across an enterprise's own operations (e.g. activities and product and service lines) and its business relationships. Scoping is intended to be broad and to serve as an initial exercise to enable prioritisation, and to help you identify what types of information you may need to gather to undertake a deeper risk assessment.
- **Assessment**, on the other hand, refers to a more in-depth analytic process that seeks to identify and evaluate prioritised risks related to a specific business activity or relationship. Examples of forms of assessments include supplier self-assessments, on-site inspections and audits, amongst others.

Assessment methods should be tailored to the nature of the risk. These may include:

- drawing on information received through whistleblower hotlines or grievance mechanisms
- requesting information from Tier 1 suppliers about their suppliers
- engaging with key suppliers to understand how they are addressing their modern slavery risks
- working with other entities in your sector to carry out a joint assessment of high risk parts of a supply-chain
- using existing traceability processes and services to improve information about the source of products
- identifying existing credible assessments of entities in your supply chain, such as audit reports or NGO reviews
- developing trusted relationships with civil society stakeholders or engaging with multi-stakeholder initiatives who can provide information about situations 'on the ground'
- working directly with high risk entities you do not have a direct contractual relationship with to help them assess and address their risks.

Worker interviews and focus group discussions may be appropriate in some situations. In recognition that workers may not feel comfortable sharing honest responses with management, interviews and focus group discussions may need to be carried out in some cases by trusted third parties.

Further resources

Signals of Seriousness. OECD Due Diligence Guidance pp. 25-28, 61. BS 25700:2022 at 9.3.1-2. Commonwealth Guidance. OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector (2017).

1.3. Adopt a Modern Slavery Policy

Discussion

Effective modern slavery risk management is a whole-of-enterprise activity. It is not merely a procurement or compliance activity, but may also have legal, financial, workplace health and safety, human resources, and strategic implications for your entity. Accordingly, **your senior governing body must develop and adopt a formal Modern Slavery Policy. In most cases this should be in place by 30 June 2024.** This should align with this Guidance, and reflect the salient modern slavery risks you have identified through your Salient Modern Slavery Risk Assessment.

Your Modern Slavery Policy may be a standalone document, or it may be incorporated into other relevant organizational policies. In either case, it must be approved by your entity's senior management. The Commissioner will work with covered entities to develop a template Modern Slavery Policy in early 2024.

This Policy will ensure accountability and effective governance of modern slavery risks, including how risks will be assessed, prevented, mitigated, remedied and reported. It should reflect your entity's purpose, values, regulatory environment, and integrate with your existing policies, processes and resources (for example in relation to procurement or human resources). Your Modern Slavery Policy should not be seen as a 'set and forget' exercise, but should instead provide the basis for periodic discussion and reflection by your senior governing body.

Hallmarks of Best Practice

- The entity's most senior governing body discusses progress and challenges in addressing the entity's modern slavery risks, supported by appropriate expertise, informed by the perspective of affected stakeholders and with knowledge of leading practice.
- The entity's most senior governing body reviews the entity's business model and strategy, and proposed changes to them, to ensure inherent modern slavery risks are identified and addressed.
- The entity's most senior governing body formally approves high-level targets for addressing salient modern slavery risks and evaluating the entity's progress in that regard.

Considerations

For larger entities, the complexity of modern slavery risks and their effective management may require development of a cross-functional working group or committee. This group can be charged with developing the Modern Slavery Policy for consideration by the senior governing body.

Your Policy should be based on careful assessment of your actual risks and the drivers of those risks, informed by effective stakeholder engagement. Good modern slavery policies go beyond generic statements of exposure to modern slavery risk to identify how the entity's policies and practices target the specific sources of modern slavery risk. This requires consideration of whether your entity's own business practices cause, contribute to or exacerbate modern slavery risks. This could be due to:

- inattention to indicators of modern slavery amongst your consumers or beneficiaries
- reliance on poorly regulated or supervised labour hire companies and recruiters
- short turnaround times on orders, or long payment times to suppliers
- failure to consider whether tenderers are offering a living wage
- inattention to freedom of association in supply-chain workforces.

You may also wish to consider making your Modern Slavery Policy in an accessible format – online, or in language for affected stakeholders.

Further resources

AHRI Good Practice Toolkit, pp. 8-9. Commonwealth Guidance. Signals of Seriousness.

1.4. Adopt a Modern Slavery Risk Management Plan

Discussion

Entities should consider adopting a Modern Slavery Risk Management Plan to operationalise the commitments made in their Modern Slavery Policy.

This Plan should assign responsibility for implementing aspects of the Policy across relevant business units or functions, with particular attention to those whose actions and decisions are most likely to increase or decrease modern slavery risks.

The Modern Slavery Risk Management Plan should be integrated with existing information and record-keeping systems, to facilitate collection of data on due diligence processes and their effects. You should ensure the creation of channels of communication, or use existing ones, between relevant senior management and implementing business units to share and document information on risk and decision-making.

As far as possible, this Plan should be integrated with your existing risk governance framework, for example those responding to the Internal Audit and Risk Management Policy for the General Government Sector (20-08), *Local Government Act 1993* (NSW) Part 4A Internal audit, or the Standards Australia international standard AS/NZS ISO 31000: Risk management, as applicable.

Hallmarks of Best Practice

- The entity's senior management adopts a Modern Slavery Risk Management Plan that ensures risks are prioritised based on their salience (i.e. their potential impacts on people, not by risk to the entity), and not by where the entity has leverage or what it considers easiest to address.
- The entity sets both high-level and operational targets that are:
 - Articulated in terms of the intended outcomes for affected stakeholders
 - Relevant to addressing the entity's salient modern slavery risks as well as specific, measurable, achievable and timebound
 - Developed with input from internal or external subject-matter experts and, wherever possible, from affected stakeholders and/or their legitimate representatives.
- The entity monitors and evaluates progress towards the targets based on a set of indicators that together:
 - Are used to evaluate progress towards the targets
 - Enable analysis of the reasons for progress or setbacks
 - Factor in feedback from affected stakeholders and/or their legitimate representatives.
- The entity discloses progress towards at least its high-level targets, including explanations of any setbacks and resulting changes in strategy.
- The entity's senior management ensures that entity leadership is accountable for addressing the entity's salient modern slavery issues, including through performance incentives where those are used for other aspects of performance.

Considerations

Your Modern Slavery Risk Management Plan should be developed through or in response to input from key stakeholders, as discussed in Reasonable Step 1.1. It should aim to:

- Ensure clear internal and external communication of your Modern Slavery Policy
- Make clear that your entity's modern slavery risk management approach is based on prioritising risks to people
- Establish high-level targets for addressing salient modern slavery risks and evaluating your entity's progress against those goals. Where possible these should be

- Specific, Measurable, Achievable, Realistic and Time-bound (SMART) goals (compare ISO 20400:2017 section 5.5), and
- articulated in terms of the intended outcomes for affected stakeholders.
- Establish clear monitoring and evaluation arrangements, and accountabilities. This could involve:
 - setting up a process to provide for regular engagement and feedback between relevant business units (such as Sourcing, Human Resources, and Legal), as well as with any entities you own or control. This could be the cross-functional group or committee you establish to develop your Modern Slavery Policy.
 - tracking the actions you have taken and measuring their impact. Data and reporting are discussed further in Part 6.
 - considering any trends in cases reported through grievance mechanisms and how these cases were handled
 - partnering with an industry group, external auditor, or trusted NGO to undertake an independent review of your actions
 - annual review by senior management of progress against the Modern Slavery Risk Management Plan.
- Ensure sufficient allocation of resources to enable effective risk management.
- Promote continuous improvement in capabilities and performance, including through allocation of resources for training and capability development.

The organisation should review its Modern Slavery Risk Management Plan periodically to ensure its effectiveness. The review should take into account potential changes, such as developments in legal and other requirements related to its Modern Slavery Policy, or updates to this Guidance or other aspects of the NSW Modern Slavery Shared Implementation Framework.

Further resources

BS 25700:2022, esp. sections 5 and 6. Commonwealth Guidance. ISO 20400:2017 sections 4.5.3, 5.5, 6. OECD Due Diligence Guidance, p. 23.

2 Plan

About this Part

This Part provides guidance on the reasonable steps that entities can take to plan effective modern slavery risk management, particularly in their procurement environment.

This may involve integrating inherent risk analysis into procurement planning, supply-chain mapping, sourcing strategy and early market engagement.

Data to collect and report

Reasonable Steps taken	Form of response	Response mandatory / optional
2 Plan		
<i>2.1 Identify and map your supply-chain risks for each procurement</i>		
What steps did your entity take to identify and map your modern slavery risks at the supply-chain level during this reporting period?	Describe steps taken	Mandatory
<i>2.2 Develop a risk-reducing sourcing strategy</i>		
What steps did your entity take to develop a modern slavery risk-reducing sourcing strategy during this reporting period?	Describe steps taken	Mandatory
In what percentage of procurement processes was modern slavery factored into your entity's sourcing strategy or other procurement planning activities during this reporting period?	Percentage	Optional

2.1 Identify and map your risks

Discussion

The steps that are reasonable to address modern slavery risks in any given procurement process depend on the salience of those risks, and your entity's capability level. (See *What level of diligence is due?*, above.) It is therefore critical to ensure that the modern slavery risks inherent in procuring a particular product, or in construction procurement, are understood and addressed from the beginning of that process. This requires integrating modern slavery risk analysis into your existing procurement processes and systems.

This occurs in two stages. In the first stage, addressed here, you should consider the *inherent* modern slavery risk associated with the particular product category or categories you are procuring – that is, with the particular procurement environment. The second stage, which involves considering the residual risk associated with particular suppliers, once their own risk management capabilities are factored in, occurs later in the procurement process – and is addressed in Part 3 Source.

Hallmarks of Best Practice

- The entity reviews the risks inherent in its procurement portfolio at least annually, drawing on best available evidence, international guidance and insights from relevant stakeholders.
- The entity maps its high-risk supply-chains to identify salient modern slavery risks and its own actual and potential leverage.

Considerations

In order to understand and manage the modern slavery risks inherent in a given procurement, you should refer to:

- The **GRS Inherent Risk Identification Tool (IRIT)** (discussed above in *GRS Inherent Modern Slavery Risk Levels*).
- Any relevant **Codes of Practice** adopted under section 27 of the *Modern Slavery Act 2018* (NSW) (and contained in the GRS Public Register, adopted under section 26 of the *Modern Slavery Act 2018* (NSW))
- Other relevant **sector-specific guidance**, notably from the OECD – see Figure 20 OECD sectoral guidance, below.

Figure 20 OECD sectoral guidance

Sector	OECD guidance	URL
General	OECD Due Diligence Guidance for Responsible Business Conduct	https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf
Garments and footwear	OECD Due Diligence Guidance for Responsible Supply Chains in the Garment & Footwear Sector	https://mneguidelines.oecd.org/responsible-supply-chains-textile-garment-sector.htm
Food and agriculture	OECD-FAO Guidance for Responsible Agricultural Supply Chains	https://mneguidelines.oecd.org/rbc-agriculture-supply-chains.htm
	OECD Business Handbook on Due Diligence in the Cocoa Sector	https://www.oecd.org/publications/business-handbook-on-due-diligence-in-the-cocoa-sector-79812d6f-en.htm
Mining and extractives	OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas	https://mneguidelines.oecd.org/child-labour-risks-in-the-minerals-supply-chain.htm . Interactive version: https://www.duediligenceguidance.org/
	OECD Practical actions for companies to identify and address the worst forms of child labour in mineral supply chains	https://mneguidelines.oecd.org/Practical-actions-for-worst-forms-of-child-labour-mining-sector.pdf
	OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector	https://mneguidelines.oecd.org/stakeholder-engagement-extractive-industries.htm
Finance	OECD Responsible Business Conduct for Institutional Investors	https://mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf
	OECD Due Diligence for Responsible Corporate Lending and Securities Underwriting	https://mneguidelines.oecd.org/final-master-due-diligence-for-responsible-corporate-lending-and-securities-underwriting.pdf
	OECD Responsible Business Conduct Due Diligence for Project and Asset Finance Transactions	https://www.oecd-ilibrary.org/deliver/952805e9-en.pdf?itemId=%2Fcontent%2Fpaper%2F952805e9-en&mimeType=pdf

Further resources

ISO 20400:2017 section 7.2.5. UK PPN 02/23. US DoL List. Verité Commodity Atlas. Responsible Sourcing Tool. Forced Labour Lab – Products and Forced Labour Lab – desk based due diligence.

2.2 Develop a risk-reducing sourcing strategy

Discussion

If your existing procurement practices are connected to modern slavery risks, the only way you can reduce those risks is either through active engagement with your suppliers to change the way they produce and distribute goods, or to find alternative suppliers. By integrating modern slavery risk considerations into your sourcing strategy, you can create incentives for both existing and new suppliers to supply products not made with modern slavery.

Hallmarks of Best Practice

- The entity conducts documented due diligence into the availability of same or functionally similar products to those associated with high modern slavery risk.
- Where there is no alternative, the entity demonstrates ongoing efforts to work with other stakeholders to address modern slavery risks in the supply-chain or to develop new sources of supply with lower modern slavery risk levels.

Considerations

Sourcing strategies are choices that should be understood by the entity’s senior governing body and senior management, and reflect the Modern Slavery Policy and Modern Slavery Risk Management Plan they have each signed off on.

Developing an effective sourcing strategy requires market analysis to understand how changes in your approach to modern slavery risk management interact with your entity’s buying power, a critical aspect of an entity’s leverage. Strategic approaches to modern slavery risk management may serve as powerful drivers of responsible business conduct, but to do so they need to be tailored to the realities of the market in which an entity is procuring. Given the right incentive structures, suppliers are likely to respond creatively.

Understanding these dynamics may require early market engagement: working with suppliers to understand the drivers of modern slavery inducing practices in your own entity’s business practices, or the practice of other stakeholders in the supply-chain. Early engagement with suppliers can also help you to identify new market opportunities – new technologies (such as worker voice apps, or blockchain technologies) that may enable new approaches to risk management, or even new business models.

Your sourcing strategy will also reflect your entity’s ambition and level of influence within the market, as reflected in the matrix in Figure 21.

Figure 21 What is your entity's position in the market?

Ambition	High	Select best in class	Market mover
	Low	Market taker	Market influencer
		Not significant	Significant
		Influence	

The matrix may help you understand what sustainability outcomes might be achieved from the supply market, depending on the buyer’s market influence and ambition.

- **Market mover:** For entities where significant influence exists combined with high ambition, it might be possible to move suppliers or even markets to a higher level of modern slavery risk management behaviour and set a new level of best practice.

- **Best in class:** Where ambition is high but influence over the supply market is low, it is likely that selecting the current level of best practice will achieve the most sustainable outcome.
- **Market influencer:** Where ambition is low and influence is significant, there is likely to be little appetite to promote market innovation. However, this influence can be used to encourage the supply chains to improve sustainability practices and outcomes within existing frameworks.
- **Market taker:** Where influence is low and ambition is also low, the appropriate strategy would be to adopt existing good practice offered by the market, while working to increase leverage within the market. This could involve collaboration with peer entities, for example within NSW Government clusters or through whole of government cooperation. Meanwhile, some suppliers could be attracted to the idea of developing modern slavery risk-reducing goods or services for a small customer, with a view to creating an additional competitive advantage with larger ones.

Adapted from ISO 20400:2017, pp. 27-28.

Early market engagement may be a key tool for developing effective sourcing strategies. Early engagement with suppliers, including SMEs and new market entrants, can provide valuable information to develop risk-reducing delivery models by testing and piloting new approaches, routes to market, and bid evaluation criteria.

There is no set process for market engagement. It can take many forms. It requires listening to the market and taking supplier feedback onboard. It is most effective where suppliers and buyers co-design new solutions to the specific modern slavery risks you have identified through your earlier risk assessment and mapping. As part of this process, you should engage as widely as possible with the market on modern slavery issues so that these can be considered, in advance of the procurement being formally launched.

Engaging with the market early will help you to ascertain what types of measures suppliers have already put in place to identify issues and manage risks. Reviewing Modern Slavery Statements published by suppliers in the sector, where available, will help identify baseline actions and risk mitigation measures across that industry. It is also possible to seek advice on identifying particular risks from trade unions and civil society organisations.

Figure 22 Good Practice Example: effective early market engagement on construction

The United Kingdom Crown Commercial Service (CCS) used the Discovery phase of an estates management procurement process to work with the market and customers. They sought to identify and agree the risks of modern slavery, how mature the market was in its approach to addressing the risks, and how this could be addressed effectively in the procurement.

The Discovery phase identified that the sector was well aware of the risk of modern slavery, but the practice in addressing it across the sector as a whole was variable. The first step would be to get universal acknowledgement of the risk, and set an expectation to manage that risk in the procurement framework. CCS reviewed industry practice and identified the *Chartered Institute of Building: Building a Fairer System Tackling Modern Slavery in Construction Supply Chains* as a commonly accepted set of principles and approaches to tackling modern slavery in the construction industry.

The resulting sourcing strategy set out CCS' expectations that suppliers would be required to work with CCS, to continuously improve performance post-award and deliver improvements across the sector. The final specification read in part:

The Supplier shall work with the Customer to deliver measurable benefits, as set out in their tender / continuous improvement plan in respect of the Social Value priorities identified by the Customer and, at least, the following:... Addressing the risk of Modern Slavery and exploitation in construction supply chains associated with the Service, in line with the principles set out in the *Chartered Institute of Building: Building a Fairer System Tackling Modern Slavery in Construction Supply Chains*. All employers involved in the construction industry should make proper background checks on the agencies who supply them with labour, including where the agency is operating in a supervisory role.

Adapted from UK PPN 02/23, pp. 13, 46-47.

Further resources

ISO 20400:2017. UK PPN 02/23.

3

Source

About this Part

This Part provides guidance on the reasonable steps that entities can take to find the right suppliers, go to market and contract in ways that ensure buyers are not sourcing products of modern slavery.

This may involve integrating modern slavery risks into prequalification, supplier evaluation and contracting processes.

Data to collect and report

Reasonable Steps taken	Form of response	Response mandatory / optional
3 Source		
<i>3.1 Select appropriate suppliers</i>		
What steps did your entity take to address modern slavery risks when selecting suppliers during this reporting period?	Describe steps taken	Mandatory
In what percentage of competitive procurement processes were the Model Tender Clauses used during this reporting period?	Percentage	Optional
<i>3.2 Adopt a shared responsibility approach to contracting</i>		
What steps did your entity take to adopt a shared responsibility approach to modern slavery risks in contracting during this reporting period?	Describe steps taken	Mandatory
In what percentage of competitive procurement processes were the Model Contract Clauses used during this reporting period?	Percentage	Optional

3.1 Select appropriate suppliers

Discussion

The first stage of integrating modern slavery risks into procurement processes and activities involves identifying and mapping your inherent modern slavery risks (see section 2.1), and developing a sourcing strategy to minimise them (see section 2.2). The second stage, discussed here, aims to minimise the 'residual risk' in your supply-chains, by selecting suppliers that are most capable of effectively managing modern slavery risks.

The easiest way to achieve this is to select suppliers that you evaluate as being able to adhere, now or in time, to this Guidance itself – and to hold these suppliers to that expectation, through effective contracting.

You can increase your chances of selecting capable suppliers by incorporating modern slavery risks and responses into prequalification arrangements and tender evaluation processes, using a variety of tools and methods including supplier codes of conduct, supplier self-assessment questionnaires (SSAQs), graduated procurement specifications and tender clauses.

Hallmarks of Best Practice

- The entity integrates modern slavery risks into supplier prequalification arrangements, procurement specifications and supplier evaluation processes.
- Adjustments to the prequalification and tendering process are stated in performance or functional terms and do not discriminate against SMEs or other particular types of suppliers, including those from countries with which Australia has trade agreements with procurement-related obligations.
- The entity undertakes effective due diligence to establish which suppliers are capable of effectively managing modern slavery risks, for example by identifying whether they have a Modern Slavery Policy or a Modern Slavery Risk Management Plan, which conform with this Guidance, in place.

Considerations

You should seek to test questions around how to integrate modern slavery risk into the sourcing process through early market engagement (see section 2.2). This will help ensure you are establishing a level playing-field and your approach is relevant and proportionate to the risk. You should also consult with internal stakeholders, to understand any potential impacts of your approach on their interests. Overly onerous supplier self assessment questionnaires (SSAQs) may, for example, risk significantly reducing the pool of suppliers seeking to do business with you, with pricing and value for money implications.

One option is to incorporate modern slavery risk management criteria into **pre-qualification schemes**. The simplest way to do this may be to require interested suppliers to commit to a basic code of conduct, committing to take reasonable steps not to buy or use products of modern slavery. See further Figure 23 below.

NSW scheme owners and panel managers may need to consider how to integrate modern slavery risk management considerations into these arrangements. This should commence with those schemes that operate in supply-chains involving products, components and services that are high modern slavery risk (which can be ascertained through the IRIT). This is likely to include: ICT, motor vehicles, electric vehicle fleet charging and certain construction-related schemes. The Anti-slavery Commissioner stands ready to assist such efforts.

Nothing in this Guidance requires any entity to discriminate against any supplier due to its degree of foreign affiliation or ownership, location, or the origin of its goods and services.

Figure 23 The NSW Supplier Code of Conduct and modern slavery

The NSW Supplier Code of Conduct contains language that makes clear NSW Government buyers' expectation that suppliers will "make all reasonable efforts to ensure that businesses within their supply chain are not engaged in, or complicit with, human rights abuses, such as forced or child labour".

Using a power under the *Modern Slavery Act 2018* (NSW), the NSW Anti-slavery Commissioner has recommended in early December 2023 to the NSW Procurement Board that this language be amended to clarify expectations on suppliers in relation to modern slavery (and not only forced or child labour) and ensure that these expectations align with this Guidance. The proposed amended provision would read:

4.6 Modern slavery, labour and human rights

Suppliers must take all reasonable steps to ensure that businesses within their supply-chains are not supplying products of modern slavery.

We expect our suppliers to provide a fair and ethical workplace free from workplace bullying, harassment, victimisation and abuse.

We expect our suppliers to ensure that businesses within their supply chain are not engaged in, or complicit with other human rights abuses.

The revised language makes clear that expectations on suppliers align with this Guidance, cover all forms of modern slavery (not only forced or child labour) and extend to 'direct linkage' situations as covered by Australia's commitment to the UN Guiding Principles on Business and Human Rights (situations where the modern slavery arises in the context of a supplier supplying goods to another buyer).

When including modern slavery criteria in a procurement specification, you should take care that the criteria:

- reflect the priorities defined in the sourcing strategy, e.g. by including key requirements in the minimum criteria
- are objective and verifiable
- are clearly defined without any risk of bias or collusion
- are transparently and effectively communicated to potential suppliers
- allow for fair competition and, in doing so, ensure that particular attention is paid to SMEs and the development of their capacity to respond to such criteria
- abide by Australia's commitments under the *WTO Agreement on Government Procurement*. Your entity may be subject to enforceable procurement provisions of this or other international agreements. (See [PBD 2019-05 Enforceable procurement provisions](#))
- identify how far down the supply chain it is necessary to go for effective supplier evaluation.

Procurement specifications can be:

- **minimum**, when they establish minimum levels of acceptable performance, actively excluding undesirable features.
 - One way to do this is to establish certain objective criteria – such as the adoption of a Modern Slavery Policy that conforms with this Guidance – as a Yes/No or Go/No-Go criterion.
 - Another option is to require suppliers to pre-commit to a Code of Conduct. (See further Figure 23 above.)
 - A third option is to require suppliers to adhere to specific labour or recruitment standards. *Appendix O Migrant Worker Standard* provides a template standard that can be used for procurements in supply-chains with high numbers of vulnerable migrant workers. However, you should take care when referring to technical standards not to unfairly preference a particular certification scheme without allowing for suppliers that adhere to equivalent standards. ISO and relevant national standards organisation standards addressing conformity assessment may be particularly useful, including BS 25700:2022, ISO 20400:2017 and ISO 31000:2018.

- **optional**, when they define preferred modern slavery risk management solutions. In this case, they should be related to an evaluation criterion that is used to reward performance exceeding the minimum standards, and possibly to a KPI that should be managed during the contract.

Entities can use additional techniques such as variants in order to encourage suppliers to propose better alternative solutions. The earlier market analysis should inform the decision about what aspects of modern slavery risk management capabilities should be minimum and what should be optional. For instance, the degree to which suppliers can meet expectations created by this Guidance (for example through adoption of the Model Contract Clauses) might not always be known when writing the tender, or the market analysis might have revealed a significant divergence amongst suppliers in their modern slavery risk management capabilities. In that case, the risk of restraining competition and excluding capable suppliers should be avoided. For example, you may weight the evaluation of modern slavery risk criteria in such a way that it is not determinative of the selection outcome. In that case, if a supplier is selected that shows signs of limited capability to manage modern slavery risks, the tendering process can be constructed to allow for training of the supplier, and remediation or ‘alignment’ of modern slavery risk management deficiencies, *prior* to contracting. Figure 25, below, provides a real-life example of how this can work in practice.

Supplier evaluation inevitably involves **supplier due diligence** to identify the residual risks associated with particular suppliers. A key question for buyers is how far down the supplier’s supply-chain they propose to look in order to understand modern slavery risks. Since modern slavery at any tier of the supply-chain makes downstream goods and services a “product of modern slavery” (see *Foundational concepts*), you may need to consider salient modern slavery risks at any tier of the supply-chain. In practice, however, you can reasonably focus your limited resources on those tiers that your earlier Salient Modern Slavery Risk Assessment and subsequent supplier due diligences processes identified as the most likely source(s) of modern slavery risks. For example, in a procurement of uniforms, you may want to require information on where the cotton was sourced. In contrast, in procuring cleaning services, you may focus on the way in which janitorial and cleaning workers are hired and managed here in New South Wales, rather than on the original source of all the chemicals used in cleaning products.

Supplier self-assessment questionnaires (SSAQ) are a popular tool for gathering information about suppliers’ approaches to managing modern slavery risks. However, you should be cautious not to over-burden suppliers, especially SMEs and Aboriginal and Torres Strait Islander entities. This risks deterring bidders, weakening competition and reducing value for money. There are consequently clear benefits to buyer collaboration to streamline the process for suppliers providing such information, as Figure 24 shows. While there is no centralised public SSAQ system for gathering modern slavery related information in New South Wales, the Anti-slavery Commissioner will explore possibilities for developing such a system, potentially for integration with Buy.NSW’s Supplier Hub. Covered entities are encouraged to explore ways to collaborate on such solutions, for example through cooperation within NSW Government clusters, or through collaboration amongst local councils. In the meantime, covered entities may wish to refer to the list of SSAQ resources contained in the ‘Further resources’ at the end of this section.

Figure 24 Good Practice Example: collaboration on a sectoral SSAQ platform

The Property Council of Australia, in collaboration with property companies, Informed 365 and industry experts including Better Sydney, has developed a common platform for suppliers to input information about the actions they are taking to identify and address modern slavery risks. Suppliers complete a single questionnaire that is accessible through an online dashboard, enabling Property Council members to collect, compare and share data. This industry collaboration facilitates greater efficiency for suppliers and reduces their administrative burden to report. The platform is free for suppliers and the number of questions they must respond to is driven by the size of organisation and assessed potential of their risk of posing harm to people. The platform is designed to be a learning experience that includes information about topics such as grievance mechanisms. It may also encourage information exchange among buyers to share lessons learned in working with specific suppliers and the veracity and transparency of the information received. The suppliers can choose to share their responses with all the current platform partners or just with specific buyers. The platform also provides suppliers with a Continuous Improvement Pathway setting out areas for improvement over time and providing them with relevant resources.

Source: AHRI Good Practice Toolkit, p. 21.

Figure 25 Good Practice Example: supplier selection involving pre-contractual capability alignment

Research commissioned by the Office of the NSW Anti-slavery Commissioner during the development of this Guidance identified several examples of creative modern slavery risk management arrangements in supplier selection processes. This case study involves a large energy operator listed on the ASX.

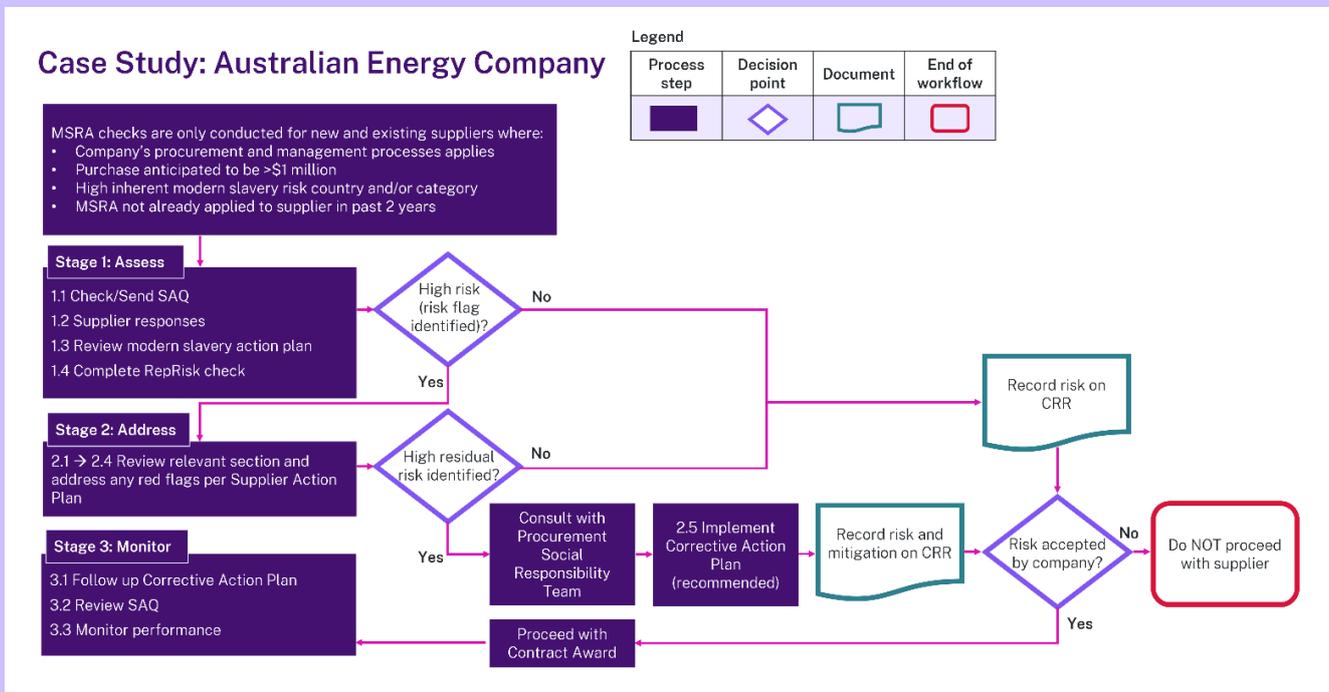
The company uses a graduated Modern Slavery Risk Assessment (MSRA) approach to conduct tailored due diligence checks based on indicators of high inherent modern slavery risk associated with specific suppliers.

In Stage 1, the company uses a supplier self-assessment questionnaire and a commercial risk tool to identify residual modern slavery risks associated with specific suppliers. In certain cases, where a supplier is selected, that risk is incorporated into the buyer’s risk register.

In Stage 2, the company uses the risk assessment (a rating) arrived at in Stage 1 to frame its sourcing approach. The company’s modern slavery subject-matter expert works with the supplier relationship manager to develop a ‘corrective action plan’ outlining modern slavery ‘risk management controls’ that must be put in place in order for the contract to proceed, and then met during contractual performance. The corrective action plan and associated outcomes are recorded in the company’s risk register. Controls that are not met or that the supplier is unwilling to meet are flagged as a residual risk. If this risk is accepted by the company, the supplier will proceed to be awarded the contract. If not, the company will not proceed to contract with the supplier.

Stage 3 involves ongoing supplier management. Residual risks recorded in the company’s risk register are reviewed and supplier performance outlined in the corrective action plan is monitored by the contract owner.

One lesson the company has identified is that the existing approach to risk analysis, including the commercial risk tool on which they are relying, may be creating false positives. This is because the tool analyses modern slavery risks at the country and product level only, and cannot penetrate to specific suppliers or worksites in the supply-chain. The result is that the process has identified a large number of high risk suppliers which the company has not had the resources to fully manage. This suggests there may be a need for bespoke due diligence to improve the resolution of risk pictures.



Source: research commissioned for the development of this Guidance.

Evaluation procedures involve activities such as the review of documentation, testing, inspections, audits, certification, management systems, assessment, sustainability claims, labels and declarations or a combination of them. These activities can be carried out by the supplier or its representative (first-party), the purchasing organization or an external body on its behalf (second-party) or an independent external body or organization (third-party). When defining the evaluation procedure for each requirement, the organization should establish what activities should be carried out and by whom.

When choosing an evaluation procedure, you should balance cost in connection with the desired level of assurance. Cost can differ between evaluation procedures. You should also consider who bears the cost, taking into account the context of the supplier (e.g. size, location). And you should consider the level of assurance offered by each type of evaluation procedure, including whether the technical infrastructure involved in the evaluation procedure is competent and complies with relevant applicable standards and guides. When an external body is used, you should consider whether it is operating in accordance with relevant standards (e.g. ISO/IEC 17020, ISO/IEC 17021, ISO/IEC 17025, ISO/IEC 17024 and ISO/IEC 17065.) Accreditation is a means of assessing, in the public interest, the technical competence and integrity of organizations offering evaluation services.

You should also consider any **abnormally low tenders**. You should ensure that bidders are proposing a price that ensures all workers will receive their full wages and entitlements, including overtime and other allowances. If the explanation gives rise to concerns on modern slavery, this should be investigated further with the bidder. Finally, you should consider how your **tender documents** establish the basis for effective evaluation and selection. Figure 26 introduces the GRS Model Tender Clauses which are contained in *Appendix I GRS Model Tender Clauses*. Figure 27 provides an example of good practice attention to modern slavery risks in a public tender process.

Figure 26 Model Tender Clauses for different GRS Due Diligence Levels

The GRS Model Tender Clauses set out in *Appendix I GRS Model Tender Clauses* are intended as a resource for NSW public entities. They comprise two different versions of tender clauses and accompanying schedules, and should be used in tandem with this Guidance and the Model Contract Clauses discussed below.

The *Heightened* version is intended for use in Heightened MSDD procurements. For these procurements, modern slavery weighted evaluation criteria are recommended to 1) encourage Tenderers to provide more extensive responses to the tender schedule to allow the Buyer to undertake more extensive due diligence on the Tenderers and 2) allow Buyers to factor the Tenderer's modern slavery response into the overall weighted score of the Tenderer, and into contracting. In this approach, Buyers should:

- assess and score the quality of the responses of the modern slavery tender schedule, as they would do for any other weighted evaluation criteria in accordance with the tender documents and tender evaluation guide
- refer to the Guidance to inform their assessment of tenderer's responses
- establish an effective scoring approach to suit the procurement and allow clear differentiation between tenderers' responses to the modern slavery criteria. The GRS Model Tender Clauses set out a 5-band scoring regime. The scoring methodology of the modern slavery evaluation criteria must be consistent with the evaluation process set out in the tender documents.

The *Streamlined* version is intended for use in Light, Minimal and Standard MSDD procurements. For these procurements, a pass/fail tender modern slavery tender schedule is recommended that 1) allows Buyers discretion to consider whether the response is satisfactory and the outcome where a satisfactory response is not achieved and 2) still encourages Tenderers to provide modern slavery information, without burdening them with a lengthy supplier self-assessment questionnaire.

Where a supplier completes the schedule to the buyer's satisfaction, the Model Tender Clauses recommend contracting using the Model Contract Clauses. Where the supplier does not complete the schedule to the buyer's satisfaction, the Model Tender Clauses allow for the buyer to gather more information or, importantly, engage with the supplier to undertake training or institute other modern slavery risk controls.

The GRS Model Tender Clauses, including the evaluation clause, are intended to supplement the existing clauses in the relevant tender documents, and where used, should be adjusted for consistency with the tender documents in which the clauses are inserted.

Figure 27 Good Practice Example: Incorporating audit of labour conditions into tender evaluation

The UK Government Buying Standard for Food and Catering requires, as a mandatory specification, that at least 50% of tea and coffee is fairly traded. At best practice level it requires that all tea, coffee, cocoa and bananas are certified as fairly traded. This is supported by an award question in the Balanced Score-Card for Food.

Award question

Please describe how your organisation is working to improve labour conditions and other ethical aspects of its direct and indirect (supply chain) operations which will supply food for this contract.

Relevant factors:

- Where food is sourced from states that have not ratified the International Labour Organization Declaration on Fundamental Principles and Rights at Work (1998), or are not covered by the OECD Guidelines for Multinational Enterprises, the supplier of catering and food services shall carry out due diligence against ILO Declaration on Fundamental Principles and Rights at Work (1998)
- Risk based audits have been conducted against social/ethical supply chain standards e.g. SA8000 compliance, audit evidence for Ethical Trade Initiative (ETI) Base Code compliance, or equivalent. Working with suppliers to improve conditions through pro-active, direct engagement programmes
- Membership & use of ethical & responsible trading information exchange services e.g. SEDEX
- Dairy products meet the Voluntary Code of Practice on Best Practice on Contractual Relationships
- Measures are taken to ensure fair dealing with farmers through, for example, the guidance contained in the Groceries Supply Code of Practice
- 100% of tea and coffee procured is produced in accordance with fair trade standards.
- Procurement of produce other than tea & coffee e.g. bananas, cocoa is in accordance with fair trade standards.

Award criteria

- [Excellent]/[100]: The applicant's approach to improving labour conditions and other ethical aspects of its direct and indirect (supply chain) operations which will supply food for this contract includes all of the suggested best practice measures that are applicable to its operations.
- [Very Good]/[75]: The applicant's approach to improving labour conditions and other ethical aspects of its direct and indirect (supply chain) operations which will supply food for this contract includes at least 2/3 of the suggested best practice measures that are applicable to its operations.
- [Good]/[50]: The applicant's approach to improving labour conditions and other ethical aspects of its direct and indirect (supply chain) operations which will supply food for this contract includes at least 1/3 of the suggested best practice measures that are applicable to its operations.
- [Satisfactory]/[25]: The applicant's approach to improving labour conditions and other ethical aspects of its direct and indirect (supply chain) operations which will supply food for this contract includes less than 1/3 but more than [-] of the suggested best practice measures that are applicable to its operations.
- [Unsatisfactory]/[0]: The applicant's approach to improving labour conditions and other ethical aspects of its direct and indirect (supply chain) operations which will supply food for this contract includes less than [-] of the suggested best practice measures that are applicable to its operations.

Contract Management

Periodical review with contracting authority in accordance with contractual rights and remedial action, if necessary, in accordance with the contract. The contract may provide for termination of the contract if all other remedial steps fail.

Further resources

BS 25700:2022. ISO 20400:2017 at sections 7.3-7.4. AHRI Good Practice Toolkit. CDC Good Practice Note. Forced Labour Lab – Ethical Procurement Guide.

On SSAQs: refer to CDC Good Practice Note pp. 63-64; the SAQ provided by the Australian Government in its Modern Slavery Procurement Toolkit, And the UK Cabinet Office Modern Slavery Assessment Tool at <https://supplierregistration.cabinetoffice.gov.uk/msat>.

3.2 Adopt a shared responsibility approach in contracting

Discussion

Mere adoption of Modern Slavery Policies and Risk Management Plans will mean little if buyers do not hold suppliers to account for those commitments. Contracting is a central mechanism for achieving this. This requires moving away from the typical strict liability regime of representations and warranties, in which the supplier ‘warrants’ or guarantees that certain representations – such as the absence of modern slavery from the supply-chain – are true and correct. The effect of such contracting approaches is typically a ceremonial ‘derisking’ by the buyer, purporting to push risk onto the supplier. Yet representations and warranties are questionable in these contexts, encouraging the parties to turn a blind eye to reality while taking on theoretical strict liability. This often produces a ‘tickbox’ or ‘checkbox’ approach to supply-chain management, in which buyers require a laundry list of representations of compliance from their suppliers. Suppliers mechanistically provide them by checking the boxes, and everyone goes home happy (if perhaps resentful of having wasted time filling out forms).

This approach achieves little – it is not effective in preventing, mitigating and remediating actual modern slavery risks, because it encourages everyone to pretend they are not there. Neither suppliers nor buyers have any real incentive to raise modern slavery risks or harms as a contractual issue, when they do appear, because the contracting framework offers no real remedy – just a path to termination. The regime of representations and warranties, with their accompanying strict liability – if they are not true, there is a breach – is unrealistic and ineffective. And it serves to make it harder for the parties to openly and pragmatically discuss problems in their workforces and work processes – so much so that this may in some contexts *contribute* to modern slavery risks.

Since there are alternative approaches now available, **continued reliance on the representation and warranty approach is no longer a reasonable step**. The central alternative is a performance-based contracting approach that recognises the buyer and supplier’s *shared responsibility* for managing modern slavery risks, through ongoing due diligence and remediation. This regime is considerably more pragmatic. Human rights due diligence is a more realistic process that assumes parties will need to set priorities, addressing the most pressing issues first, without a fictional representation that everything is perfect.

This new approach has been developed over the last decade by legal actors closely involved in the development of the UN Guiding Principles on Business and Human Rights, then nurtured through an American Bar Association and a spin-off project, now known as the Responsible Contracting Project. It shifts contracting from a demand that the supplier make a number of representations and warranties that both parties know are likely to be false or unachievable, to a contractual expectation that all parties in the supply-chain will be duly diligent about modern slavery impacts. This is not simply aspiration: the parties are contractually obliged to take reasonable steps to achieve this goal. But failure of perfect compliance no longer attracts strict liability: instead, this framework provides for collaboration between the parties to cure the deficiency and remedy the harm.

Although much Australian contracting law rests on warranties, due diligence is by no means unknown in the common law. Notions of good faith efforts or best efforts are frequent in contracts for sale of goods. And due diligence is a constant in corporate legal practice. Yet modern slavery due diligence is not simply a question of assessing risk to the business and assuring legal compliance. Instead, it requires ongoing consideration of stakeholders’ interests that may differ from – or even run counter to – those of the contracting parties. For this reason, the ‘shared responsibility’ approach to contracting stresses remediation of human rights harms over traditional contractual remedies, such as money damages. Remediation is also not treated as the sole responsibility of the supplier, but a shared responsibility – with the buyer being obliged to participate if it has caused or contributed to the problem. Only in extreme cases is immediate termination contemplated.

Adapted from ABA, [Balancing Buyer and Supplier Responsibilities: Model Contract Clauses to Protect Workers in International Supply Chains, Version 2.0](#)

Hallmarks of Best Practice

- The entity adopts a performance-based approach to contracting suppliers that allows for both parties to work together to prevent and mitigate modern slavery risks, and remedy modern slavery harms.

Consideration

The NSW Anti-slavery Commissioner has worked with the Responsible Contracting Project (RCP) and their pro bono counsel, Allens, to translate the shared responsibility approach into the New South Wales public procurement environment. The result is reflected in *Appendix J GRS Model Contract Clauses*. By translating the due diligence obligations to which the Australian government has committed under the UN Guiding Principles on Business and Human Rights and the OECD Guidelines, these **GRS Model Contract Clauses** (MCCs) provide a foundation for buyer-supplier collaboration to address modern slavery risks, and facilitate monitoring and evaluation of the effectiveness of modern slavery risk management efforts at the contract, entity and system level.

As with the GRS Model Tender Clauses, there are two versions of the GRS Model Contracts Clauses:

- A *Heightened* version for use in Heightened Due Diligence procurement contexts, and
- A *Streamlined* version for use Light, Minimal and Standard Due Diligence procurement contexts.

The two versions run in parallel:

- MCC 1.1 provides definitions. They align with *Appendix A Glossary*.
- MCC 1.2 contains Core Obligations. Both parties commit not to engage in modern slavery, and to take steps that are reasonable in the circumstances to prevent, identify, mitigate and remedy modern slavery.
- MCC 1.3 concerns Price. Each party agrees that the contracted price supports each party to comply with its Core Obligations – that is, not to engage in modern slavery, and to take reasonable steps to prevent, mitigate and remedy modern slavery.
- MCC 1.4 commits each party to establish, implement and maintain appropriate systems and policies as required to meet its Core Obligations. The effect of this provision is to commit both parties to conform with the Modern Slavery Policy and Modern Slavery Risk Management Plan obligations in Part 1 Commit, or equivalent.
- MCC 1.5 addresses implementation. For the *Streamlined* version, this simply commits the Supplier to notify the Buyer of modern slavery instances and actions taken to remedy it. For the *Heightened* version, however, this sub-clause sets out obligations relating to management of modern slavery harms, training, notification and grievance related matters. It also commits both parties not to require workers to pay recruitment fees, not to withhold identification documents, and to ensure worker accommodation is adequate. This provides a framework for collaboration to give effect to the anti-slavery commitments in the contract.
- MCC 1.6 commits parties to provide reasonable assistance to meet their anti-slavery obligations.
- MCC 1.7 deals with disclosure.
- MCC 1.8 deals with material breach and termination. The *Streamlined* version commits the parties to consult with relevant stakeholders to prevent or mitigate modern slavery risks that could arise from exercising termination rights. The *Heightened* version, in contrast, commits the parties to respond to a material breach by developing a Remediation Plan.
- MCC 1.9 explains how such Remediation Plans work.

Further resources

Responsible Contracting Project, [Responsible Contracting Toolkit](#).

American Bar Association, [Contractual Clauses Project](#).

ISO 20400:2017 section 7.5.1.

4

Manage

About this Part

This Part provides guidance on the reasonable steps that entities can take to build effective relationships with suppliers so that buyers and suppliers together excel in managing modern slavery risks, while meeting obligations.

These steps may include monitoring and assessment of supplier performance against modern slavery expectations, as well as developing supplier capabilities.

Data to collect and report

Reasonable Steps taken	Form of response	Response mandatory / optional
4 Manage		
<i>4.1 Monitor and evaluate supplier performance</i>		
What steps did your entity take to monitor and evaluate supplier performance relating to modern slavery, during this reporting period?	Describe steps taken	Mandatory
Has your entity required any of your Tier 1 suppliers to undergo an audit addressing modern slavery risks in this reporting period?	Yes / No	Mandatory
What percentage of your Tier 1 suppliers underwent an audit addressing modern slavery in this reporting period?	Percentage	Optional
During the reporting period, what percentage of your Tier 1 suppliers' workforce were surveyed about their working conditions?	Percentage	Optional
What percentage of your Tier 1 suppliers' workforce are temporary migrant workers?	Percentage	Optional
What percentage of workers engaged by your Tier 1 suppliers in the last reporting period paid or incurred a fee to secure their engagement?	Percentage	Optional
<i>4.2 Develop supplier capabilities</i>		
What steps did your entity take to develop supplier capabilities relating to modern slavery risks during this reporting period?	Describe steps taken	Mandatory
What percentage of your entity's Tier 1 suppliers reported that they had participated in modern slavery training during this reporting period?	Percentage	Optional

4.1 Monitor and evaluate supplier performance

Discussion

This section sets out how you can tackle modern slavery risks in contracts you award to suppliers, including those adopted based on framework agreements, schemes, standing offers or templates.

If the risk is not caused by your entity then the type of action you take will also depend on your 'leverage' with the other entities involved, including any scheme owner or contract manager. (See *Three forms of connection: causation, contribution and direct linkage*)

Note that under the prevailing international and Australian expectations, set out in the UN Guiding Principles on Business and Human Rights, and relevant OECD Due Diligence Guidelines and Guidance, if you lack leverage to address modern slavery risks, you are expected to consider ways to increase your leverage, including by collaborating with other entities.

Your allocation of limited time and resources for managing the modern slavery risks in your diverse procurement and operational activities should be guided above all by risks to people. You should focus your efforts on those areas where the modern slavery risks are greatest to people.

Working in collaboration with suppliers even when they are mid-contract is key. Remember at all times that the risk of insufficient or ineffective action is not merely reputational, it is also human – it falls on real people who are victimised by modern slavery.

Ongoing performance monitoring is essential for the duration of the contract to ensure that the supplier continues to deliver in accordance with modern slavery expectations, and to underpin your active engagement to manage emerging modern slavery risks.

Figure 28 How does this Guidance apply to contracts that pre-date 1 January 2024?

This Guidance is considered operative from 1 January 2024.

There is no *general* expectation that contracts or agreements pre-dating this Guidance will be re-negotiated. However, covered entities are nonetheless expected to take reasonable steps to manage modern slavery risks within those business relationships, including where contracts remain on foot – see Part 4.

This could involve:

- **risk assessment.** Part 6 discusses the expectation of reporting Heightened modern slavery due diligence (MSDD) procurements to the Anti-slavery Commissioner. Some entities that report after 1 July 2024 may additionally need to identify the Modern Slavery Due Diligence level associated with procurement activities between 1 July 2023 and 31 December 2023. See further Implementation timeline, above.
- **contract management**, using existing forms of leverage, such as contractual obligations to abide by workplace health and safety standards (locked accommodation, excessive working hours, abusive behaviour). Some procurement contracts or agreements may already include references to ISO 45001 Occupational Health and Safety Management Systems, ISO 26000 Social Responsibility, or ISO 20400 Sustainable Procurement
- **supplier capability development;**
- review and improvement of **grievance mechanisms** and remediation arrangements;
- **reporting.** Covered entities will be expected to report at the end of the current reporting cycle on all contracts and agreements ongoing during the reporting period, even if they came into effect before 1 January 2024. See also the note above, under 'risk assessment'.

Exceptionally, where modern slavery risks in an ongoing operational activity or procurement are especially high, the Guidance calls not only for use of leverage but also for developing leverage to address modern slavery risks, where an entity lacks leverage. In some cases, especially where there is a salient risk of ongoing modern slavery, this could mean that entities do need to consider exploring contractual adjustments, in order to develop this leverage.

Hallmarks of Best Practice

- The entity's main activities to prevent or mitigate modern slavery risks:
 - Are focused on outcomes for affected stakeholders
 - Directly relate to the entity's salient modern slavery risks and are proportionate to them
 - Directly engage those parts of the entity whose actions or omissions can influence outcomes for affected stakeholders
 - Include steps to address any contribution of the entity's own activities to its salient risks.
- The entity monitors and evaluates progress towards its modern slavery targets based on a set of indicators that together:
 - Are used to evaluate progress towards the targets
 - Enable analysis of the reasons for progress or setbacks
 - Factor in feedback from affected stakeholders and/or their legitimate representatives.

Considerations

Effective modern slavery prevention and remediation is likely to require a long-term vision and relationship building. That vision has a better chance of success if it is shared by a supplier that considers the buyer to be a preferred customer.

Positive, proactive and collaborative engagement with your suppliers will encourage transparency and are critical to incentivise suppliers to flag issues as they arise and for you to work effectively with your suppliers to address them. You should however consider the impact of any contract management approach, in terms of time and resources, on suppliers of all types and sizes; SMEs will have less time and resources to spend on supporting contract management activities so the overall approach should be proportionate.

Effective supplier engagement can take a variety of forms. What has become clear over the last decade, however, is that what underpins all effective engagement to mitigate modern slavery risks is an evidence-based approach to performance monitoring and evaluation. This ensures that buyers and suppliers have a common frame of reference for discussions about management of modern slavery risks, and an objective basis on which to allocate limited contract management resources.

Audits and other ongoing supplier and worksite assessments and evaluations will be critical to effective ongoing due diligence. It is good practice for organizations to carry out periodic audits of suppliers throughout the life of the contract, especially for important and complex contracts, to verify that sustainability claims and work practices meet stated requirements. Audits are useful for focusing on particular issues such as modern slavery risks, and help to create awareness of expected standards of performance.

Audits and assessments can address supplier performance against all areas of this Guidance, through both desk-based review (e.g. of organisational systems and policies, human resource files, pay records) and in-person interviews and site visits. They should, where safely possible, include an opportunity for affected stakeholders to be heard. They should be conducted against existing knowledge of modern slavery risks and conform to your entity's Modern Slavery Policy and Risk Management Plan, if applicable.

You may wish to incentivise cooperation with audits and assessments by allowing for suppliers with outstanding performance to be recognised. Recognition could involve facilitating their access to business development opportunities, and possibly awards or similar initiatives, in order to reward and promote efforts towards continual improvement.

At the same time, it is important to understand the limits of auditing in the modern slavery context. Modern slavery is often actively hidden from auditors. Traditional audits often face time constraints, may only offer a snapshot of workplace conditions, and can be manipulated. Vulnerable workers are unlikely to report concerns to a stranger for fear of subsequent retribution or retaliation, whether against themselves or family members, some of whom may be overseas. They are more likely to report through trusted intermediaries, including unions and other workers and

community organisations; or through effective and trusted ‘worker voice’ platforms. (See further Figure 32, below.)

Where a site visit is carried out as part of routine due diligence and monitoring, it may be sufficient for a staff member to do this. However, where there are serious allegations or reports of modern slavery identified through pre-screening or other mechanisms, this should trigger a more focused assessment, usually carried out by expert assessors. Industry groups such as the Responsible Business Alliance offer the Supplemental Validated Audit Process – a specialised assessment programme aiming to identify forced labour risks, carried out by expert trained auditors. The Office of the NSW Anti-slavery Commissioner may also be able to assist, or to facilitate access to relevant experts.

In some cases, modern slavery arises not only out of conduct at worksites but also other aspects of the recruitment and worker management process. It may occur at recruitment sites, including offshore; at worker accommodation sites; in an employer or labour hire firm’s headquarters (for example through inappropriate or excessive salary deductions, or overcharging); and during transport to and from worksites. For this reason, audits should not be limited to consideration of treatment in the workplace, but should aim to form a more complete view of the treatment of workforces.

Figure 29 provides some considerations when organising audits and workplace assessments. *Appendix N Speaking with victims of modern slavery* provides basic guidance on speaking directly with victims of modern slavery.

Figure 29 Factors to consider when organising audits and workplace assessments

Factor	Considerations
Contracts and agreements	Ensure that you have the right to conduct suitable workplace assessments, and access to relevant personnel and materials. Where possible, ensure contractual rights allow access to relevant third parties, for example by requiring cascading of these access requirements through sub-contracting. This is allowed for under the GRS Model Contract Clauses provided in <i>Appendix J GRS Model Contract Clauses</i> .
Assessor capabilities and profile	Select assessors trained and certified to suitable standards. They must be independent of the supplier. They should be familiar with local law, its enforcement and workforce vulnerabilities, as well as international standards, and good modern slavery due diligence practice, and have suitable language skills. It is often suitable for assessors to work in teams to ensure gender and other diversity, which can affect the willingness of workers and other personnel to share sensitive information. The inclusion of local consultants, civil society, worker and community organisations may help ensure audits and assessments are effective in accurately identifying risks. Where there is an expectation of direct engagement with vulnerable workers, it may be appropriate to ensure the audit and assessment team includes interviewers and assessors trained in trauma-informed and shame-sensitive interview techniques.
Risk assessment	Audits and workplace assessments should respond to initial risk assessments identifying potential modern slavery risks in a particular supply-chain, worksite, geography or context. Some worksites or suppliers may not require this level of due diligence; self-assessment and self-reporting may be adequate. Conversely, risk assessment should inform audit and assessment planning, for example by dictating language skills in the assessment team, or the inclusion of trauma-informed interviewers.
Safeguarding arrangements	The process of audit or assessment should not increase the risks to people. You should consider whether the audit or assessment could expose personnel and stakeholders engaged to risks of retaliation or retribution, or to persecution or prosecution. Where that is a real risk, you should examine

Factor	Considerations
	whether the auditor or assessor provides adequate safeguards, to prevent and mitigate these risks, and consider whether alternative approaches to performance monitoring may be required. Interviews, audits and workplace assessments should never compromise the ability of law enforcement and regulators to conduct further investigation if criminal abuse and exploitation is suspected. To assess this, you should consider the safeguards integrated into the auditors' or assessors' interview guides and protocols, privacy and confidentiality safeguards, and data protection arrangements.
Covering the employment journey	Audits and assessments should not be limited to treatment in the workplace, but should address the full employment journey of the worker. This must, specifically, include recruitment and accommodation. Figure 30 below offers some examples of the kinds of questions that auditors and assessors can productively ask workers during assessments.
Analytical methods	You should consider the analytical methods employed by the auditor or assessor, including: <ul style="list-style-type: none"> • Interview techniques and protocols • Sampling techniques. Does the auditor or assessor engage with a representative sample of the workforce and its components, especially of vulnerable workers within it? • Triangulation techniques. What information does the auditor or assessor use to test, corroborate, triangulate or validate findings from workforce engagement?
Integrity	You should consider the overall integrity of the proposed audit or assessment process. How susceptible is the process to being manipulated or gamed? Does it, for example, only conduct interviews or site visits with notice, or also unannounced? Unannounced assessments are more likely to identify poor labour conditions and employment practices than assessments that are announced with dates agreed in advance. However, unannounced assessments can damage relationships between the commissioning party and the worksite. To effectively manage this and ensure that assessments proceed with the buy-in of site management, the terms of the proposed assessment must be clearly established in any existing contractual agreements, and cascaded through their contracts with any suppliers, subcontractors or other third parties.

Figure 30 Sample questions to ask workers during audits

Topic	Sample questions
Recruitment	<ul style="list-style-type: none"> • What agencies/employers do you work for? • How did you find out about the work? • Were you promised a job? • How was the job described to you? • Was the job described how it turned out to be – e.g. pay rate, number of hours? • Did you have to pay a fee for the job? • What have you paid to get this job? • Are you currently in possession of your passport and other identity documents?

Topic	Sample questions
Pay	<ul style="list-style-type: none"> • Do you owe anyone any money? If so to whom, how much and how do you make repayments? • Does anyone owe you any money? • How much were you paid last week? How many hours had you worked? Was the pay correct? • Have you been withheld pay for work you have performed? • Have you had any money unfairly deducted from your wages? • Are you free to open and be paid into the bank account of your choice? • Does anyone else use your bank account?
Entitlements	<ul style="list-style-type: none"> • Have you been prevented from joining a trade union or been penalised for doing so? • Have you taken any sick leave? Were you paid while on leave? • What training were you provided with? How much did this cost you? • What risks are there in your work? • Have you had any holiday leave? Were you paid?
Treatment	<ul style="list-style-type: none"> • Since you have been working here, how have you been treated? • Do you like working here? Why, why not? • Have you witnessed others or experienced yourself verbal or physical abuse by other staff or management here? • What hours do you normally work? Are you happy with these? • How are the hours allocated amongst workers? • How many days do you have off each week? • If you didn't want to work the hours allocated what would happen? • Have you ever been forced to work long hours, overtime or on any days when you didn't want to by anyone here? • What breaks do you take when you are working?
Accommodation	<ul style="list-style-type: none"> • How did you find your accommodation? • Who is the landlord? How much rent do you pay? • What happens if you can't pay the rent? • Who collects the money? • If you left the house/accommodation site, would you lose your job? • If you want to leave the house/accommodation site, can you? • How many people live in the house/accommodation? And how many people share your room? Are they related to you? • Are you free to buy and prepare food of your choice? If not, who provides you with food? On what terms?
Grievance Mechanisms	<ul style="list-style-type: none"> • If there was a problem at work, what would you do about it? • Do you feel your complaints are dealt with properly? • If you wanted to report an issue but did not want anyone to know it was you reporting, how would you report it?

Topic	Sample questions
	<ul style="list-style-type: none"> • Have you made any complaints about work? If yes, how did you feel about the way it was dealt with? • How have you been treated since making the complaint/ report? • Have you made complaints to (or been told that you could make complaints to) the Fair Work Ombudsman, Safe Work NSW or the NSW Anti-slavery Commissioner?

Key performance indicators (KPIs) often play a key role in effective monitoring, evaluation and collaboration. Where possible, you should work with your suppliers and other relevant stakeholders to identify realistic, SMART targets and indicators to underpin performance management throughout the life of the contract. In the process of developing KPIs, it is important to be clear about what they are measuring and what the figures mean. This should relate to what investors or companies are asking business partners to report against or what is being assessed as part of other ongoing monitoring and audits.

There are a range of areas in which modern slavery risk management performance can be measured. Figure 31 provides a list of possible KPIs identified by UK and European based public investors. Many of these are reflected in the data that this Guidance encourages covered entities to collect and report. In the area of contract management, this Guidance focuses recommended data collection on three particular areas that have proven to be highly correlated to a reduction of modern slavery risks: worker voice activities, the reliance on a temporary migrant workforce, and recruitment fees.

It can be useful to have a mix of qualitative and quantitative monitoring data, as this can reduce the risk of misinterpretation of numerical data. For example, while an increase in modern slavery-related grievances raised is an issue that should be dealt with, this may not be because negative impacts are suddenly getting worse. Instead, an increase in the number of grievances raised can be an indicator of a better-implemented grievance mechanism. Hence using a range of indicators that can help interpret the significance of the data is useful.

One approach favoured in sustainable procurement circles is the ‘balanced scorecard methodology’ which allows sustainability criteria to be monitored alongside service, quality, delivery, cost and technical requirements. Modern slavery indicators can be incorporated effectively into such a scorecard, using this Guidance as a benchmark.

Continuous listening to **worker voice** is also critical for effective monitoring and evaluation of modern slavery risks. While this is first and foremost the responsibility of your supplier, buyers should also have the ability to directly and safely access the views and expertise of those with lived experience, including workers. Modern slavery involves a denial of voice, so you have a critical role to play in preventing modern slavery by ensuring that affected stakeholders, including vulnerable workers, have the opportunity to safely express their concerns about their treatment. *Appendix N Speaking with victims of modern slavery* provides basic guidance on speaking directly with victims of modern slavery.

Audits (discussed above) can contribute to ensuring you can access and listen to worker voice, but for the reasons discussed above, may not be sufficient to ensure effective worker voice. Grievance mechanisms, discussed in Part 5, are also a key channel for identifying stakeholders’ concerns.

Unions and worker organisations have a critical role to play in supporting advocacy. You should ensure you have effective ways to access and if appropriate cooperate with unions along supply-chains that contain salient modern slavery risks. You should schedule regular consultations with these groups to discuss working conditions. This is more likely to lead to a partnership approach that engages worker organisations and relevant stakeholders in a manner where they feel comfortable in flagging issues, challenges and developing collaborative solutions to address workplace abuses.

Increasingly, buyers are also turning to **digital tools** to support worker voice and supply-chain monitoring. Figure 32 below, from the AHRI Good Practice Toolkit, summarises the benefits and drawbacks of different digital tools, and provides some ‘pro tips’ on how best to employ them.

Figure 31 Exemplar Key Performance Indicators

- Percentage of business partners (clients, portfolio companies, suppliers) audited in past year
- Number of workers spoken to confidentially without a manager present during audits in the past year
- Number of identified non-compliances related to forced labour in audits
- Percentage of corrective actions related to forced labour successfully closed/remedied in agreed timeframe
- Number of repeat non-compliances on forced labour from individual business partner in past year
- Number of reports received from business partners related to modern slavery in past month
- Percentage of identified modern slavery risks addressed through collaboration (e.g. with NGOs, civil society, trade unions and government) in past year
- Number of business partners (e.g. clients, portfolio companies, contractors and suppliers) trained on modern slavery in past year
- Number of complaints of forced labour received through grievance mechanisms in the past month
- Percentage of complaints resolved in allocated timeframe in the past year
- Number of best practices shared and scaled more widely in the past year
- Percentage of workers who receive information about their employment rights in a language they understand
- Percentage of workers who have paid a fee to secure employment in the past month
- Percentage of workers who receive induction on workplace rights
- Percentage of workers who are members of an independent democratic trade union
- Identification of high-risk geographies and sectors for priority due diligence on modern slavery
- Percentage of business partners that have a policy addressing modern slavery
- Number of business partners that have cascaded requirements on modern slavery with their third parties
- Worker feedback on working conditions in staff surveys
- Victim feedback on outcomes of actions and remedy
- Independent stakeholder feedback on efficacy of strategy to address modern slavery

Source: CDC Good Practice Note, p. 60.

Figure 32 Digital tools for worker voice and supply-chain monitoring

Social media	App	Blockchain	Remote surveillance
Examples			
<ul style="list-style-type: none"> • OFWwatch • Job-seeking websites, forums, Facebook pages, YouTube channels, and Yelp and Google reviews are used by workers 	<ul style="list-style-type: none"> • Golden Dreams: • Labour Link • FairWork Ombudsman • Record my Hours app 	<ul style="list-style-type: none"> • Blockchain Solution to address Worker Right Challenges • Minespider • Irespond 	<ul style="list-style-type: none"> • Establishing Person-Centered Decent Labor Policies in Distant Water Fisheries
Benefits			
<ul style="list-style-type: none"> • Detection: (known as social listening) analyse social media for complaints by workers of bad working conditions on social media • Information provision: share information about worker rights and other services • Support: advertise services and grievance mechanisms 	<ul style="list-style-type: none"> • Detection: conduct worker surveys via apps, for large response rates and validity • Information provision: share information about worker rights and other services • Prevention: Recruit directly, eliminating recruitment fees • Remediation: complaint lodgement by workers 	<ul style="list-style-type: none"> • Detection: trace provenance of goods (e.g. minerals) to production/extraction points (e.g. mines) • Prevention: Smart contracts can store employment contracts and supplier contracts across supply chains 	<ul style="list-style-type: none"> • Detection: harness biometrics (e.g. facial recognition) to record and monitor working hours, and CCTV to monitor labour abuses; in the fishing industry, satellite image analysis shows vessel movement and fishing activity at each site to estimate work hours
Drawbacks			
<ul style="list-style-type: none"> • Mistrust due to misinformation common on social media • Privacy concerns 	<ul style="list-style-type: none"> • Use more data and storage than workers have available on phones • Low usage rates unless incentivised • Mistrust • Failure of reports of modern slavery to result in business action 	<ul style="list-style-type: none"> • Expensive and carbon emitting (depending on the servers and technology) • Resources are required to collect the data, and relevant expertise is required to process the data onto the blockchain, so does not overcome problems of worker fear, reporting 	<ul style="list-style-type: none"> • Still requires on-the-ground communication with workers and investigation • Access to satellite images is expensive • Privacy concerns
Pro Tips			
<ul style="list-style-type: none"> • Sharing information with workers about their rights via social media that they already use is more effective than developing a new app 	<ul style="list-style-type: none"> • Provide face-to-face training to workers on how to use apps • Work with local worker groups to promote apps and support workers to use 	<ul style="list-style-type: none"> • Only use blockchain where the problem is clearly one blockchain can address, otherwise there are cheaper solutions 	<ul style="list-style-type: none"> • Develop machine learning to analyse large volumes of data

Source: AHRI Good Practice Toolkit, p. 15

Figure 33 Good Practice Example: Active supplier monitoring for modern slavery risks

Research commissioned by the Office of the NSW Anti-slavery Commissioner during the development of this Guidance identified several examples of creative modern slavery risk monitoring and evaluation processes. This case study involves an Australian Government agency.

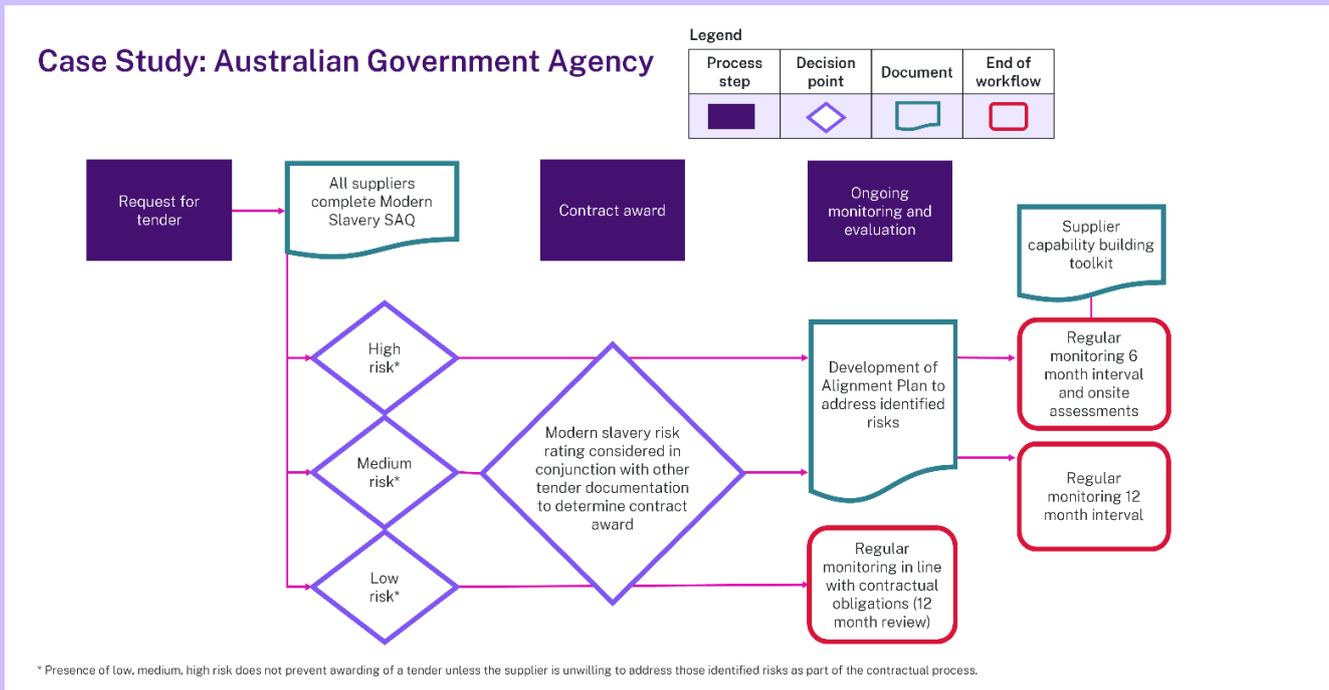
The agency identified modern slavery risks in offshore infrastructure projects with which it was involved. It developed a framework and strategy for modern slavery risk management reflecting risk analysis, SAQs and supplier training. This is framed as a Modern Slavery Control Plan, which is summarised in the workflow diagram below.

The strategy involves head contractors demonstrating explicit consideration for modern slavery risk management. All suppliers invited to tender for contracts are issued a Modern Slavery Self Assessment Questionnaire (MSSAQ) as part of the tender documentation submission process. The MSSAQ is not a pass-fail, but rather provides for risk evaluation that then informs the controls achieved through contracting.

The agency’s procurement team analyses the answers to the tender questions using third-party-developed guidance. Resulting modern slavery risk ratings are factored into tender evaluations, with other factors.

The successful tender is then provided an alignment and monitoring plan, drawing on the results of the modern slavery risk analysis during the tender evaluation. High risk tenderers are subject to onset verification and an associated alignment plan, reviewed every three months; medium risk tenderers are subject to the same, but at six month intervals; and low risk tenderers are subject to standard monitoring in line with the contract management process. Regardless of risk, the MSSAQ must be completed every 12 months.

This approach is seen as allowing for active monitoring in key long-term supplier relationships, while creating opportunities for supplier capability building and dynamic risk appetite and management. This approach has also aligned with existing risk management approaches in the agency, for example in dealing with bribery and corruption. This has contributed to rapid uptake by agency staff. The approach also appears to have been well received by suppliers.



Source: Research commissioned for the development of this Guidance.

Further resources

AHRI Good Practice Toolkit. CDC Good Practice Note. ISO 20400:2017 section 7.5.1-4. BS 25700:2022 sections 7.2, 9.5.3. UK PPN 02/03, pp. 39-40. Walk Free Toolkit, Tool 8. See also: Re:Structure Lab. Forced Labour Evidence Brief: Social Auditing and Ethical Certification (Vancouver: Stanford, Simon Fraser and Yale Universities, 2022); and A.V. Benstead, L.C. Hendry, M. Stevenson, “Detecting and remediating modern slavery in supply chains: a targeted audit approach”, *Prod. Plann. Contr.* (2021), vol. 32(13), pp. 1136-1157.

4.2 Develop supplier capabilities

Discussion

Improving the effectiveness of due diligence to prevent and address modern slavery will require strengthening supplier capabilities. This is a shared responsibility of both suppliers and the buyers that purchase from them.

Buyers can use a range of capability development activities, such as training, awareness-raising, direct engagement and technology development, to improve supplier risk management performance. The use of KPIs, discussed in the previous section, can provide an important incentive for supplier capability uplift – but needs to be matched by buyers working, individually or collaboratively, to provide pathways for supplier development.

Collaboration may be essential to ensure adequate supply of value-for-money goods and services with low modern slavery risks. This is especially the case where buyers face structural issues in the market, such as limited ‘slavery-free’ supply, or where workforces are remote, isolated or otherwise difficult to engage.

Hallmarks of Best Practice

- The entity takes deliberate steps to build leverage to influence others where its existing leverage is insufficient to prevent or mitigate risks.
- The entity identifies where collective leverage with others is needed, and collaborates with relevant stakeholders, peer entities (including companies) and/or experts to advance outcomes for affected stakeholders through processes that demonstrably align with international human rights standards.

Considerations

Figure 35, Figure 36, Figure 37 and Figure 38 below all detail examples of good practice by buyers and investors, working individually, and collaboratively, to support supplier capability development. Some of the key lessons learned from these and other such examples, detailed in relevant literature, are summarised in Figure 34 below.

Figure 34 Challenges and solutions for supplier capability development

Challenge	Potential solution
Suppliers face competing resource pressures	Embed framework for supplier engagement and capability development in contractual arrangements – see e.g. <i>Appendix J GRS Model Contract Clauses</i> .
Lack of executive buy-in	Embed framework for supplier engagement and capability development in contractual arrangements. Make formal approaches to the supplier’s board or governing body to ensure the significance of the issue is appreciated. Ensure engagement not only with procurement and compliance functions but with C-suite and cross-functional teams.
Limited supplier understanding of their own supply-chains	Collaborate with the supplier, and potentially with other stakeholders, to develop shared supply-chain risk mapping.
Lack of industry standards and codes that can be used as a benchmark or reference point	Embed references to this Guidance and/or relevant industry codes in contractual arrangements.

Challenge	Potential solution
Structural obstacles to sourcing low-risk supply	Work with other stakeholders in the value-chain to find ways to incentivise development of new supply options. This may include exercising collective leverage to engage government.
Limited supplier exposure to, awareness of, and training on modern slavery risks	Provide suppliers access to education and awareness raising opportunities, including the NSW Anti-slavery Forum. Work through industry bodies and collaborative forums.

Figure 35 Good Practice Example: providing training for workers along a supply-chain

Outland Denim, founded in 2018, employs women who have been victims of exploitation, slavery, or domestic violence. Around 80 per cent of the company’s workforce are women from vulnerable backgrounds predominantly working in manufacturing facilities in Kampong Cham province in Cambodia. Outland Denim focuses on extensive training for its employees and having a vertically integrated supply chain. The training provided by Outland Denim is multi-faceted in nature including trauma counselling to ensure that the women are work ready. Their NGO partner, International Justice Mission, also runs anti-trafficking workshops for their suppliers to educate them on due diligence and modern slavery. They integrate training around technical skills such as cutting and sewing but also provide training to ensure workers’ financial literacy, health education, sanitation, self-defence and career progression.

Training is not limited to Outland Denim’s own workforce, or that of its Tier 1 suppliers, but instead extends into the lower tiers of their supply chain. This includes a programme targeting supplier cotton farms in Turkey. Working closely with one of their primary suppliers, Outland Denim designed a responsive outreach program that involves workers in identifying workplace hazards and builds collaboration with other brands to reduce exploitation and build a more sustainable human rights focused supply chain.

Source: AHRI Good Practice Toolkit, p. 21.

Figure 36 Good Practice Example: Local council collaborate to address supply-chain risks

Since 2010, twenty-one County Councils in Sweden have collaborated in efforts to promote respect for human rights in their supply-chains, including through use of a common supplier code of conduct, common supplier questionnaires and joint factory audits.

Since 2012 this collaboration has had a formal national structure with a coordinator, steering committee, expert group and a dedicated contact point in each county council. That structure has developed a shared risk analysis and allocated limited resources accordingly. Studies have found this approach to be effective in reducing labour risks in those supply-chains.

The county councils have developed a national network on Social Responsibility in Public Procurement to promote effective and efficient compliance monitoring. In 2012, the network hired a national coordinator who is accountable to a five-member national steering committee, representing the chief procurement officers and environmental managers of the 21 county councils.

The network also includes a group of experts with representatives from each procurement region. The network provides the training and education for members of the expert group to ensure they can properly evaluate suppliers for compliance with the code of labour standards, conduct risk assessments, understand social audits and corrective action plans, and procure third-party audits to help the county councils determine whether or not there is breach of contract.

Finally, each county council appoints a point of contact to serve as ‘ambassador’ for socially responsible public procurement within the region, share information from the steering committee and group of experts internally, and implement new tools and processes relating to social responsibility in public procurement. To ensure necessary funding for social audits and related work, the 21 county councils pool resources based on population. Each county contributes 40 Swedish cents, about AU \$0.06, per capita.

Figure 37 Good Practice Example: Investor collaboration to develop company capabilities

Investors Against Slavery and Trafficking Asia Pacific (IAST APAC) is a group of investors focused on engaging with companies in the Asia-Pacific region to promote effective action in finding, fixing and preventing modern slavery in operations and supply chains. IAST APAC currently comprises 37 investors with AU \$7.8 trillion in Assets under Management (AUM), together with the Australian Council of Superannuation Investors (ACSI), Walk Free and the Finance Against Slavery and Trafficking (FAST) initiative.

IAST APAC focuses on building invested companies' capabilities to find, fix and prevent modern slavery. By using their leverage as allocators of capital, and sharing knowledge resources, IAST APAC hopes to build a sense of momentum among the companies they invest in. IAST APAC has established formal protocols for collaborative investor engagement with invested companies in risky supply-chains. It has identified a focus list of companies for multi-year engagement, and begun direct engagement with invested companies to discuss and address modern slavery risks through adjustments to business practices.

IAST APAC members nominate as either a lead or support investor for such engagements. Small groups of IAST APAC members collaborate to engage with an allocated focus company, listed on the stock exchanges in Australia, Hong Kong, Japan, Malaysia, the Philippines, Singapore, South Korea, Taiwan or Vietnam. These engagements follow a defined protocol and common engagement guidelines, and lead to up to one to four direct active engagements between the IAST APAC investor group and the company. The majority of engagements take place at the C-suite or management level. They canvas three issues:

- Find It: "Have you found modern slavery in your operations or supply chain?" and "If not, can you demonstrate that you have rigorous processes in place to look for it?"
- Fix It: "If so, can you demonstrate the steps you have taken to improve the lives of victims?"
- Prevent It: "Have you effectively reported your actions and the steps taken to prevent a re-occurrence?"

One example of such engagement has been between IAST APAC and JB Hi-Fi Limited, an Australian listed retailer of consumer electronics, telecommunications, home appliances and software. IAST APAC's investor group worked with JB Hi-Fi to set seven objectives for their collaborative engagement. These objectives include:

- setting up an independent and frequent audit framework covering private label manufacturers,
- the use of independent data sets maintained by Responsible Business Alliance to identify modern slavery risks in large third party manufacturers,
- introducing worker voice mechanisms at the private label supplier level, and
- providing greater disclosure on the instances of modern slavery detected in the chain.

Given JB Hi-Fi's limited leverage over large third party manufacturers, IAST APAC has encouraged JB Hi-Fi to focus its detection efforts on its private label range, particularly through improving the quality of audits and worker voice systems. JB Hi-Fi has met with IAST APAC at CFO and Head of Sustainability level, and reported on this engagement in its published results.

Figure 38 Good Practice Example: Collaboration to encourage the emergence of 'slavery-free' solar panels

Buyers of solar panels and the energy they produce are increasingly grappling with the significant modern slavery risks in solar panel supply-chains. In recent years, a number of multilateral development banks and development finance institutions have privately converged around a 'Common Approach' to forced labour risks in the solar energy value-chain. This Common Approach establishes a set of timed milestones for these organisations to strengthen traceability and social impact assessment arrangements in solar energy investments and lending, encouraging the companies they finance to take specific steps to identify and address forced labour risks in their supply-chains. These represent enforceable contractual commitments, with violation risking cross-debarment from future contracts with any of the organisations involved. The multilateral development banks and development finance institutions have also used collective leverage to engage their government members and owners, to initiate conversations around multilateral financing for new, slavery-free supply of polysilicon and solar panels.

Source: Cockayne et al., 'The Energy of Freedom'; also research undertaken for development of this Guidance.

Further resources

AHRI Good Practice Toolkit.

James Cockayne, Edgar Rodriguez Huerta and Oana Burcu, *'The Energy of Freedom'? Solar energy, modern slavery and the Just Transition* (University of Nottingham, 2022).

Electronics Watch, Public Procurement and Human Rights Due Diligence to Achieve Respect for Labour Rights Standards in Electronics Factories: A Case Study of the Swedish County Councils and the Dell Computer Corporation (2016).

KPMG and NSW Office of the Anti-slavery Commissioner. *Public Social Procurement: Social returns on global public social procurement initiatives and lessons for NSW's anti-slavery efforts* (2023).

Investors Against Slavery and Trafficking Asia Pacific. *Footsteps forward: Annual Report 2021-2022*.

Pauline Gothberg, "Public Procurement and Human Rights in the Healthcare Sector: The Swedish County Councils' Collaborative Model", in Olga Martin-Ortega and Claire Methven O'Brien, eds., *Public Procurement and Human Rights: Opportunities, Risks, and Dilemmas for the State as Buyer* (Cheltenham: Elgar, 2019).

Swedwatch and British Medical Association, *Healthier Procurement: Improvements for Working Conditions for Surgical Instrument Manufacture in Pakistan*, Report no. 73 (2015).

5

Remedy

About this Part

This Part provides guidance on the reasonable steps that entities can take to provide or enable effective remedy to modern slavery harms to which they are connected.

This involves access to effective grievance mechanisms, taking safe immediate steps to remedy harms, using leverage to remediate deficient practices, and in some cases, responsible withdrawal from supplier relationships.

Data to collect and report

Reasonable Steps taken	Form of response	Response mandatory / optional
5 Remedy		
<i>5.1 Provide or enable access to effective grievance mechanisms</i>		
What steps did your entity take to provide or enable access to effective modern slavery grievance mechanisms during this reporting period?	Describe steps taken	Mandatory
How many complaints relating to modern slavery associated with your operations or the goods or services you procure were lodged during the reporting period, whether with your organisation's grievance mechanism(s) or with others?	Number	Optional
<i>5.2 Take safe immediate steps to remedy harm</i>		
What steps did your entity take to safely and immediately remedy modern slavery harms to which you were connected during this reporting period?	Describe steps taken	Mandatory
<i>5.3 Use leverage to remediate deficient practices</i>		
What steps did your entity take to use leverage to remediate deficient modern slavery practices during this reporting period?	Describe steps taken	Mandatory
In how many procurement contracts or arrangements was a material breach related to modern slavery formally notified during this reporting period?	Number	Optional
<i>5.4 Withdraw responsibly</i>		
What steps did your entity take to withdraw responsibly during this reporting period, in connection to modern slavery risks?	Describe steps taken	Mandatory
How many procurement contracts or arrangements were terminated on modern slavery grounds during the reporting period?	Number	Optional

5.1 Provide or enable access to effective grievance mechanisms

Discussion

Under the prevailing international norms to which Australia has committed, entities that are connected to modern slavery harms in their operations or supply-chains are expected to provide or enable effective remedy, depending on the nature of that connection.

- Entities that cause modern slavery are expected to provide effective remedy.
- Entities that contribute to modern slavery, for example through ineffective due diligence over an extended period of time, are expected to proportionately contribute to effective remedy.
- Entities that are directly linked to modern slavery, for example because a supplier upstream in their supply-chain engages in modern slavery, are expected to enable effective remedy. This means they are not required to provide remedy, but should use their leverage to work with the entity that caused the impact to prevent or mitigate the harm and its recurrence.

(See further UN Guiding Principle 32; and the section of this Guidance entitled *Three forms of connection: causation, contribution and direct linkage.*)

‘Remedy’ means restoring a victim of a harm to the situation that they would have been in if the harm had not occurred. Remediation can take many forms, including steps to ensure the harm cannot recur, formal apologies, compensation, medical and mental health support, returning confiscated documentation, reimbursement of recruitment fees, or stopping certain activities.

You should develop processes to enable remediation. These need not be limited to modern slavery – you may choose to use existing grievance mechanisms, whistleblower hotlines or other complaints systems. But they need to be effective at identifying and handling modern slavery-related grievances.

How can you identify appropriate forms of remedy? The type of remedy or combination of remedies that is appropriate will depend on the nature and extent of the modern slavery (and other) harms. In determining appropriate forms of remedy, you should pay attention to:

- Existing standards – In some cases domestic and international standards or laws exist on what constitutes appropriate forms of remedy.
- Precedent – Where domestic and international standards do not exist, the enterprise may seek to be consistent with what was provided in similar cases.
- Stakeholder preferences – The perspective of those affected is important.

You should seek to provide remedy through a legitimate remediation mechanism. **You may wish to develop your own, work with other NSW public buyers to develop an effective Grievance Mechanism, and/or engage existing mechanisms.** These can include State-based or non-State-based processes through which grievances concerning enterprise-related adverse impacts can be raised and remedy can be sought. Examples include:

- Legal processes such as prosecution, litigation and arbitration.
- Non-judicial state-based mechanisms such as specialist government bodies, consumer protection agencies, and regulatory oversight bodies, such as the Fair Work Ombudsman.
- The **Office of the Anti-slavery Commissioner** can accept and refer complaints (though the Anti-slavery Commissioner is not empowered to resolve complaints). Contact the Office on GRS@dcj.nsw.gov.au, or via dcj.nsw.info/antislaverycommissioner.
- The **National Contact Points** to the OECD Guidelines are a State-based non-judicial mechanism through which issues can be raised about implementation of the OECD Guidelines in specific instances. (See Figure 39 below.)
- Operational level grievance mechanisms – discussed further below.

- Global Framework Agreements between companies and Global Trade Unions, multistakeholder grievance mechanisms, community grievance mechanisms, collective bargaining agreements, and enterprise supply chain grievance mechanisms are all examples of non-State-based processes that can enable remediation.

(See further OECD Due Diligence Guidance, p. 89.)

Figure 39 OECD National Contact Points

The OECD Guidelines on Responsible Business Conduct for Multinational Enterprises contain a built-in non-judicial grievance mechanism through the National Contact Points (NCPs). NCPs are established by Adherents to the OECD Investment Declaration. NCPs have the mandate of furthering the effectiveness of the OECD Guidelines for MNEs by: undertaking promotional activities, handling enquiries and contributing to the resolution of issues that arise relating to the implementation of the OECD Guidelines in specific instances.

Any individual or organisation can bring a specific instance (case) against an enterprise to the NCP where the enterprise is operating or based regarding the enterprise's operations anywhere in the world. NCPs facilitate access to consensual and non-adversarial procedures, such as conciliation or mediation, to assist the parties in dealing with the issues. NCPs are required to issue final statements upon concluding the specific instance processes. NCPs can also make recommendations based on the circumstances of the specific instance.

The Australian NCP was established in 2000 and overhauled in 2019. The Secretariat in Treasury manages the AusNCP and supports a group of Independent Examiners that consider complaints. Independent Examiners are experts contracted to Treasury to manage complaints against multinational enterprises brought to the AusNCP, including decision-making, communication and conciliation with parties and publishing statements on findings.

See further <http://ausncp.gov.au>

Hallmarks of Best Practice

- The entity engages constructively when allegations of modern slavery impacts in its operations or value chain arise, to understand the issues and the perspectives of affected stakeholders.
- The entity engages with affected stakeholders and/or their legitimate representatives to identify whether they are aware of and trust existing structures or processes as a way to raise concerns or grievances and have them addressed.
- The organisation uses its leverage to support the development and implementation of effective grievance mechanisms in its value chain that are capable of providing remedy to affected stakeholders.
- When providing remedy for impacts it has caused or contributed to, the entity goes beyond measures to prevent the impact recurring to consider what other forms of remedy can best address the harms to affected stakeholders, taking into account their perspectives.
- The entity evaluates its actions to provide remedy for their effectiveness in delivering outcomes that are satisfactory to affected stakeholders.

Considerations

Stakeholders, especially vulnerable ones, should be able to bring their problems and complaints to your attention, and seek redress for harms. You should facilitate this by establishing a grievance mechanism, or ensuring you have access to or can direct complainants to, an effective grievance mechanism.

Grievance mechanisms support the identification of modern slavery related grievances, allow those grievances to be addressed and adverse impacts to be remediated early and directly, and help prevent harms from compounding and grievances from escalating.

Figure 40 below sets out some questions to consider in developing or evaluating an existing Grievance Mechanism. Figure 41 provides an example of a basic Grievance Mechanism workflow.

Figure 40 Developing and evaluating a grievance mechanism for effectiveness

1. **Who are the intended users of the Grievance Mechanism?**
 - Is it only workers, or also other stakeholders (suppliers, family members, customers, community)?
 - Where are these stakeholders located, and what language do they speak?
 - Do you expect children to use the mechanism?
 - What communication channels can they safely use to communicate grievances?
2. **How will intended users be involved in designing the Grievance Mechanism?**
 - How will you access them?
 - How will you create trust and safety?
 - Do you need to work with experts, partners or trusted intermediaries?
 - How will suppliers be involved?
3. **How will intended users know about the Grievance Mechanism?**
 - How will you ensure the accessibility of the mechanism?
 - Will you use prepositioned notices, in-person training and/or digital methods?
 - Will you work with intermediaries such as unions, facilities, civil society, or collaborative initiatives?
4. **What could stop use of the Grievance Mechanism?**
 - Will you draw on lived experience to understand potential barriers?
 - Will the mechanism be independent of any personnel that may have been linked to the grievance?
 - What safeguards can you offer to ensure privacy or confidentiality, and against retaliation or reprisal – against the complainant, a third party working with them, or family members?
 - How will you communicate how information shared through the Mechanism will be used and further communicated, including to authorities?
5. **What is the Grievance Mechanism's scope?**
 - What issues will it address? What actions can it take to address them?
 - Are the relevant actors in the organisation involved and empowered?
 - Do you have suitable protocols in place for actioning grievances received, including any time-critical responses to ongoing harms?
6. **Can an existing mechanism be effectively adapted to address modern slavery issues?**
 - Does an existing mechanism (such as a whistleblower hotline, or a helpline) offer an established, known and trusted platform for addressing grievances?
 - Does it need to be adapted to the modern slavery context?
 - Will new resourcing arrangements be required?
 - Will new training be required?
7. **How will the mechanism be resourced and managed?**
 - Which personnel will be responsible for handling and resolving grievances?
 - What expertise, training and resources will they need?
 - Will they be trained in identifying and addressing modern slavery?
 - What partners, internal or external, will need to be involved?
 - Will the mechanism need to be scalable – and if so, is that feasible?
 - Is a collective or collaborative mechanism more viable or more likely to be effective?
8. **How will effectiveness be measured?**
 - What metrics or KPIs will be used to track outcomes?
 - How will data for effectiveness measurement be collected?
 - Will user feedback be included?

... continues...

9. **How will outcomes be communicated?**

- How will the outcomes from a grievance process be communicated to stakeholders, or the public?
- If outcomes are kept confidential, how will the mechanism avoid the perception it may be used to cover up adverse impacts?
- How will lessons learned be communicated internally, including to senior management?

10. **How will outcomes be learned from?**

- Will results of grievance handling be fed back into your modern slavery risk management system?
- Will there be arrangements for sharing outcomes and lessons learned with peers?

Source: UNGCNA GM Guidance

Figure 41 Basic grievance mechanism workflow

Grievance handler	Complainant	Subject expert, suppliers, other stakeholders	Senior management	Third party
Grievance received				
Acknowledge receipt to the complainant. Open a continuous line of communication.	X			
Confirm grievance within scope (or not). If necessary, support complainant to provide relevant information, or refer to an alternative mechanism.	X			X
Escalate. Notify necessary internal stakeholders.		X	X	
Evaluate and investigate. Draw on relevant expertise as needed.		X		
Develop and agree resolution in collaboration with the complainant – if not, consider involving independent arbitrator or decision-maker	X	X	Possible	Possible
Implement resolution	X	Possible		
Monitor implementation of agreed remedy and assess effectiveness, inc. through user feedback	X			
Close grievance and communicate outcome	X	Internal stakeholders	X	
Integrate learning into MS risk management processes		Internal stakeholders	X	

Source: Based on UNGCNA GM Guidance, p. 22

Grievance mechanisms are considered to be ‘effective’ when they meet eight criteria set out in the UN Guiding Principles on Business and Human Rights (Principle 33). Figure 42 below discuss these effectiveness criteria and how to achieve them:

Figure 42 Effective grievance mechanisms

Effectiveness Criterion	What to consider	How to achieve it
<p>Legitimacy (UNGP 31(a))</p> <p><i>Do stakeholders, such as workers, trust the grievance mechanism?</i></p>	<p>A legitimate grievance mechanism is one that:</p> <ul style="list-style-type: none"> enables trust from stakeholder groups for whose use they are intended, and is accountable for the fair conduct of grievance processes. 	
	<p>Establishing and maintaining stakeholder trust</p>	<ul style="list-style-type: none"> Seek out and take into account rights-holder views when designing the mechanism, and when evaluating and improving the mechanism once it is established. Ideally, consult those who have lived experience of modern slavery. If it is difficult to reach rights-holders directly, use reasonable alternatives, such as civil society organizations, trade unions, and other advocates. Develop policies that take into account the special needs of people who may be at heightened risk of vulnerability or marginalization. Address power imbalances and unique barriers to participation faced by different groups. Draw from relevant international human rights standards. Engage with and contribute constructively to efforts to develop worker-driven and community-driven grievance mechanisms.
	<p>Independence and objectivity</p>	<ul style="list-style-type: none"> Minimise the risk of undue influence from any actor. Maintain sufficient independence from those whose activities may be the subject of grievances. Some ways to demonstrate independence include: <ul style="list-style-type: none"> Transparent hiring processes and appropriate reporting lines Mechanism control over budget, and autonomy over mechanism policies and procedures Mechanism has the ability to make its own decisions about accepting and handling grievances, and Using an independent, multi-stakeholder advisory panel. Minimise the risk of conflicts of interest. Some ways to reduce risks include: <ul style="list-style-type: none"> Open, competitive recruitment for mechanism personnel Restrictions on movements of personnel from the mechanism to relevant business operations (and vice versa) Rotation of personnel Declaring and responding to conflicts of interest in specific cases, and Delegating dispute resolution and decision-making to legitimate, independent third-party mechanisms.

Effectiveness Criterion	What to consider	How to achieve it
	Communications	Proactively disseminate information to rights-holders about: <ul style="list-style-type: none"> • What the mechanism can and cannot offer • How the mechanism works • Policies on ethical matters (e.g., conflicts of interest), and • Policies on safeguarding against retaliation.
	Resources and expertise	Hire suitably qualified personnel and/or invest in training of personnel such that they: <ul style="list-style-type: none"> • Have knowledge of modern slavery • Understand the rights / needs of rights-holders, and are able to relate to them in a culturally-appropriate and sensitive manner, including when there is trauma • Can adequately assess and respond to risks of retaliation • Have appropriate language and mediation skills, and • Are held to high standards of personal and professional conduct.
<p>Accessibility (UNGP 31(b))</p> <p><i>Do stakeholders know how to access the grievance mechanism and what information is necessary to make a complaint?</i></p> <p><i>Who is using the grievance mechanism, and do they reflect the diversity of those who could be impacted by the business activities (including in its supply chain)?</i></p>	<p>An accessible grievance mechanism is one that:</p> <ul style="list-style-type: none"> • is known to all stakeholder groups for whose use they are intended, and • provides adequate assistance for those who may face particular barriers to access. <p>Proactive awareness-raising</p>	<p>Proactively raise awareness of:</p> <ul style="list-style-type: none"> • the existence of the mechanism • how it works, and • the rights of rights-holders and how the mechanism can help enforce those rights. <p>Target outreach to those likely to use the mechanism, with a proper appreciation of the barriers different groups may face when seeking remedies. Methods of outreach could include:</p> <ul style="list-style-type: none"> • face-to-face engagement (e.g., discussion groups) • educational sessions (ideally delivered by relatable people – peers, union representatives, or community members) • social media, leaflets or prominently-displayed notices.

Effectiveness Criterion	What to consider	How to achieve it
	User-friendly design	<ul style="list-style-type: none"> • Make it very easy to lodge grievances and engage in the process. • Minimise criteria for accessing the mechanism (“eligibility criteria”) and communicate them clearly. • Time limits for accessing the mechanism should be flexible enough to at least take account of the length of time that abuses may take to become apparent, or for the rights-holders to find out about the mechanism. • Avoid burdensome pleading requirements (e.g. to frame grievances in legal or policy terms, or identify specific offences that have occurred). • Allow rights-holders to participate in their own language. • Use multiple channels of communication (e.g., in-person communication, toll-free phone lines, regular mail, e-mail, and online forms). • Address barriers faced by people who may be at heightened risk of vulnerability or marginalization (e.g., relating to physical or job security, costs associated with participation, lost wages due to time off work, difficulty accessing childcare, physical and communicational challenges, literacy barriers, lack of digital skills, and lack of confidence due to age or social status). • Make resources and services available in accessible formats and in languages spoken by (potentially) affected stakeholders. Consider providing: <ul style="list-style-type: none"> — model submissions / templates, and other offline and online resources (e.g., instructional pamphlets and videos) — free advisory and support services (e.g., helplines, designated caseworkers, and triage services), and — materials accessible to (i) children, (ii) those facing challenges with respect to literacy, and (iii) persons with disabilities.
	Minimising financial barrier	<ul style="list-style-type: none"> • Do not impose fees for raising grievances. • Enable grievances to be lodged and pursued collectively (e.g., where members of the group have similar claims). • Do not operate in a way that might suggest a need for people to hire legal counsel. However, allow the possibility of 3rd party representation if desired.
	Complementarity to other remediation processes	<ul style="list-style-type: none"> • Do not require any person to waive their rights to seek remedy through an alternate remedial mechanism. • Take into account the different ways in which the mechanism may be complementary to other relevant decision-making processes. • Put policies in place to address parallel, overlapping, and consecutive proceedings.
	Keeping people safe	<ul style="list-style-type: none"> • Put policies in place to address risks of retaliation to those raising grievances and others (e.g., zero-tolerance policies).

Effectiveness Criterion	What to consider	How to achieve it
		<ul style="list-style-type: none"> • Ensure that risks of retaliation are properly assessed and addressed, generally and in specific cases. • Provide advice to rights-holders about steps that can be taken to enhance safety. • Confidentiality is ensured if requested or the circumstances make it appropriate. • Protect personal information and ensure that it is not disclosed without explicit, informed consent. • Be prepared to preserve the anonymity of complainants in appropriate circumstances.
<p>Predictability (UNGP 31(c))</p> <p><i>Do stakeholders know approximately how long the processing procedure will take and what outcomes are available?</i></p>	<p>A predictable grievance mechanism is one that provides:</p> <ul style="list-style-type: none"> • a clear and known procedure with an indicative time frame for each stage, and • clarity on the types of process and outcome available and means of monitoring implementation. 	<p>External communications</p> <p>Publish accurate information, particularly on:</p> <ul style="list-style-type: none"> • What the mechanism is for and how it works • Who can access the mechanism • The extent to which the mechanism can assist rights-holders regarding risks of retaliation • The kinds of harms the mechanism can address • Eligibility criteria • What to expect at each stage of the process (with indicative time frames) • The rights of parties at each stage of the process (e.g., the right to amend a grievance or challenge a decision) • The kinds of remedies that the mechanism can provide • The extent to which remedies can be enforced and implementation monitored • Past cases (see UNGP 31(e) below), being careful to avoid risks of retaliation, and • Any other information that may be useful to stakeholders (e.g., availability of support). <p>Managing expectations</p> <p>Avoid overpromising, particularly as regards:</p> <ul style="list-style-type: none"> • Timelines for resolving grievances • The types of remedies that may be available • The extent to which remedies can be enforced and implementation monitored, and

Effectiveness Criterion	What to consider	How to achieve it
		<ul style="list-style-type: none"> The effectiveness of retaliation safeguards in place.
	Case management	<p>Address grievances without undue delay.</p> <ul style="list-style-type: none"> Meaningfully consult rights-holders prior to joining grievances or involving third parties in any aspect of the process. Have clear policies in place regarding cooperation with other mechanisms and State agencies, which take into account risks of retaliation.
<p>Equity (UNGP 31(d))</p> <p><i>How does the mechanism address the power imbalance between the business and the complainant and enable the complainant to negotiate outcomes on equal terms with the business?</i></p>	<p>An equitable grievance mechanism is one that seeks to ensure that aggrieved parties have reasonable access to sources of information, advice, and expertise necessary to engage in a grievance process on a fair, informed, and respectful terms.</p>	
	Imbalances in power and resources	<ul style="list-style-type: none"> Provide (or direct affected stakeholders to external sources of) advisory, technical, and financial support. Make appropriate, gender-sensitive adjustments to accommodate the needs of those who may be affected by trauma or who may be at heightened risk of vulnerability or marginalization. E.g., by using navigators with first-hand experience of the harm or who can provide support through the grievance process.
	Autonomy	<ul style="list-style-type: none"> Rights-holders have the right to withdraw from the process. Allow rights-holders to decide who represents them. In case of doubt about the legitimacy of a claim to representation, seek the views of the rights-holders.
	Considerations of natural justice	<p>Parties can obtain and comment on relevant information before material decisions are made (e.g., on admissibility / final decisions). Such information includes:</p> <ul style="list-style-type: none"> That obtained by the mechanism (e.g., arguments, allegations, and evidence) Outcomes of investigations, and Any personal reports (e.g., medical evaluations). Considerations of natural justice. At the conclusion of a process, rights-holders receive: <ul style="list-style-type: none"> A record of the process, outcomes, and reasons for decisions A record of any agreement reached, and Information about how to challenge or follow up. Parties may challenge the grievance process and outcomes
	Use of technologies	<ul style="list-style-type: none"> Technologies used in connection with grievance processes respect rights (e.g., to privacy / data protection) and are used responsibly.

Effectiveness Criterion	What to consider	How to achieve it
<p>Transparency (UNGP 31(e))</p> <p><i>Can a complainant easily determine the status of their complaint and how the business is responding?</i></p> <p><i>Does the business keep a public record of grievances received and their outcomes, including in an aggregate form where necessary to protect complainants?</i></p>	<p>A transparent grievance mechanism is one that:</p> <ul style="list-style-type: none"> • keeps parties to a grievance informed about its progress, and • provides sufficient information about its performance to build confidence in its effectiveness and to meet any public interest at stake. 	
	<p>Communication with parties</p>	<p>Ensure ongoing, proactive engagement with the parties regarding the status of each step of the process. This could entail:</p> <ul style="list-style-type: none"> • Information on next steps, available options, and decision points, and • Periodic updates (even when there is nothing new to report).
	<p>Communication with the public at large</p>	<ul style="list-style-type: none"> • Publish information regularly on: <ul style="list-style-type: none"> — The number, types, and nature of grievances received — The number of requests rejected and on what grounds — The number of completed cases, the outcomes, any follow-up activities, and average duration of the processes — Stakeholder satisfaction levels, and — Any other data that will help public understanding of the mechanism's performance. • Communications should be able to reach all relevant stakeholders, and could be conveyed: <ul style="list-style-type: none"> — in narrative form, statistical form, and/or as case studies; and/or — through annual reports, public meetings, and/or information on a website.
	<p>Keeping people safe</p>	<p>Where necessary to reduce risks of retaliation or to ensure a successful remedial outcome, redacted or aggregated formats (such as anonymised case studies) could be considered. Stakeholder input about the appropriate solution should be sought and properly taken into account.</p>
<p>Rights-compatibility (UNGP 31(f))</p> <p><i>Are users of the grievance mechanism protected from reprisal or retaliation and what practical measures safeguard this?</i></p>	<p>A rights-compatible mechanism is one that ensures that outcomes and remedies accord with internationally recognised human rights.</p>	
	<p>Remedy standards</p>	<ul style="list-style-type: none"> • Remedies should be adequate, effective, prompt, culturally appropriate, and gender-sensitive. • Consult affected stakeholders about the type of remedy and the manner in which it should be delivered. • Different types of remedy (e.g. both financial and non-financial) should be considered.
<p>Ensuring that remedies make a positive contribution to human rights</p>	<ul style="list-style-type: none"> • Assess and address the potential human rights implications of remedies and outcomes to avoid further harm. • Take account of the local context, including any legacy issues and entrenched forms of discrimination. • Consult affected stakeholders and relevant experts. 	

Effectiveness Criterion	What to consider	How to achieve it
<p><i>How do intended users know they will be protected from reprisal or retaliation?</i></p> <p><i>Are any protections in place to avoid discrimination against complainants, including those from at-risk or vulnerable groups?</i></p>		<ul style="list-style-type: none"> • Evaluate the effectiveness of remedies and address any deficiencies. • Have a plan to address non-implementation of remedial outcomes. This could include: <ul style="list-style-type: none"> — Monitoring implementation (including by a third party), and/or — Referral to or enforcement through another mechanism (State-based or non-State-based). • Ensure that the grievance process is an empowering experience for rights-holders. • Avoid/remove any aspects of the process that may be patronising or culturally insensitive. • Work with and build upon any pre-existing structures for decision-making. • Consult affected stakeholders.
	<p>Keeping people safe</p>	<ul style="list-style-type: none"> • Take special care to ensure the safety of rights-holders in any engagement with State actors. • Take account of the local context and practice increased vigilance in areas of weak governance. • Take measures to reduce risks of retaliation.
<p>A source of continuous learning (UNGP 31(g))</p> <p><i>Does the grievance mechanism identify trends in grievances (e.g. nature of complaint or location) and are these incorporated into the business's future strategy and operations?</i></p> <p><i>Are the same types of complaints reported via the grievance mechanism?</i></p>	<p>A mechanism is a source of continuous learning when it draws on relevant measures to identify lessons:</p> <ul style="list-style-type: none"> • to improve the mechanism, and • to prevent future grievances and harms. 	
	<p>Improving the mechanism</p>	<ul style="list-style-type: none"> • Gather information on mechanism performance. • Seek feedback on parties' experiences. • Keep disaggregated records on frequency, patterns, and causes of grievances. • Track the effectiveness of mechanism management and processes. • Evaluate the effectiveness of remedial outcomes. • Draw on internal and external expertise (e.g., independent advisory panels, civil society organizations, trade unions, and NHRIs). • Implement strategies to improve the mechanism based on this information
	<p>Future prevention strategies</p>	<ul style="list-style-type: none"> • Apply 'lessons learned' from grievance processes to improve the quality of modern slavery due diligence of the companies concerned, and preventative action more broadly. • Help influence reforms, including by sharing information with companies regarding:

Effectiveness Criterion	What to consider	How to achieve it
		<ul style="list-style-type: none"> — The nature and pattern of modern slavery risks and how such risks can affect different groups — The appropriate actions that can be taken in response, and — Good practices which can be adopted to enhance existing human rights due diligence processes. <ul style="list-style-type: none"> • Share information (including publicly and through collaborative initiatives) that may reveal sector-specific or systemic issues.
<p>Operational-level mechanisms should also be based on engagement and dialogue</p> <p>(UNGP 31(h))</p> <p><i>Do stakeholders have input into the design, implementation and outcomes of the grievance mechanism and are their suggestions incorporated?</i></p> <p><i>Are stakeholders regularly asked about the effectiveness of the mechanism and how it might be improved?</i></p>	<p>An operational-level mechanism is based on engagement and dialogue when it: •consults the stakeholder groups for whose use it is intended on its design and performance; and •focuses on dialogue as the means to address and resolve grievances.</p> <p>Engagement on mechanism design and performance</p> <p>Focusing on dialogue to resolve grievance</p>	<p>• Develop an understanding of local contexts. In particular, learn about existing dialogue and decision-making structures (e.g., indigenous institutional and decision-making processes) and build upon them.</p> <p>• Meaningfully and regularly consult stakeholders about their needs and expectations.</p> <p>• Provide multiple avenues and opportunities for stakeholders to contribute their views.</p> <p>• Seek out sources of local expertise (e.g., trade unions and civil society organizations).</p> <p>• Use the activities above when designing and improving the mechanism, including with respect to:</p> <ul style="list-style-type: none"> — The scope of the mechanism — Language and methods of communication — Methods of raising grievances — Locations of and timings of meetings, and — Involvement of independent mediators or adjudicators. <p>• Draw from remediation best practice.</p> <p>• Train and support mechanism personnel in dialogue-based methods of resolving grievances.</p> <p>• Use joint investigations and problem solving methods wherever possible and appropriate.</p> <p>• Rely on independent, third-party adjudicators where necessary.</p>

Source: OHCHR, ARP III Main Report; and UNGCNA GM Guidance.

Further resources

OHCHR ARP III Report. UNGCNA GM Guidance. OECD Due Diligence Guidance. ISO 20400:2017 section 6.6 and Table A.1 iso 37002. BS 25700:2022 s 9.4.5.

5.2 Take safe immediate steps to remedy harm

Discussion

Grievance mechanisms and contractual remediation plans can take time to achieve results. Where you identify clear indicators of modern slavery – for example by using *Appendix M Good practice in identifying forced labour* – you should take immediate steps to address these harms. These should, however, be safe – and always place the wellbeing of the rights-holder first.

To begin with, you should cease activities that are causing or contributing to modern slavery. Assign responsibility for ensuring that this happens. If you are using the GRS Model Contract Clauses, this may require triggering material breach clauses and the institution of a Remediation Plan. (See *Appendix J GRS Model Contract Clauses*.) You should keep records of this, for later reporting.

Hallmarks of Best Practice

- The entity's main activities to prevent or mitigate modern slavery risks are focused on outcomes for affected stakeholders.

Considerations

You should be prepared for the eventuality of modern slavery occurring in your operations or more likely your supply chain. Pro-active **establishment of standard operating procedures** for responding to instances of modern slavery will help you react quickly and more appropriately should a case arise, and will also help manage media exposure and reduce reputational damage.

A **standard operating procedure** for remediation should:

- identify responsibilities for identifying and assessing the harm, for responsible engagement with those affected and other stakeholders, for triggering formal contractual remedies, for follow up and resolution
- indicate how relevant stakeholders will be identified and engaged, with a view to identifying relevant leverage
- indicate how you will work collaboratively with other entities, whether from NSW or sourcing in the same location (even if they operate in different sectors), or from the same supplier
- put the interests of those affected, especially rights-holders, first. Workers may choose to remain in the situation, even when they have suffered harm. If this decision is freely made, with informed consent, and without fear of retaliation or retribution, you should not interfere with it
- identify how you will decide whether and when and how to report the harms to relevant authorities (see further section 6.1 Establish a victim-centred reporting protocol, and Figure 52).

In general, you should not attempt to resolve the situation by yourself. Trying to deal with the situation without support from other areas of your entity, other mandated government bodies or trusted partners may lead to further harm to the victim or victims.

You should always ensure your actions are in the best interests of the suspected victim or victims. Take care in how you engage with suspected victims – see further *Appendix N Speaking with victims of modern slavery*.

This also means you should take steps to prevent further harm and achieve the best possible outcome for the victim or victims. For example, immediately removing workers from an exploitative situation without appropriate support may lead to unintended negative consequences, including their deportation, re-exploitation, blacklisting by employers and/or violence from creditors. (See further Figure 43 Should you 'rescue' suspected victims of modern slavery?.)

If you believe there are indicators of modern slavery, you may need to consider if further action is required to verify if modern slavery is in fact occurring or has in fact occurred. For example, if allegations of modern slavery are made through unsubstantiated media reporting you may need to check whether these reports are correct. You should ensure any actions you take do not alert the suspected offenders or result in any unintended consequences for the affected worker or workers. You should be careful that any actions you take do not have unintended consequences for other victims you are not aware of. Recognise that you may not be aware of all the victims involved or the extent of the exploitation. For example, a supplier using forced labour on one worksite connected to a contract with you may also be exploiting workers at other worksites not connected to the products you are sourcing.

You should respond in a way that is appropriate to the circumstances of the situation. For example, your response will vary depending on whether the affected entity was unaware that modern slavery was occurring in part of their operations and supply chains or was instead deliberately engaging in modern slavery. Refer to section 6.1 to consider reporting options. In some situations, you may need to work closely with other organisations, including trade unions.

Figure 43 Should you 'rescue' suspected victims of modern slavery?

The wishes and best interests of workers need to be the primary concern for interventions in modern slavery cases. Pulling a worker or vulnerable person out of a situation without understanding the risk to the worker, or without remedy and support in place, can result in further harm. For example, immediately removing workers from an exploitative situation without appropriate support may lead to unintended negative consequences, including their deportation, re-exploitation, blacklisting by employers and/or violence from creditors – or retaliation against co-workers, associates or family – including overseas.

Unless a situation is one of serious harm to life or health, or a worker has asked to be rescued, the most responsible approach is to understand what the worker's situation is, and where possible, to consult with the worker, a trusted civil society representative or trade union, to identify the best possible approach to resolution. Negative consequences of poorly managed worker rescues include workers facing destitution with no option but to return to abusive employers, or even to fall prey to more exploitative working situations.

Source: see ETI Base Code Guidance, Appendix III; Commonwealth Guidance.

Further resources

OECD Due Diligence Guidance pp. 29-31. ETI Base Guidance. Commonwealth Guidance.

See also *Appendix N Speaking with victims of modern slavery* and *Appendix P Immediate forced labour remediation measures*.

See also UNGCNA, *Listening and Responding to Modern Slavery (VIDEO)*. Available at <https://unglobalcompact.org.au/video-listening-and-responding-to-modern-slavery/>; and UNGCNA, *Responding to potential instances of modern slavery safely (VIDEO)*, Available at <https://unglobalcompact.org.au/responding-to-potential-instances-of-modern-slavery-safely/>

5.3 Use leverage to remediate deficient practices

Discussion

When specific instances of modern slavery have been uncovered in your activities or the supply chain, they must be addressed immediately and in a manner that is proportionate and adapted to the circumstances of the case. After taking immediate safe steps to remedy harm (see above, section 5.2), you should develop a plan to ensure you remediate the deficient operational or supply-chain practices, and prevent further harm.

If you identify that your entity has caused or contributed to the exploitation you should provide for, or cooperate in, the remediation of that harm. If you are directly linked to the exploitation by a business relationship, you may play a role in remediation and should use your leverage to work with the entity that caused the harm to prevent or mitigate its recurrence.

You should consider if or how you may be able to address – or help address – underlying structural factors that contribute to exploitation. For example, your entity’s own purchasing practices may contribute to a supplier’s decision to use forced labour. In some cases, abuses will be a consequence of the way a specific industry or supply chain model is organised and these may require a longer term approach to address the root cause. Generally, you should seek to work collaboratively with the supplier and in accordance with the terms of the contract to address instances of modern slavery.

You should also carefully consider opportunities to collaborate with international and local organisations or civil society groups. Reputable international and local organisations and civil society groups may be able to assist you by providing an ‘on the ground perspective’ and providing advice about the most appropriate way to respond in a given location or context.

Hallmarks of Best Practice examples

- The entity uses its leverage to support the development and implementation of effective grievance mechanisms in its value chain that are capable of providing remedy to affected stakeholders.
- The entity draws on information from its own grievance mechanisms to inform the early identification and mitigation of risks to people and to continuously improve its due diligence processes.

Considerations

You should encourage your suppliers to be proactive and open, and report risks of modern slavery as they come to light.

When a risk has been identified, an action plan setting out the behaviours, standards and actions required of both parties is required to address the issues.

It may be useful to prepare a ‘**Blueprint Remediation Plan**’ to keep on the shelf, and deploy at short notice when foreseeable modern slavery harms materialise. This would set out the process for dealing with such instances, as well as roles and responsibilities. It should clearly set out what action will be taken, when and by whom including deadline dates, milestones and targets, and what preventative measures the supplier will put in place to stop recurrence.

You should consult impacted and potentially impacted stakeholders and rightsholders and their representatives to devise and implement such a plan. Your legal team can advise on the specific contractual mechanisms in place to handle instances of modern slavery that have emerged. If you have used the GRS Model Contract Clauses, this may include the opportunity to institute a formal Remediation Plan.

In addition, you should consider steps such as:

- updating your Modern Slavery Policy or Modern Slavery Risk Management Plan to provide for effective prevention of such issues in future

- providing training to relevant personnel and management
- using leverage to prompt the supplier to prevent or mitigate adverse impacts or risks, or consider ways to build the necessary leverage to achieve this result, for example through outreach from or to senior management, and through commercial incentives. This may require you to cooperate with other actors to build and exert collective leverage, for example through collaborative approaches in industry associations, or through engagement with governments.

Figure 44 Good Practice Examples: Remediation

Aspect of the remediation process	Good Practice and Examples
Gathering and securing information	Confidentiality, informed consent and personal security protection of potential victims should be assured during data collection.
Corrective actions at workplace	<p>If a situation can be resolved by a company (it is not linked to violence, criminality or state-sponsorship), a time-bound plan for correcting the processes that led to the violation should be established including actions that prevent further abuses (see 'Prevention' in this table).</p> <p>This could include long-term initiatives such as capacity-building programmes, or immediate steps such as returning confiscated passports or cancelling illegal debts.</p> <p>Example: After audits revealed possible instances of forced labour in Patagonia's Taiwanese material supply chain, it developed a Migrant Worker Employment Standard. Suppliers were expected to reimburse workers who had paid recruitment fees in excess of legal limits. Patagonia collaborated with suppliers to understand how costs could be shared to make this financially feasible.</p>
Referral to authorities	<p>Where violence or criminality are involved, the case should be referred to relevant legal authorities (where this is seen as viable). It should be understood whether referrals will put victims (and their families) at risk of further harm. (See further section 6.1 Establish a victim-centred reporting protocol)</p> <p>Example: The Gangmasters and Labour Abuse Authority (GLAA) in the UK's mandate is to protect vulnerable and exploited workers. This is accomplished through a licensing regime as well as inspections and prosecutions. The GLAA can receive referrals and reports on suspected cases of modern slavery and has clear commitments to confidentiality and protecting sources of information.</p>
Referral to independent worker representatives or experts	<p>If it is not viable to refer to the authorities because of inadequate mechanisms or because they have caused or contributed to the case, or where a company's corrective actions would be inadequate, the case should be referred to workers' representatives and/or experts to act on their behalf. (See further section 6.1 Establish a victim-centred reporting protocol)</p> <p>Before making the referral, it is important to assess third-party experts and organisations to understand their capacities and potential role.</p> <p>Example: In response to modern slavery risks in its Thai prawn supply chain, highlighted through a number of NGO and media campaigns, UK supermarket retailer Tesco partnered with the Issara Institute, which specialises in forced labour in the region. Tesco is one of many retail brands and food suppliers that have partnered with Issara to jointly improve leverage over lower-tier suppliers to influence change. In Tesco's case, through the Issara Institute, it ensured that migrant workers had access to the Issara Institute's multilingual helpline. Through the helpline, Tesco was able to remedy a number of cases.</p>
Rehabilitation and material support	Rehabilitation should be tailored to the needs of the victim and could include stipends, housing support, legal assistance, medical care, psychological support or other assistance that the victim may not be able to access on their own.
Restitution or compensation	<p>Steps should be taken to either compensate the victim or restore their situation to before their ordeal took place, including if possible:</p> <ul style="list-style-type: none"> • reimbursement of recruitment fees or illegal deposits

Aspect of the remediation process	Good Practice and Examples
	<ul style="list-style-type: none"> • compensation for lost wages or illegal wage deductions • compensation for pain and suffering endured, and • assistance with repatriation, if desired. <p>In certain cases, victims may also be eligible for payments under the <i>Victims Rights and Support Act 2013</i> (NSW). For more information, contact the Office of the NSW Anti-slavery Commissioner: GRS@dcj.nsw.gov.au.</p>
Prevention	<p>Proactive steps to address the root cause of the labour abuse(s) in question should be taken, including by:</p> <ul style="list-style-type: none"> • establishing or reinforcing access to an effective grievance mechanism (including those offered by <u>Anti-Discrimination NSW</u>, the <u>Australian Human Rights Commission</u>, and the <u>Fair Work Ombudsman</u>); • educating and informing vulnerable people; • educating and informing employers; • leveraging key actors to influence change; • protecting people, particularly migrant workers, from possible abusive and fraudulent practices; and • supporting due diligence by both the public and private sectors to prevent and respond to risks of forced labour.

Adapted from CDC Good Practice Note pp. 68-69:

Figure 45 Good Practice Example: A Remediation Plan template

This agreement sets out the remedial actions to be taken, within the terms and conditions of the contract, when an occurrence of modern slavery has been identified in a government contract.

The action plan sets out the responsibilities of the supplier ('you') and the buyer ('we/Us').

When evidence of modern slavery in the supply chain occurs:

- You will take immediate, decisive action on any evidence which shows modern slavery is taking place in your supply chain
- You will investigate fully any evidence of modern slavery and promptly and regularly report to us those details in full, confirming the facts and being transparent and accountable in reporting progress
- Work in good faith with Us, and with the statutory processes and authorities in the country concerned.
- Reciprocally share information with Us that will help stop, or prevent, the abuse or exploitation of workers, including where either party has been made aware of risks specific to the supply chain
- Treat all information sensitively and appropriately and not disseminate it without Our prior agreement
- Subject to any ongoing or criminal proceedings, all relevant parties including Us shall be informed of the findings of any investigation.

You will establish a dedicated lead to implement the remedial action plan, to coordinate the response and liaise with all necessary agencies including Us and law enforcement agencies. The lead must have sufficient seniority to be responsible for the exchange of information and an understanding of how sensitive information should be handled.

When modern slavery is proven to have taken place You will set out a plan to Us detailing how you will:

- Work with victims, victims' representatives and, where relevant, statutory authorities to tackle root causes and support identified victims
- Agree timescales for remedial measures to be put in place
- Monitor delivery of the plan, in conjunction with Us
- Take further action where plans are not delivered, or where delivery is not effective or timely

(...continues...)

...

Where appropriate remedial measures require it, the dedicated lead will:

- Create partnerships with other organisations in the supply chain, and victims, and consult locally on any remedial measures
- Share responsibility and costs for investigation and remedial action appropriately across the supply chain
- Allow some flexibility for smaller businesses (i.e. longer time frames)

All remedial measures shall put the victims' welfare first, specifically the dedicated lead shall:

- Prioritise the safety and security of the victims of slavery, particularly children
- Work and consult with victims to identify remedial solutions that work for them and improves their situation
- Address modern slavery as part of a wider approach to improve working conditions, aiming for continuous improvement.

Enforcement of the action plan:

If you:

- Do not cooperate with investigations, including concealing information or unreasonably delay sharing information
- Do not put the victims first
- Continue to employ people, or use suppliers that employ people, in modern slavery
- Do not implement remedial measures or refuse to improve your practice,

then We will:

- Review the actions available to us under the terms of the contract, in light of the best outcome for victims, including:
 - suspension,
 - termination, and
 - sharing past performance information with other public sector contracting authorities.

Where it does not provide a perverse outcome for victims we may exercise any termination right if:

- You continue to employ people in modern slavery or engage suppliers who employ people in modern slavery
- You or one of your first-tier supplier suppliers are found to have committed a 'modern slavery offence' as defined in the *Modern Slavery Act 2018* (NSW).

If you:

- Did not commit a 'modern slavery offence' as defined in the *Modern Slavery Act 2018* (NSW) and
- Act in accordance with the principles set out in this plan,

then We will:

- Seek to avoid termination even where an actor in your supply chain is found to have committed criminal offences under the *Modern Slavery Act 2018* (NSW)
- Work with you to remedy any identified instances of modern slavery or child labour abuses
- Where appropriate work with you and our other suppliers to share lessons learnt, raise awareness within the supply chain and protect workers from exploitation and abuse.

Source: UK PPN 02/23, p. 45.

There are a range of organisations working in different sectors that can help you manage modern slavery risks and remediate modern slavery harms. These include Electronics Watch in the ICT sector, the Cleaning Accountability Framework in the cleaning services sector, and the ILO's Better Work initiative in the garment sector. These are described in the Figures below.

Figure 46 Good Practice Example: Remediation in the ICT supply-chain

Electronics Watch is an independent monitoring organisation that uses worker-driven monitoring to address labour issues in the electronics sector. It collaborates with civil society organisations in electronics production regions with expertise in labour rights. Electronics Watch has played a key role in advancing understanding of what constitutes adequate remediation. In 2019, following three years of worker driven monitoring, Electronics Watch (along with its partner, MWRN) was successful in securing full compensation from Cal Comp for excessive recruitment fees paid by 10,570 migrant workers. Working with expert civil society groups, Electronics Watch is able to harness their expertise to document workplace violations and seek redress. MWRN, a membership-based organisation for migrant workers from Myanmar residing and working in Thailand, is on the ground near workers' communities and has insight into daily working conditions.

Source: AHRI Good Practice Toolkit.

Figure 47 Good Practice Example: Remediation in cleaning services

The **Cleaning Accountability Framework** (CAF) provides for certification, worker engagement and remediation in the cleaning industry. It is a multi-stakeholder initiative to address labour standards non-compliance in the commercial real estate cleaning industry, which has long suffered from underpayment, poor working conditions, and exploitation. CAF brings together building owners, cleaning companies, the union representing cleaners – the United Workers Union, cleaners themselves, and other industry stakeholders.

Worker engagement is a key aspect of CAF's approach, as it seeks to involve cleaning workers in the process of identifying and rectifying labour violations.

A key component of CAF's process is conducting independent audits. These audits involve engaging with cleaners at worker engagement meetings and collecting information on their working conditions and pay via a survey. This direct engagement with workers helps to uncover labour violations and ensures that workers have a voice. CAF works closely with the trade union to ensure that workers' interests are represented in decision-making processes. This allows the trade union to advocate for their members in the context of CAF's certification and remediation efforts.

CAF has identified and addressed numerous cases of labour standards non-compliance. Cleaners have played a vital role in this process. Despite the successes in engaging workers and improving labour conditions, CAF faces challenges in achieving industry-wide impact due to its voluntary nature, and there remains substantial resistance among actors in the cleaning supply chain to meaningfully address non-compliance and labour exploitation.

Source: AHRI Good Practice Toolkit

Figure 48 Good Practice Example: Remediation in garments and apparel

The **Better Work Initiative** is designed and supported by the International Labour Organization (ILO) and the International Finance Corporation (IFC). It brings together partners from all levels of the garment industry including workers and unions; employers (factories); national governments, development partners; and brands and retailers. The programme is presently active in over 1000 factories employing millions of workers in several different countries.

The Better Work Programme initiative combines factory compliance assessments with advisory services and training at both factory and industry levels to build capacity, facilitate and strengthen social dialogue. Participants may register to purchase reports for factories registered in Better Work programmes. The programme's effectiveness is demonstrated in improving compliance with core labour standards and national legislation covering contracts, compensation, occupational health and safety, and working time.

Source: AHRI Good Practice Toolkit

Further resources

OECD Due Diligence Guidance pp. 29-31. BS 25700:2022 section 9.4.4.2. UK PPN 02/23, p. 45.

5.4 Withdraw responsibly

Discussion

In some cases, where a supplier or other business partner is unable or unwilling effectively to address modern slavery risks or concerns, you may need to consider withdrawing from the relationship in order to mitigate modern slavery risks to people.

Withdrawal and disengagement should be understood as a last resort coming:

- after failed attempts at preventing or mitigating severe impacts,
- when adverse impacts are irremediable,
- where there is no reasonable prospect of change, or
- when severe adverse impacts or risks are identified and the entity causing the impact does not take immediate action to prevent or mitigate them.

Any consideration of disengagement should take into account how crucial the supplier or business relationship is to your entity, the legal implications of remaining in or ending the relationship, and how disengagement might change impacts on the ground – including by potentially *increasing* modern slavery risks to people.

In some cases, taking immediate action to terminate a contract can have a drastic effect and risks causing further harm to those involved, for example by exposing workers to retaliation or destitution. The priority should be to work closely with the supplier to help victims and those at risk, and prevent recurrence.

Exiting the relationship should be a last resort. Wherever there are indicators of potential willingness or capability on the part of the supplier to engage in good faith in remediation, you should ‘stay and engage’.

Hallmarks of Best Practice

- The entity takes deliberate steps to build leverage to influence others where its existing leverage is insufficient to prevent or mitigate risks, including considering the role of disengagement as a form of leverage.

Considerations

Decisions regarding whether or not to remain in a challenging operating environment or business relationship, and how best to respond to modern slavery risks, are rarely, if ever, straightforward. An entity will often be concerned with identifying and evaluating the various sources of risk. There are likely to be a host of legal and real-world issues to consider, as well as issues arising under the entity’s own policies or commitments.

While the steps needed to guard against risks to your business or entity may sometimes be the same or similar to those needed to address modern slavery risks to people, this is not always the case. Indeed, in the face of public pressure to exit a challenging relationship, an entity’s exit may result in reputational benefits, but this may not necessarily lead to better outcomes for people on the ground. A responsible business understands this distinction and will take the latter considerations into account in decision-making.

Termination or suspension should be considered only where leverage is unavailable or proves ineffective, and should itself be considered as a source of leverage.

In some cases, the mere prospect or threat of disengagement or withdrawal itself may provide leverage that allows you to address modern slavery risks.

Generally, you should only consider ending the relationship if the affected entity refuses to address the issue and there is no real prospect of change. You should also make sure you consider and address any negative impacts that may result from ending the relationship. For example, ending the relationship could have negative flow on impacts for other workers in the supply chain who may find

themselves unable to access any income and at risk of further exploitation. Reactive contract termination can also lead to fear and concealment by other suppliers, which in turn puts victims at greater risk.

As Figure 49 below shows, failure to contemplate these knock-on implications from withdrawal can itself create legal jeopardy.

Continuing to work with suppliers may offer the best chance of mitigating and preventing modern slavery risks to people.

Figure 49 Legal risks from irresponsible withdrawal

In August 2023, the AusNCP (discussed in section 5.1) issued a Final Statement addressing a complaint from Publish What You Pay Australia (PWYP) on behalf of 245 civil society organisations, against Myanmar Metals Limited (MYL) which is now known as Mallee Resources Limited. The Final Statement addressed the complaints by PWYP about MML’s failure to comply with the OECD Guidelines before selling its ownership stake in an operation in Myanmar following a military coup, namely:

- that MYL had not conducted human rights due diligence and meaningfully engaged with stakeholders regarding the divestment,
- that MYL had not taken steps to prevent or mitigate adverse human rights impacts that it alleged could arise from divestment, and
- that MYL had not met the disclosure expectations under the OECD Guidelines in communicating with civil society and local stakeholders.

The Final Statement largely upholds these complaints. It finds that while MYL intended to operate responsibly in Myanmar, its ability to do so was compromised by not having a human rights policy and not undertaking human rights due diligence prior to and during its investment in Myanmar, nor prior to divestment. By failing to conduct effective due diligence, the entity “did not seek to prevent or mitigate potential adverse human rights impacts that it may have caused, contributed to or been directly linked with after the sale of its interest”.

While making these findings, the Final Statement also noted the particular responsibilities of governmental bodies to provide clarity on the expectation to undertake effective due diligence and to assist relevant entities to access relevant resources.

See *PWP Australia v Mallee Resources Ltd*, Final Statement, 2 August 2023. Available at <https://ausncp.gov.au/sites/default/files/2023-08/27-ausncp-final-statement.pdf>

You must first check that you have a right to terminate the contract and you may need to take legal advice. If you are using the GRS Model Contract Clauses, this right is inbuilt. The clauses provide a roadmap for addressing remediation and responsible management of withdrawal – see *Appendix J GRS Model Contract Clauses*.

There may be legal considerations that will bear on how, and how quickly, your entity can exit a business relationship. For instance, there may be operating licence conditions, contractual delivery obligations or public service obligations – that may demand notice periods, transition and orderly handover arrangements – that would restrict the ability of an entity to unilaterally terminate arrangements at a time of its own choosing without penalty.

You should also consider the potential detrimental effect on workers, particularly if these are overseas, and consider:

- Will contract termination stop the abuses occurring or will it result in working conditions worsening?
- What will happen to the workers if the supplier’s business closes? Will they be able to find alternative employment?
- Will the workers be paid for the work they have already undertaken?

To the extent possible, the decision to exit responsibly should draw on internal and/or independent external modern slavery and broader human rights expertise, and involve meaningful consultation with potentially affected groups and other relevant stakeholders. Entities considering exit should engage with all workers about the implications of exit for their situations and livelihoods, in particular consequences as regards their health and safety.

Importantly where your entity has caused or contributed to modern slavery harms, withdrawal will not terminate its responsibility to provide for or cooperate in remediation through legitimate processes, including, where appropriate, to report alleged modern slavery – see further Part 6 Report.

Detailed further guidance on responsible withdrawal is available from the UN Office of the High Commissioner for Human Rights – see OHCHR Considerations.

Figure 50 Good Practice Example: staying and engaging

In their 2022 modern slavery statement, Australian retail group Woolworths revealed the identification of forced labour in one of their Malaysian suppliers. Six of the 11 International Labour Organization’s (ILO) forced labour indicators were identified during a routine audit in 2021, and validated in a forced labour audit in 2022, including that workers had paid excessive recruitment fees and security bonds that placed restrictions on freedom of movement.

In their 2023 modern slavery statement Woolworths described the steps they had taken to stay and engage. This was driven by the company’s Human Rights Program principles which set out that “where potential situations of modern slavery are identified, we will always do the right thing, which means acting in the best interests of potentially affected workers”. Woolworths partnered with their supplier and third parties to remediate impacted workers and co-develop site level controls to prevent recurrence.

Key actions included:

- repayment of recruitment fees to 230 (98%) impacted workers totalling ~\$734,000
- a local non-government organisation (NGO) oversaw the repayment process, including engagement with affected workers at multiple stages – workers were interviewed, received a briefing session and written information in their language about the terms and conditions of the remediation program, and confirmed receipt of payment
- repayments included 44 repatriated workers who were successfully located. Three workers in Myanmar could not be located, and the remaining amount of ~\$3,300 was donated to our NGO partner to support their ongoing programs for migrant workers in Malaysia
- a social compliance audit to verify that corrective actions such as an assessment checklist for labour hire contractors and a “no fees” policy were implemented
- implementing a worker voice survey to capture worker sentiment and the fees repayment process. The survey results echoed findings from the various audits and provided valuable additional insights to inform the supplier’s action plan.

At the time of writing, monitoring of remediation is ongoing through audits and a second round of worker surveys, as well as direct engagement.

Source: Woolworths Modern Slavery Statements 2022 and 2023; AHRI Good Practice Toolkit.

Further resources

OHCHR Considerations. UNGCNA GM Guidance. ISO 20400:2017 section 7.5.6; UK PPN 02/23 p. 27. AHRI Good Practice Toolkit.

6

Report

About this Part

This Part provides guidance on the reasonable steps that entities can take to report modern slavery and their responses to modern slavery risks.

This may involve reporting concerns about modern slavery risks or harms to law enforcement authorities or civil society organizations, as well as complying with statutory reporting obligations.

Entities should pay particular attention to the graduated implementation of reporting and monitoring arrangements set out in the *Implementation timeline* earlier in this Guidance.

Data to collect and report

Reasonable Steps taken	Form of response	Response mandatory / optional
6 Report		
<i>6.1 Establish a victim-centred reporting protocol</i>		
What steps did your entity take to establish a victim-centred modern slavery reporting protocol during this reporting period?	Describe steps taken	Mandatory
Do you have a modern slavery reporting protocol in place that prioritises the interests of the victim/survivor?	Yes / No	Mandatory
<i>6.2 Report on your modern slavery risk management efforts</i>		
What steps did your entity take to report on your modern slavery risk management efforts during this reporting period?	Describe steps taken	Mandatory
Did your entity report on modern slavery in its prior Annual Report?	Yes / No	Mandatory
During the reporting period, did your entity comply with its obligations to report heightened modern slavery due diligence procurements valued at AUD \$150,000 (including GST) or more within 45 days?	Yes / No	Mandatory

6.1 Establish a victim-centred reporting protocol

Discussion

Your entity should have clear protocols in place to define when and how it will report suspected modern slavery offences. These should prioritise the wellbeing of victim-survivors.

Hallmarks of Best Practice

The entity has:

- in place a reporting protocol that provides appropriate confidentiality and other safeguards to protect the interests of victim-survivors
- earmarked sufficient resources to support the welfare of victim-survivors during the reporting process
- identified suitably trained and supported individuals to oversee critical responses and reporting in modern slavery context
- communicated this protocol effectively internally.

Figure 51 Where can I report modern slavery?

There are multiple places you can report modern slavery concerns or seek assistance:

- The **Global Modern Slavery Directory** provides a worldwide database of organisations that may be able to provide assistance: see www.globalmodernslavery.org
- In NSW, you can contact the **Office of the NSW Anti-slavery Commissioner**: antislavery@dcj.nsw.gov.au
Reporting to the Anti-slavery Commissioner will not give rise to liability for the person doing the reporting, even where there otherwise may appear to be a contractual bar on disclosure or information-sharing. No criminal or civil liability, including for defamation, attaches to a person for providing information, a document or other thing to the Commissioner, even if a contract would otherwise create such liability. (See sections 16 and 16A of the *Modern Slavery Act 2018* (NSW)).
- the **Australian Federal Police (AFP)** on 131 237 (131 AFP) or go to the AFP website at www.afp.gov.au
- The **Fair Work Ombudsman** has the power to inquire into breaches of federal fair work laws. Call the Ombudsman's office on 13 13 94 or submit an enquiry at <https://www.fairwork.gov.au/about-us/contact-us/online-enquiries>
- **Safe Work NSW** on 13 10 50 – you can report incidents and seek assistance. See also <https://www.safework.nsw.gov.au/notify-safework/incident-notification>
- **Anti-Slavery Australia** provides free and confidential legal advice and support. Call 02 9514 8115. Email ASALegal@uts.edu.au
- Australian Red Cross **Support to Trafficked People Program**: Call 03 9345 1800. Email national_stpp@redcross.org.au
- **Domus 8.7** Advisory service on remedy pathways for individuals and organisations affected by modern slavery Email antislavery@sydneycatholic.org
- **Freedom Hub** Survivor support: Call 1800 373 348 (1800 FREEHUB). Email info@thefreedomhub.org
- **My Blue Sky** Help relating to forced marriage: Call 02 9514 8115 – SMS text to 0481 070 844. Email help@mybluesky.org.au
- **Taldumande Youth Services** Also helps with forced marriage, including providing accommodation: Call 02 9460 3777. Email administration@taldumande.org.au
- **The Salvation Army** Accommodation support: Call 1300 473 560. Email endslavery@salvationarmy.org.au

Free, confidential interpretation is available on the Translating & Interpreting Service on 131 450.

Considerations

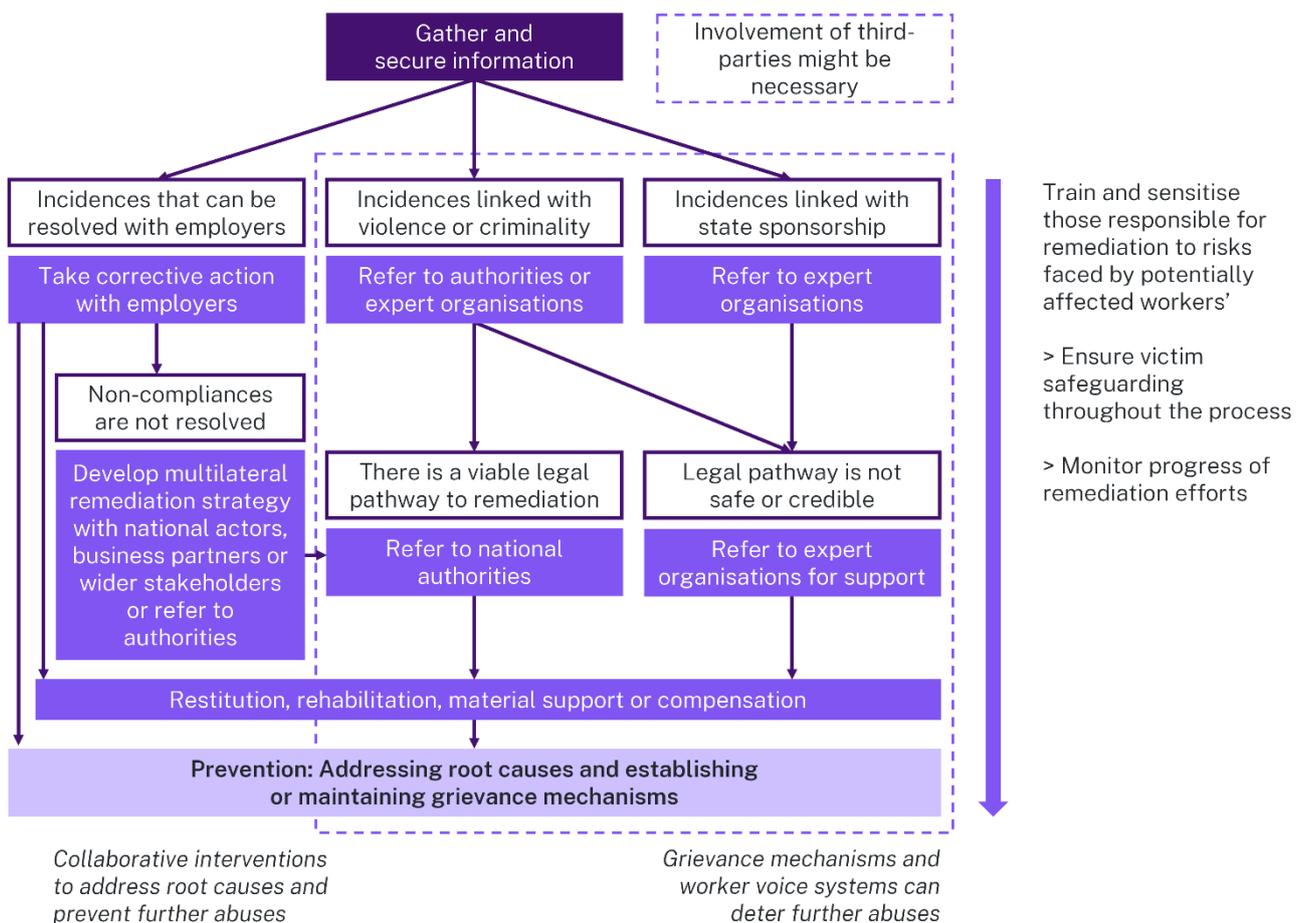
It is a crime in NSW to conceal a serious indictable offence (including modern slavery offences), provided that the information that you possess could assist police to arrest or prosecute the offender and that you do not have a reasonable excuse for failing to report it. (*Crimes Act 1900* (NSW) section 316.) Some professional roles in NSW also attract mandatory reporting obligations in relation to children at risk of significant harm. There may also be obligations under workplace health and safety laws to report certain incidents to relevant authorities.

Nonetheless, there may be occasions in which it is unclear whether reporting modern slavery could place the victim at risk of significant harm. This could be the case in countries where, for example, law enforcement or other state sponsors are connected to modern slavery perpetrators, or the legal pathway for resolving such matters is not safe or credible. In these cases you should use your existing stakeholder relationships to identify suitable civil society organizations to work with to address time-critical modern slavery concerns.

Figure 52 below sets out good practice principles for reporting in such situations. It is further explained, with examples, below.

Figure 52 Good Practice: Dealing with risks to victims from reporting

Good Practice: Dealing with risks to victims from reporting



- Gathering and securing information:** Confidentiality, informed consent and personal security protection of potential victims should be assured during information gathering. In some cases, action could be necessary to protect the immediate safety of victims, regardless of their stated preferences. This action should be led by or done in conjunction with national authorities or expert partners.

- **Corrective actions at workplace:** If a situation can be resolved by a company (i.e. it is not linked to violence, criminality or state-sponsorship), a time-bound remediation plan for correcting the processes that led to the violation should be established including actions that prevent further abuses. This could include long-term initiatives such as capacity-building programmes, or immediate steps such as returning confiscated passports or cancelling illegal debts. See further *Appendix P Immediate forced labour remediation measures*.

Example: After audits revealed possible instances of forced labour in Patagonia's Taiwanese material supply chain, it developed a Migrant Worker Employment Standard. Suppliers were expected to reimburse workers who had paid recruitment fees in excess of legal limits. Patagonia collaborated with suppliers to understand how costs could be shared to make this financially feasible.

- **Referral to authorities** Where violence or criminality are involved, the case should be referred to national authorities (where the lawful pathway is safe and credible). It should be understood whether referrals will put victims (and their families) at risk of further harm.

Example: The Gangmasters and Labour Abuse Authority (GLAA) in the UK's mandate is to protect vulnerable and exploited workers. This is accomplished through a licensing regime as well as inspections and prosecutions. The GLAA can receive referrals and reports on suspected cases of modern slavery and has clear commitments to confidentiality and protecting sources of information.

- **Referral to independent worker representatives or experts:** If it is not viable to refer to the authorities because of inadequate mechanisms or because they have caused or contributed to the case, or where a company's corrective actions would be inadequate, the case should be referred to workers' representatives and/or experts to act on their behalf. Before making the referral, it is important to assess third-party experts and organisations to understand their capacities and potential role.

Example: In response to modern slavery risks in its Thai prawn supply chain, highlighted through a number of NGO and media campaigns, UK supermarket retailer Tesco partnered with the Issara Institute, which specialises in forced labour in the region. Tesco is one of many retail brands and food suppliers that have partnered with Issara to jointly improve leverage over lower-tier suppliers to influence change. In Tesco's case, through the Issara Institute, it ensured that migrant workers had access to the Issara Institute's multilingual helpline. Through the helpline, Tesco was able to remedy a number of cases.

- **Rehabilitation and material support:** Rehabilitation should be tailored to the needs of the victim and could include stipends, housing support, legal assistance, medical care, psychological support or other assistance that the victim may not be able to access on their own.
- **Restitution or compensation**

Steps should be taken to either compensate the victim or restore their situation to before their ordeal took place, including if possible:

- reimbursement of recruitment fees or illegal deposits
- compensation for lost wages or illegal wage deductions
- compensation for pain and suffering endured, and
- assistance with repatriation, if desired.

Further resources

CDC Good Practice Note, esp. Tool 5.

6.2 Report on your modern slavery risk management efforts

Discussion

Reporting on your modern slavery risk management efforts is both a statutory obligation for covered entities, and a means to ensure the effectiveness of due diligence efforts both at the entity level, and across NSW public buying as a whole. Effective and efficient reporting will ensure that both risks and risk management responses are clearly and transparently communicated, which will in turn help to ensure that effective practice is more easily identified and promoted.

Hallmarks of Best Practice

- The entity reports annually as required by its statutory obligations, and submits a copy of its annual reporting information using the online template provided by the Office of the Anti-slavery Commissioner – see *Appendix K GRS Annual Reporting Template*.
- From 1 July 2024 onwards, the entity reports details of each Heightened MSDD procurement transaction with a value of AU \$150,000 (including GST) or more within 45 days of the procurement contract or other agreement coming into effect. These details are to be submitted through the online form which will be developed in 2024 by the Office of the Anti-slavery Commissioner – see *Appendix L Heightened MSDD reporting*.

Considerations

Annual reporting

The legislative provisions in relation to the timing and content of publication of annual modern slavery reporting information differ depending on the type of covered entity (see further information at *Appendix E Which entities are covered?*). Entities should carefully review their relevant legislative provisions to confirm their obligations and seek legal advice if required.

Annual reporting is distinct from transactional reporting of Heightened modern slavery due diligence transactions, which commences on 1 July 2024 (see below).

Figure 53 Can entities report jointly?

The *Modern Slavery Act 2018* (NSW) does not provide for joint or group reporting (in the same way as the Commonwealth *Modern Slavery Act 2018* does). Each individual covered entity must satisfy its own due diligence and reporting obligations. At the same time, however, individual entities could develop a joint modern slavery report or statement which is then incorporated into their formal reporting by reference. Collaboration to effectively address modern slavery risks is generally encouraged by this Guidance. Yet such a joint report would nonetheless need to adhere to this Guidance, in the sense that no entity should substitute another's discretion – or accountability – for its own, and in reporting relevant data.

You should timely submit required annual reporting. *Appendix K GRS Annual Reporting Template* provides a template that you can use in preparing the modern slavery section of your annual report, or as a stand-alone report. For reporting up to 31 December 2023, it can be used as inspiration for entities' reporting.

For reporting from 1 January 2024, entities should report in two places:

1. By including relevant information in the entity's formal annual report.

The GRS Annual Reporting Template provides a template that you can use in preparing the modern slavery section of your annual report, or as a stand-alone report.

2. Using the online GRS Annual Reporting Form.

The GRS Annual Reporting Form is an online form on the OASC website which allows covered entities to share data directly with the Office of the Anti-slavery Commissioner. You should complete and submit this form upon publishing your Annual Report.

For more information on how annual reporting obligations relate to the period between 1 July 2022 and 31 December 2023, see the *Implementation timeline* section earlier in this Guidance.

Transactional reporting of Heightened modern slavery due diligence transactions

From 1 July 2024, you should also file an online report about each contract your entity is a party to that:

- commences on or after 1 July 2024;
- has a value of AU \$150,000.00 (including GST) or more, and
- requires Heightened modern slavery due diligence on the GRS Due Diligence Level scale. (See Figure 16 GRS Due Diligence Levels.)

The online report must be submitted within **45 working days** after the contract becomes effective.

This will help provide a baseline for understanding the effectiveness of implementation of this Guidance in subsequent years.

Please note that:

- This requirement is separate from the annual reporting process. It applies to individual procurement activities, rather than actions taken throughout the reporting period.
- This requirement applies only to contracts and other obligations commencing on or after 1 July 2024.
- The Anti-slavery Commissioner will develop an online form for transactional reporting on Heightened modern slavery due diligence procurements.

Public Register

Note that the Commissioner is to publish an electronic register of government agencies failing to comply with directions of the NSW Procurement Board, and other information. This will include those entities failing to meet reporting obligations. This is discussed above, in the *Public register* section of the first Part of this Guidance, entitled 'About this Guidance'.

Further resources

UNGPS Reporting Framework; Global Reporting Initiative Standard 409: Forced or compulsory labour.

7

Improve

About this Part

This Part provides guidance on the reasonable steps that entities can take to improve the effectiveness of their modern slavery risk management efforts.

This may involve drawing lessons from grievance mechanisms and stakeholder feedback, engaging in staff training, and participating in collaborative learning processes.

Data to collect and report

Reasonable Steps taken	Form of response	Response mandatory / optional
7 Improve		
<i>7.1 Learn lessons from your performance and others'</i>		
What steps did your entity take to learn lessons from your modern slavery performance and others' during this reporting period?	Describe steps taken	Mandatory
Has your entity updated its modern slavery policies or procedures based on stakeholder feedback or lessons from a grievance mechanism during this reporting period?	Yes / No	Mandatory
<i>7.2 Train your workforce</i>		
What steps did your entity take to train your workforce on modern slavery during this reporting period?	Describe steps taken	Mandatory
What percentage of your workforce received modern slavery training during this reporting period?	Percentage	Mandatory
<i>7.3 Cooperate with the Anti-slavery Commissioner</i>		
What steps did your entity take to cooperate with the Anti-slavery Commissioner during this reporting period?	Describe steps taken	Mandatory

7.1 Learn lessons from your performance and others'

Discussion

The development of effective modern slavery risk management capabilities at both the entity and system level in NSW will take time. Like any process of system change, it will require long-term commitment, resourcing and mindful effort.

In particular, it will require a deliberate effort by your entity to learn lessons from your own performance, and from feedback received via grievance mechanisms and from stakeholders, including suppliers.

These lessons should be systematically and periodically identified – for example through an annual entity-wide modern slavery performance review. This could be conducted by the same cross-functional group involved in developing and sponsoring your entity's Modern Slavery Policy and Modern Slavery Risk Management Plan. Lessons identified should be learned, and then reflected through improvements to the Policy and Risk Management Plan.

You can accelerate your capability development by learning lessons from others. You should encourage participation by relevant personnel in peer learning opportunities.

Hallmarks of Best Practice

- The entity draws on information from its own grievance mechanisms and stakeholder engagement to inform the early identification and mitigation of risks to people and to continuously improve its due diligence processes.
- The entity discloses progress towards at least its high-level targets, including explanations of any setbacks and resulting changes in strategy.

Further resources

ISO 20400:2017 section 7.6

KPMG and OASC, Public Social Procurement: Social returns on global public social procurement initiatives and lessons for NSW's anti-slavery efforts (2023).

7.2 Train your workforce

Discussion

Your Modern Slavery Risk Management Plan should establish a timetable for relevant modern slavery awareness raising and training across your business units. Numerous civil society and commercial organisations now offer such training.

Training should not be limited to general awareness-raising. Where possible, training should ensure that individuals are being trained on the modern slavery risks that they are most likely to encounter, and suitable responses. Procurement officers should be trained not just on modern slavery in general, but on this Guidance specifically. And senior managers who have risk management responsibilities should be trained specifically on the concept of Heightened Modern Slavery Due Diligence and the related reporting and governance requirements set out earlier in this Guidance.

Your entity should also consider establishing professional development pathways within the organisation to ensure it has reliable and cost-effective access to modern slavery expertise across different functions and business units.

Figure 54 How will the Anti-slavery Commissioner support training?

The Office of the Anti-slavery Commissioner will provide materials and resources, including recorded webinars, to support you training your workforce. This will commence with training on this Guidance, which began in the last quarter of 2023.

You can also learn more about good practice in implementing this Guidance by attending the NSW Anti-slavery Forum. The first Forum will be held in 2024. One day of the Forum is always dedicated to peer learning amongst public and private sector organisations, with a particular focus on implementation of this Guidance and OASC Codes of Practice.

For more information, visit the Anti-slavery Commissioner's website at dcj.nsw.info/antislaverycommissioner, or contact the Commissioner via GRS@dcj.nsw.gov.au

Further resources

OECD Due Diligence Guidance. UNGCNA Bite-size Learning Videos.

7.3 Cooperate with the Anti-slavery Commissioner

Discussion

Research conducted for the development of this Guidance has identified that social impact reforms to public procurement are more likely to succeed if a central hub is charged with promoting change, including by identifying lessons, disseminating them and working to secure their uptake. The NSW Anti-slavery Commissioner has been given statutory authority to drive and support system change in NSW public procurement.

NSW government agencies have a statutory duty of cooperation with the Anti-slavery Commissioner, including the obligation to share information and to provide reasonable assistance and support. (*Modern Slavery Act 2018* (NSW) section 14).

The Anti-slavery Commissioner is charged with monitoring due diligence and government action, making recommendations to government agencies, promoting good practice in supply-chain management, and consulting with the NSW Procurement Board and Auditor-General on the effectiveness of due diligence undertaken by covered entities.

The Anti-slavery Commissioner will support covered entities' efforts to strengthen their due diligence in four ways:

- by receiving and monitoring reporting by covered entities. This will allow him to discharge various obligations, including to publish an electronic register of certain entities not meeting defined modern slavery risk management expectations (as discussed above in the 'Public register' section). In time, the Anti-slavery Commissioner may also be able to evaluate this reporting and provide feedback to covered entities.
- by supporting entities' access to information and training, including by maintaining the IRIT.
- by providing bespoke advice and support to covered entities, on demand, as they seek to manage modern slavery risks. The Commissioner is also empowered to make recommendations to government agencies about 'significant issues' in their operations.
- by regularly convening a two-day NSW Anti-slavery Forum. The Forum, which is discussed further in the NSW Anti-slavery Commissioner's Strategic Plan 2023-2026, will provide an opportunity for active community engagement, information sharing and learning, and development of new partnerships and practice arrangements. One of the two days at each Forum will focus on procurement and responsible business conduct.

Further resources

NSW Anti-slavery Commissioner's Strategic Plan 2023-2026, [*Working Together for Real Freedom*](#).

KPMG and OASC, *Public Social Procurement: Social returns on global public social procurement initiatives and lessons for NSW's anti-slavery efforts* (2023).

Appendices

Appendix A Glossary

Auditor-General	The New South Wales Auditor-General.
bonded labour	See <i>debt bondage</i>
buyer	purchaser of a good or service.
child	a person below the age of 18.
child labour	work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. See further Figure 5 Child labour and modern slavery.
Commissioner	New South Wales Anti-slavery Commissioner.
core obligations	obligations set out in the Core Obligations clause of the GRS Model Contract Clauses.
covered entity	any entity with statutory obligations to take and report on ‘reasonable steps’, or otherwise to report on modern slavery due diligence, under NSW law.
Cth Criminal Code	Commonwealth Criminal Code.
debt bondage	in general, a situation where a person is forced to work for an employer to pay off their own debts or those they have inherited, on unreasonable terms. Specifically, a situation where the victim’s services are pledged as security for a debt and the debt is manifestly excessive or the victim’s services are not applied to liquidate the debt, or the length and nature of the services are not limited and defined. See ILO Convention No. 29. For specific requirements see Cth Criminal Code section 270.7C.
deceptive recruiting	deceptive recruiting for labour or services describes situations where the victim is deceived about whether they will be exploited or subjected to modern slavery. See Cth Criminal Code section 270.7.
downstream	handling, processing and movement of goods and services when no longer in the custody of the organization in the supply chain
due diligence	ongoing risk management process to prevent, identify, mitigate, address and account for actual or potential negative impacts in the organization and its business relationships.
forced labour	in general, work or service exacted from any person under the menace of any penalty and for which the said person has not offered themselves voluntarily. For specific requirements see Cth Criminal Code section 270.6.
forced marriage	in general, where coercion, threats or deception are used to make a victim marry or where the victim does not understand or is incapable of understanding the nature and effect of the marriage ceremony. See Cth Criminal Code section 270.7B.
governing body	group or body that has the ultimate responsibility and authority for the organization’s activities, governance and policies and to which senior management reports and by which senior management is held accountable.
government agency	Any of the following: <ul style="list-style-type: none"> • a government sector agency (within the meaning of the Government Sector Employment Act 2013 (NSW)) • a NSW Government agency • a council, county council or joint organisation within the meaning of the Local Government Act 1993

- any other public or local authority that is constituted by or under an Act or that exercises a public function
- any public or local authority that is constituted by an Act of another jurisdiction that exercises public functions

See *Modern Slavery Act 2018 (NSW)* section 5. And see further *Appendix E Which entities are covered?*

grievance	an actual or perceived injustice experienced by an individual or a group.
Grievance mechanism	a process for handling a complaint or grievance about modern slavery that is consistent with the criteria set out in Principle 31 of the UNGPs.
GRS	See <i>Guidance</i>
GRS Capability Level	The procurement capability classification of a covered entity. See the section of this Guidance entitled ' <i>GRS Capability Levels</i> ' and <i>Appendix G What GRS Capability Level is your entity?</i>
Guidance	This NSW Anti-slavery Commissioner's Guidance on Reasonable Steps to Manage Modern Slavery Risks in Supply-Chains, as in force from time to time.
Human trafficking	See <i>trafficking in persons</i>
inherent risk	the risk associated with a particular activity, product or service.
IRIT	NSW Anti-slavery Commissioner's Inherent Risk Identification Tool. Forms part of the NSW MS SIF. See further <i>GRS Inherent Modern Slavery Risk Levels</i> .
leverage	the ability to change another entity's conduct.
MCCs	See <i>Model Contract Clauses</i>
migrant worker	a person who leaves their home to find work outside their normal place or country of residence.
Model Contract Clauses	See <i>Appendix J GRS Model Contract Clauses</i>
Model Tender Clauses	See <i>Appendix I GRS Model Tender Clauses</i>
modern slavery	any conduct constituting a modern slavery offence, or any conduct involving the use of any form of slavery, servitude or forced labour to exploit children or other persons taking place in the supply chain of organisations. See <i>MSA 2018 (NSW)</i> section 5.
modern slavery offence	any of the offences, or an offence of attempting, or incitement to commit any of the offences, in Schedule 2 of the <i>MSA 2018 (NSW)</i> ; or any conduct engaged in elsewhere than in NSW that, if it occurred in NSW, would constitute such an offence of conduct, attempt, or incitement.
modern slavery risk	the potential for an organisation to cause, contribute or be directly linked to modern slavery through its operations and supply-chains.
MSDD	modern slavery due diligence.
person with lived experience	person who has experienced a situation of modern slavery.
policy	intentions and direction of an organization as formally expressed by its senior management.
procurement	activity of acquiring goods or services from suppliers.
product of modern slavery	any good or service made in whole or in part by modern slavery, at any tier upstream.
reasonable steps	measures, steps or actions to prevent, identify, mitigate and remedy modern slavery in an organisation's operations and supply-chains. In

	assessing whether steps are reasonable, organisations should refer to the NSW Anti-slavery Commissioner’s Guidance on Reasonable Steps and related information and resources published by the Anti-slavery Commissioner.
recruitment fee	means any fee, expense or similar financial obligation paid or incurred in the recruitment process by a worker or jobseeker in order for a worker or jobseeker to secure or retain employment or placement, regardless of the manner, timing or location of its imposition or collection. It includes the recruitment and service fees and related costs set out in sections IV.3 and IV.4 of the ‘ <u>Definition of Fees</u> ’ published by the Responsible Business Alliance, as revised from time to time.
remediation	means to counteract or make good an adverse impact or to provide remedy
remedy	making good a victim of a harm by restoring them to the situation that would have pertained if the harm had not occurred.
requirement	provision that conveys criteria to be fulfilled by goods, services or processes.
residual risk	the risk associated with a specific supplier once their risk management capabilities and arrangements have been factored in alongside the inherent risk of particular products or services they supply.
risk	effect of uncertainty on objectives. See ISO 31000:2018.
risk assessment	process of risk identification, analysis and/or evaluation.
risk management	coordinated activities to direct and control an organisation with regard to risk.
Risk Management Plan	a plan to manage risks of modern slavery in the organisation’s operations and supply-chains in accordance with this Guidance. See further Part 1.4 Adopt a Modern Slavery Risk Management Plan.
risk to people	effect of uncertainty on people’s enjoyment of their human rights.
salience	the significance of a modern slavery risk or impact as determined by its scale (how grave it is), scope (how widespread the impact is or would be) and irremediable character (how hard it is to counteract or make good the resulting harm).
senior management	person or group of people who have managerial responsibility for direction and control of the organization.
servitude	in general, a situation where the victim’s personal freedom is significantly restricted and they are not free to stop working or leave their place of work. For specific requirements, see section 270.4 of the Cth Criminal Code.
severity (of an impact)	see <i>salience</i>
slavery	in general, the status or condition of a person over whom any or all the powers attaching to the right of ownership are exercised. See Bellagio-Harvard Guidelines. For specific requirements, see section 270.1 of the Cth Criminal Code.
SME	an enterprise with fewer than 200 full-time equivalent employees.
SSAQ	supplier self-assessment questionnaire.
stakeholder	person or organization that can affect, be affected by, or perceive itself to be affected by a decision or activity.
supplier	organization that provides goods or services.

supply-chain	the chain of suppliers providing materials, components, goods or products for use in the entity's activities. This includes suppliers of raw materials and pieces or components for assembly/production.
survivor	person who has experienced and survived a situation of modern slavery.
trafficking in persons	in general, recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. See UN Protocol and for specific requirements see section 271.2 of the Commonwealth Criminal Code.
upstream	handling, processing and moving of goods and services that occur before the organization in the supply chain takes custody of the goods.
value chain	range of activities carried out by the organization, and by entities upstream and downstream from the organization, to bring the organization's products or services from their conception to their end use. This can include finance, raw materials, factored goods, human resource, IP and relationships.
victim	person who is or was in a situation of modern slavery.
worker	person performing work or work-related activities for the entity.

Appendix B Key references and resources

Key references

Short form citation	Longer form reference details
AHRI Good Practice Toolkit	UNSW Australian Human Rights Institute et al. (2023). Good Practice Toolkit: Strengthening Modern Slavery Responses
Bellagio-Harvard Guidelines	(2012). Guidelines on the Legal Parameters of Slavery.
BS 25700:2022	British Standards Organization (2022). Organizational responses to modern slavery – Guidance.
CDC Good Practice Note	CDC Group, IFC, EBRD and DFID (2018). Managing Risks Associated with Modern Slavery. A Good Practice Note for the Private Sector
Commonwealth Criminal Code	The Criminal Code set out in the Schedule to the Criminal Code Act 1995 of the Commonwealth of Australia
Commonwealth Guidance	Australian Government (2023). Commonwealth Modern Slavery Act 2018: Guidance for Reporting Entities. (May 2023)
Commonwealth Toolkit	Australian Government. Addressing Modern Slavery in Government Supply Chains. A toolkit of resources for Government procurement officers
Costs of Modern Slavery	Sasha Reed, Stephen Roe, James Grimshaw and Rhys Oliver (2018), The economic and social costs of modern slavery. Research Report 100 (London: UK Home Office).
Developing Freedom	James Cockayne (2021). Developing Freedom: The sustainable development case for ending modern slavery, forced labour and human trafficking (New York: United Nations University).
ETI Base Code Guidance	Ethical Trading Initiative and Anti-Slavery International (2017). Base Code Guidance: Modern Slavery. ETI-ASI/V1.1/08/17.
ETI Child Labour	Ethical Trading Initiative (2017). ETI Base Code Guidance: Child Labour. ETI/V1/07/17.
ETI HRDD framework	Ethical Trading Initiative (2016). ETI Human Rights Due Diligence Framework.
Five Eyes Principles	Principles to guide Government action to combat human trafficking in global supply chains, Joint Statement of the Governments of Australia, Canada, New Zealand, United Kingdom and United States, 24 September 2018.
Forced Labour Lab	Desk Based Due Diligence Strategies. Available here . Ethical Procurement Guide. Available here .

	Products Made with Uyghur Forced Labour. Available here .
Global Slavery Estimates	ILO, IOM and Walk Free Foundation (2021). Global Slavery Estimates.
Global Slavery Index	Walk Free Foundation (2023). Global Slavery Index.
IFC Good Practice Note	International Finance Corporation (2002). Good Practice Note: Addressing Child Labour in the Workplace and Supply Chain.
ILO Convention No. 29	International Labour Organization (1930). Forced Labour Convention, 1930 (No. 29).
ILO Hard to see	ILO (2012). Hard to see, harder to count : survey guidelines to estimate forced labour of adults and children.
ILO-IOE Guidance	ILO-IOE (2015). Child Labour Guidance Tool for Business.
ISO 20400:2017	International Standards Organisation (2017). Sustainable Procurement – Guidance.
ISO 31000:2018	International Standards Organisation (2018). Risk management – Guidelines.
MSA 2018 (NSW)	Modern Slavery Act 2018 (NSW)
OECD Due Diligence Guidance	Organisation for Economic Co-operation and Development (2018). Due Diligence guidance for responsible business conduct.
OECD Guidelines.	Organisation for Economic Co-operation and Development. (2023) Guidelines for Multinational Enterprises on Responsible Business Conduct
OECD Sector guidance	See Figure 20.
OHCHR ARP III Report	UN Office of the High Commissioner for Human Rights, Improving accountability and access to remedy for victims of business-related human rights abuse through non-State-based grievance mechanisms, UN Doc. A/HRC/44/32, 19 May 2020.
OHCHR Considerations	UN Office of the High Commissioner for Human Rights, <i>Business and Human Rights in Challenging Contexts: Considerations for Remaining and Exiting</i> (August 2023).
Responsible Sourcing Tool	Available at https://www.responsiblesourcingtool.org/
Signals of Seriousness	Shift (2021). ‘Signals of Seriousness’ for Human Rights Due Diligence.
UK PPN 02/23	UK Government Commercial Function (2023). Tackling Modern Slavery in Government Supply Chains. A Guide for Commercial and Procurement Professionals

UN CRC	United Nations (1989). The UN Convention on the Rights of the Child
UNGCNA GM Guidance	UN Global Compact Network Australia (2021). Implementing Effective Modern Slavery Grievance Mechanisms. A Guidance Note for Business
UNGCNA SME Playbook	UN Global Compact Network Australia (2023). Modern Slavery Risk Management: A playbook for Australian SMEs to identify, manage and mitigate modern slavery risks
UNGPs	United Nations (2011). UN Guiding Principles on Business and Human Rights
UNGPs Reporting Framework	Shift and Mazars LLP (2015). UN Guiding Principles Reporting Framework.
UN Protocol	United Nations (2000). Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime
US DoL List	US Department of Labor List of Goods Produced by Child Labor or Forced Labor
Verité Commodity Atlas	Available at https://verite.org/commodity-atlas/
Verité Hiring Toolkit	Verité Hiring Toolkit for Suppliers

Key initiatives and stakeholders

Alliance 8.7	www.alliance87.org/
Anti-Slavery Australia	www.antislavery.org.au/
Anti-Slavery International	www.antislavery.org/
Australian Catholic Anti-slavery Network	https://acan.org.au/
Better Work (Apparel)	https://betterwork.org/
Building Responsibly	www.building-responsibly.org/
Business Social Compliance Initiative	www.bsci-intl.org/content/what-we-do-0/
Child Labor Coalition	http://stopchildlabor.org
Child Labour Platform	www.ilo.org/ipecc/Action/CSR/clp/lang--en/index.htm
Cleaning Accountability Framework	https://cleaningaccountability.org.au/
Consumer Goods Forum (CGF)	www.theconsumergoodsforum.com/
Cotton Campaign	www.cottoncampaign.org/
Electronics Watch	https://electronicswatch.org/
Equator Principles (EP)	http://equator-principles.com/
Ethical Trading Initiative (ETI)	www.ethicaltrade.org/
Fair Factories Clearinghouse (FFC)	www.fairfactories.org
Fair Labor Association (FLA)	www.fairlabor.org/

Fair Recruitment Initiative	www.ilo.org/global/topics/labour-migration/projects/WCMS_405819/lang--en/index.htm
Finance Against Slavery & Trafficking (FAST)	www.fastinitiative.org/
Freedom Fund	https://freedomfund.org/
Freedom Hub	https://thefreedomhub.org/
Global Fund to End Modern Slavery	https://gfems.org
Humanity United	https://humanityunited.org/
ILAB Comply Chain Guidance	www.dol.gov/ilab/complychain/
InPacto Brazil	www.inpacto.org.br/en/inpacto-2/quem-somos/
International Initiative to End Child Labor	http://endchildlabor.net/
ISEAL Alliance	www.isealalliance.org/
Issara Institute	www.issarainstitute.org/
ITUC Human Rights Index	www.ituc-csi.org/ituc-global-rights-index-2018
Leadership Group for Responsible Recruitment	www.ihrb.org/employerpays/leadership-group-for-responsiblerecruitment
No Fees Initiative	www.iccr.org/no-fees-initiative
Not for Sale	www.notforsalecampaign.org/
Responsible Business Alliance	www.responsiblebusiness.org/initiatives/trafficked-and-forced-labor/
Responsible Minerals Initiative	www.responsiblemineralsinitiative.org/
Roundtable on Sustainable Palm Oil	https://rspo.org/
Sedex	www.sedexglobal.com
Shift	www.shiftproject.org
Social Accountability International (SAI)	www.sa-intl.org
Stop Slavery Hotel Industry Network	www.stopslaverynetwork.org
Stronger Together	www.stronger2gether.org
US Department of Labor Sweat and Toil App	www.dol.gov/general/apps/ilab
Verité	https://www.verite.org/

Appendix C Oversight of modern slavery due diligence in NSW public procurement

NSW Procurement Board

Modern slavery Objective: the objectives of the Procurement Board include ensuring “that goods and services procured by and for government agencies are not the product of modern slavery within the meaning of the *Modern Slavery Act 2018 (NSW)*” (*Public Works and Procurement Act 1912 (NSW)* s 171(b1)).

Directions and Policies on ‘reasonable steps’: the Procurement Board may issue directions or policies to government agencies regarding “reasonable steps” to achieve the modern slavery Objective (*Public Works and Procurement Act 1912 (NSW)* s 175(3)(a1)).

Consultation with Commissioner: the Procurement Board must regularly consult with the NSW Anti-slavery Commissioner about the form and content of directions that should be issued during the year and take into account any recommendations of the Commissioner (*Public Works and Procurement Act 1912 (NSW)* s 175(4)).

Effectiveness of due diligence: the NSW Anti-slavery Commissioner must regularly consult with the Auditor-General and the NSW Procurement Board to monitor the effectiveness of due diligence procedures in place to ensure that goods and services procured by government agencies are not the product of modern slavery (*Modern Slavery Act 2018 (NSW)* s 25).

Government agencies

Reasonable steps: government agencies must take reasonable steps to ensure that goods and services procured by and for the agency are not the product of modern slavery within the meaning of the *Modern Slavery Act 2018 (NSW)* (*Public Works and Procurement Act 1912 (NSW)* s 176(1A)).

Comply with Procurement Board Directions or policies: government agencies must comply with Procurement Board Directions or policies regarding modern slavery (*Public Works and Procurement Act 1912 (NSW)* ss 175(3)(a1) and 176(1)).

Reporting: since 1 July 2022, reporting obligations for entities in this category are defined either by the *Government Sector Finance Act 2018 (NSW)* or by the *Local Government Act 1993 (NSW)*.

Duty of co-operation: government agencies of the State (and persons and bodies that provide services to, or advocate for, victims of modern slavery in the State) must work in co-operation with the Commissioner in the exercise of the Commissioner’s functions, including by sharing relevant information (*Modern Slavery Act 2018 (NSW)* s 14), and by responding to any ‘significant issue’ the Commissioner identifies in their operations (*Modern Slavery Act 2018 (NSW)* s 31(1)).

For more on reporting obligations, see Appendix E Which entities are covered?

Government Sector Finance agencies

Modern slavery annual reporting information: GSF agencies must include the following matters in their annual reporting information under the *Government Sector Finance Act 2018 (NSW)*:

- **significant operational issues:** a statement of the action taken by the agency in relation to any issue raised by the Anti-slavery Commissioner during the financial year then ended concerning the operations of the agency and identified by the Commissioner as being a significant issue; and
- **reasonable steps:** a statement of steps taken to ensure that goods and services procured by and for the agency during the financial year then ended were not the product of modern slavery within the meaning of the Act.

(*Modern Slavery Act 2018 (NSW)* s 31(1)).

For more on reporting obligations, see Appendix E Which entities are covered?

State owned corporations

Cth Act reporting obligation: Some State owned corporations have independent obligations to publish modern slavery statements under the *Modern Slavery Act 2018* (Cth) because they fall within the definition of “reporting entity” provided by section 5 of the *Modern Slavery Act 2018* (Cth).

Cth Act voluntary reporting obligation: If a State owned corporation does not fall within the definition of “reporting entity” under the *Modern Slavery Act 2018* (Cth), it must instead make a voluntary modern slavery statement, in accordance with section 6 of the *Modern Slavery Act 2018* (Cth) (*Modern Slavery Act 2018* (NSW) s 25A).

Publication and notification obligations: All State owned corporations must, as soon as is practicable after giving the (federal) Minister a modern slavery statement under the *Modern Slavery Act 2018* (Cth):

- publish a copy of the modern slavery statement on a publicly accessible website kept by the State owned corporation, and
- give the NSW Anti-slavery Commissioner written notice that the statement has been published (*Modern Slavery Act 2018* (NSW) s 25B).

Public register: the NSW Anti-slavery Commissioner is to keep a public register in electronic form that identifies any State owned corporation that has failed to provide the (federal) Minister, within the meaning of the *Modern Slavery Act 2018* (Cth), with a modern slavery statement for a reporting period under that Act (*Modern Slavery Act 2018* (NSW) s 26(1)(c1)).

For more on reporting obligations, see Appendix E Which entities are covered?

Councils, county councils and joint organisations

Reasonable steps: A council must take reasonable steps to ensure that goods and services procured by and for the council are not the product of modern slavery within the meaning of the *Modern Slavery Act 2018* (NSW) (*Local Government Act 1993* (NSW) s 438ZE).

Reporting obligation: A council’s annual report must contain:

- **significant operational issues:** a statement of the action taken by the council in relation to any issue raised by the Anti-slavery Commissioner during the year concerning the operations of the council and identified by the Commissioner as being a significant issue, and
- **reasonable steps:** a statement of steps taken to ensure that goods and services procured by and for the council during the year were not the product of modern slavery within the meaning of the *Modern Slavery Act 2018* (NSW)

(*Local Government Act 1993* (NSW) s 428).

For more on reporting obligations, see Appendix E Which entities are covered?

NSW Anti-slavery Commissioner

Engagement with government agencies and local councils: the NSW Anti-slavery Commissioner may raise issues with government agencies and local councils concerning their operations, and may identify ‘significant issues’, which then trigger additional reporting obligations on the part of those entities (*Local Government Act 1993* (NSW) s 428).

Public register: the NSW Anti-slavery Commissioner must keep a public, freely-available electronic register that: 1) identifies any government agency failing to comply with directions of the NSW Procurement Board relating to reasonable steps to achieve the modern slavery Objective; 2) identifies any state owned corporation not reporting under the *Modern Slavery Act 2018* (Cth); and 3) includes other information that the Commissioner thinks appropriate, or information required by the regulations (*Modern Slavery Act 2018* (NSW) s 26(1)).

Recommendations to the NSW Procurement Board: the Commissioner must regulatory consult with the NSW Procurement Board about the form and content of directions that should be issued during

the year, and may make recommendations to the NSW Procurement Board (*Public Works and Procurement Act 1912* (NSW) s 175(4)).

Effectiveness of legislation and policies: the NSW Anti-slavery Commissioner must monitor the effectiveness of legislation and governmental policies and action in combating modern slavery (*Modern Slavery Act 2018* (NSW) s 9(1)(f)).

Effectiveness of due diligence: the NSW Anti-slavery Commissioner must regularly consult with the Auditor-General and the NSW Procurement Board to monitor the effectiveness of due diligence procedures in place to ensure that goods and services procured by government agencies are not the product of modern slavery (*Modern Slavery Act 2018* (NSW) s 25).

Codes of practice: the NSW Anti-slavery Commissioner may develop, and make publicly available, codes of practice for the purpose of providing guidance in identifying modern slavery taking place within the supply chains of organisations and steps that can be taken to remediate or monitor identified risks (*Modern Slavery Act 2018* (NSW) s 27).

Awareness and advice: the NSW Anti-slavery Commissioner may promote public awareness of and provide advice on steps that can be taken by organisations to remediate or monitor risks of modern slavery taking place in their supply chains, including encouraging organisations to develop their capacity to avoid such risks (*Modern Slavery Act 2018* (NSW) s 28).

Reporting to Parliament: the NSW Anti-slavery Commissioner must report annually to Parliament on various matters, including “an evaluation of the response of relevant government agencies to the recommendations of the Commissioner” (*Modern Slavery Act 2018* (NSW) s 19(2)(c)).

NSW Auditor-General

Effectiveness of due diligence: the NSW Anti-slavery Commissioner must regularly consult with the Auditor-General and the NSW Procurement Board to monitor the effectiveness of due diligence procedures in place to ensure that goods and services procured by government agencies are not the product of modern slavery (*Modern Slavery Act 2018* (NSW) s 25).

Risk-based modern slavery audits: The Auditor-General may, when the Auditor-General considers it appropriate to do so, conduct a risk-based audit of all or any particular activities of a government agency to determine whether the government agency is ensuring that goods and services procured by and for the agency are not the product of modern slavery. The Auditor-General is to give the NSW Anti-slavery Commissioner advice as to the result of any modern slavery audit and may recommend a government agency is identified in the public register kept under section 26 of the *Modern Slavery Act 2018* (NSW) (*Government Sector Audit Act 1983* (NSW) ss 38G-38H).

Appendix D Key international norms

Relevant ILO Conventions

C29 Forced Labour Convention, 1930

The signatories to the convention undertake to prohibit forced labour. Article 2 of the Convention defines forced labour as: “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”

2014 Protocol to the Forced Labour Convention, 1930

The Protocol expands on and updates the previous Conventions. It covers measures for the prevention of forced or compulsory labour, including:

- Art. 2(e) By supporting due diligence by both the public and private sectors to prevent and respond to risks of forced or compulsory labour; and remedies for victims of forced labour.

C 182 Worst Forms of Child Labour, 1999

Defines every person under the age of 18 as a child and defines worst forms of child labour.

C 105 Abolition of Forced Labour Convention, 1956

The Convention addresses forced and compulsory labour for economic purposes and as a means of political coercion. In certain circumstances ILO standards permit requiring a person to perform labour. These include:

11. work or service normally required of a person imprisoned in execution of a sentence or formal decision passed by the competent judicial authority. Such work or service shall be carried out under the supervision and control of public authorities, and any persons performing such work or service shall not be placed at the disposal of any private party, company, or juridical person;
12. military service and, in countries in which conscientious objectors are recognised, national service that the law may provide for in lieu of military service;
13. service exacted in time of danger or calamity that threatens the existence or the well-being of the community; or
14. work or service that forms part of normal civic obligations.

Relevant international treaties prohibiting slavery

1926 Slavery Convention

The Convention prohibits slavery, which is defined in Article 1.1 as the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.

1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery

The convention expands upon the 1926 Convention by prohibiting institutions and practices that have not been defined and covered by the initial convention, including debt bondage, serfdom and child slavery.

Relevant international treaties prohibiting human trafficking

Trafficking is a three-stage process through which an individual is brought into a situation of exploitation, including forced labour or slavery. The process includes:

- **acts:** such as recruitment, transportation, transfer, harbouring or receipt of a person by
- **means** of the threat or use of force, coercion, fraud, deception or the abuse of a position of vulnerability, for the
- **purpose** of exploitation, which includes forced labour or services.

2000 Palermo Protocol (The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime)

The Protocol prohibits human trafficking in all its forms and provides the internationally recognised definition of trafficking in Art. 3: “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices.

Other relevant standards and guidelines

1948 Universal Declaration of Human Rights states that: “No one shall be held in slavery or servitude; slavery and the slave trade in all their forms shall be prohibited.”

1966 International Covenant on Civil and Political Rights reaffirms the prohibition of slavery in all its forms.

UN Guiding Principles on Business and Human Rights (UNGPs) set out the duty of the state to protect human rights and the responsibility of businesses for respecting human rights and for providing remedy where rights of workers have been violated or denied.

OECD Guidelines for Multinational Enterprises on Responsible Business Conduct align with the UNGPs to establish standards for responsible business conduct.

OECD *Recommendation on the Role of Government in Promoting Responsible Business Conduct* (OECD/LEGAL/0486, 12 December 2022) commits adherents to promote responsible business conduct, including through public procurement.

OECD Sectoral Guidance – for Agriculture, Finance, Garments and Footwear, and Mining and Extractives – see Figure 20 OECD sectoral guidance.

Appendix E Which entities are covered?

The *Modern Slavery Act 2018* (NSW), the *Public Works and Procurement Act 1912* (NSW) and the *Local Government Act 1993* (NSW) contain due diligence and reporting obligations for covered entities.

The covered entities can be broadly grouped into the following categories:

- government agency
- State owned corporations
- Government Sector Finance agency
- a council, county council or joint organisation within the meaning of the *Local Government Act 1993* (NSW).

The legislative provisions differ depending on the type of covered entity, as set out below. Entities should carefully review their relevant legislative provisions to confirm their obligations and seek legal advice if required.

Nothing in this Appendix constitutes legal advice.

Government agencies

Is your organisation a ‘government agency’ for the purposes of the *Modern Slavery Act 2018* (NSW)?

A government agency is defined in section 5 of the *Modern Slavery Act 2018* (NSW) as any of the following:

- (a) a government sector agency (within the meaning of the *Government Sector Employment Act 2013* (NSW),
- (b) a NSW Government agency,
- (c), (d) (Repealed)
- (e) a council, county council or joint organisation within the meaning of the *Local Government Act 1993* (NSW),
- (f) any other public or local authority that is constituted by or under an Act or that exercises public functions,
- (g) any public or local authority that is constituted by an Act of another jurisdiction that exercises public functions.

What are the modern slavery obligations of a ‘government agency’?

Government agencies have reporting and other obligations under the *Modern Slavery Act 2018* (NSW) and related legislation as follows:

- **Reasonable steps:** government agencies must take reasonable steps to ensure that goods and services procured by and for the agency are not the product of modern slavery within the meaning of the *Modern Slavery Act 2018* (NSW) (section 176(1A) of the *Public Works and Procurement Act 1912* (NSW)).
- **Comply with Procurement Board Directions or policies:** government agencies must comply with Procurement Board Directions or policies regarding modern slavery (sections 175(3)(a1) and 176(1) of the *Public Works and Procurement Act 1912* (NSW)).
- **Reporting:** since 1 July 2023, reporting obligations for entities in this category are defined either by the *Government Sector Finance Act 2018* (NSW) or by the *Local Government Act 1993* (NSW).
- **Duty of co-operation:** government agencies of the State (and persons and bodies that provide services to, or advocate for, victims of modern slavery in the State) must work in co-operation with the Commissioner in the exercise of the Commissioner’s functions.

How are ‘government agency’ activities on modern slavery overseen?

Government agency activities on modern slavery are overseen in several ways:

- **Effectiveness of policies and action:** the NSW Anti-slavery Commissioner must monitor the effectiveness of legislation and governmental policies and action in combating modern slavery (section 9(1)(f) of the *Modern Slavery Act 2018* (NSW))
- **Effectiveness of due diligence:** the NSW Anti-slavery Commissioner must regularly consult with the Auditor-General and the NSW Procurement Board to monitor the effectiveness of due diligence procedures in place to ensure that goods and services procured by government agencies are not the product of modern slavery (section 25 of the *Modern Slavery Act 2018* (NSW))
- **Public register:** the NSW Anti-slavery Commissioner is to keep a public register that identifies any government agency failing to comply with directions of the NSW Procurement Board under section 175 of the *Public Works and Procurement Act 1912* (NSW) concerning procurement (within the meaning of Part 11 of that Act) of goods and services that are the product of modern slavery and whether the government agency has taken steps to ensure compliance in the future (section 26(c) of the *Modern Slavery Act 2018* (NSW))
- **Modern slavery audit:** The Auditor-General may, when the Auditor-General considers it appropriate to do so, conduct a risk-based audit of all or any particular activities of a government agency to determine whether the government agency is ensuring that goods and services procured by and for the agency are not the product of modern slavery. The Auditor-General is to give the NSW Anti-slavery Commissioner advice as to the result of any modern slavery audit and may recommend a government agency is identified in the public register kept under section 26 of the *Modern Slavery Act 2018* (NSW) (section 38G-38H of the *Government Sector Audit Act 1983* (NSW)).

What are some examples of a ‘government agency’ for the purposes of the *Modern Slavery Act 2018* (NSW)?

The following are examples of this type of covered entity under the *Modern Slavery Act 2018* (NSW):

- **NSW Government Departments:** the Department of Transport, NSW Treasury and the Ministry of Health
- **NSW Government executive agencies:** Fire and Rescue NSW, Destination NSW, and the Office of Sport
- **NSW Government agencies:** the Aboriginal Housing Office, the Environment Protection Authority and the Independent Planning Commission.

Government Sector Finance agencies

Is your organisation a ‘Government Sector Finance agency’ for the purposes of the *Modern Slavery Act 2018* (NSW), or does it have obligations under related legislation?

Under section 2.4(1) of the *Government Sector Finance Act 2018* (NSW) (GSF Act), a GSF agency is each of the following:

- a separate GSF agency,
- a NSW Health entity,
- the NSW Police Force,
- the New South Wales Treasury Corporation,
- the Law Enforcement Conduct Commission,
- the Independent Pricing and Regulatory Tribunal,
- a Council within the meaning of Part 5A of the *Health Practitioner Regulation National Law* (NSW),
- a State owned corporation,

- (i) an entity that is a statutory body representing the Crown (including an entity that is a NSW Government agency to which section 13A of the Interpretation Act 1987 applies),
- (j) an entity with money held in an SDA account (but the account itself is not to be treated as being a GSF agency),
- (k) any Public Service agency not already covered by a previous paragraph,
- (l) any other entity (or entity of a kind) prescribed by the regulations as a GSF agency.

A GSF agency is also an:

- (a) entity controlled by another GSF agency or a combination of GSF agencies (section 2.4 (2)(a) of the *GSF Act*), and
- (b) entity controlled by a Minister or combination of Ministers (section 2.4 (2)(b) of the *GSF Act*).

Certain other organisations, including certain NSW universities, have reporting obligations through the *GSF Act*.

Many GSG agencies are also ‘government agencies’, which are addressed separately above.

What are the modern slavery obligations of a ‘Government Sector Finance agency’?

GSF agencies, and those other entities with reporting obligations under the *GSF Act*, have reporting obligations under the *Modern Slavery Act 2018* (NSW) as follows:

- **Modern slavery annual reporting information:** under section 31(1) of the *Modern Slavery Act 2018* (NSW), GSF agencies (and others with reporting obligations under the *GSF Act*) must include the following matters in their annual reporting information:
 - **significant operational issue:** a statement of the action taken by the agency in relation to any issue raised by the Anti-slavery Commissioner during the financial year then ended concerning the operations of the agency and identified by the Commissioner as being a significant issue, and
 - **reasonable steps:** a statement of steps taken to ensure that goods and services procured by and for the agency during the financial year then ended were not the product of modern slavery within the meaning of the Act.

How are ‘Government Sector Finance agency’ activities on modern slavery overseen?

The modern slavery activities of Government Sector Finance agencies, and other entities with reporting obligations under the *GSF Act*, are overseen in several ways:

- **Effectiveness of policies and action:** the NSW Anti-slavery Commissioner must monitor the effectiveness of legislation and governmental policies and action in combating modern slavery (section 9(1)(f) of the Act).
- **Public Register:** the NSW Anti-slavery Commissioner is entitled to include other information they think appropriate in the register they keep under section 26 of the Act. The Public Register will include a schedule of public buyers with reporting obligations under the *Modern Slavery Act 2018* (NSW) that are not conforming with the Guidance on Reasonable Steps.
- **Modern slavery audit:** Note: as some GSF agencies are also ‘government agencies’ as defined under section 38F of the *Government Sector Audit Act 1983* (NSW) and section 5 of the *Modern Slavery Act 2018* (NSW), a modern slavery audit may also apply to some entities in this category. The Auditor-General may, when the Auditor-General considers it appropriate to do so, conduct a risk-based audit of all or any particular activities of a government agency to determine whether the government agency is ensuring that goods and services procured by and for the agency are not the product of modern slavery. The Auditor-General is to give the NSW Anti-slavery Commissioner advice as to the result of any modern slavery audit and may recommend a government agency is identified in the public register kept under section 26 of the *Modern Slavery Act 2018* (NSW) (section 38G-38H of the *Government Sector Audit Act 1983* (NSW)).

What are some examples of a ‘Government Sector Finance agency’ for the purposes of the *Modern Slavery Act 2018* (NSW)?

The following are examples of this type of covered entity under the Act:

- **separate GSF agencies:** the Audit Office, the Independent Commission Against Corruption and the New South Wales Electoral Commission
- **NSW Health entities:** Bureau of Health Information, Health Administration Corporation and the Cancer Institute (NSW)
- the NSW Police Force, New South Wales Treasury Corporation, Law Enforcement Conduct Commission, and the Independent Pricing and Regulatory Tribunal
- the Chinese Medicine Council of New South Wales and Chiropractic Council of New South Wales Council, as Councils within the meaning of Part 5A of the Health Practitioner Regulation National Law (NSW)
- **NSW Government Departments:** the Department of Transport, NSW Treasury and the Ministry of Health
- **NSW Government executive agencies:** Fire and Rescue NSW, Destination NSW, and the Office of Sport
- **NSW Government agencies:** the Aboriginal Housing Office, the Environment Protection Authority and the Independent Planning Commission
- **certain NSW universities:** Division 7.3 of the *GSF Act* requires reporting GSF agencies to prepare annual reporting information. Section 7.10(2) of the *GSF Act* expressly extends Division 7.3 “to universities and their controlled entities (which are to be treated as reporting GSF agencies for the purposes of this Division)”.

State owned corporations

Is your organisation a ‘State owned corporation’ for the purposes of the *Modern Slavery Act 2018* (NSW)?

There are eight State owned corporations in NSW. All State owned corporations are established under the *State Owned Corporations Act 1989* (NSW) and have separate enabling legislation, which is set out below.

Entity	Enabling legislation
Essential Energy	<i>Energy Services Corporations Act 1995</i> (NSW)
Forestry Corporation of NSW	<i>Forestry Act 2012</i> (NSW)
Hunter Water	<i>Hunter Water Act 1991</i> (NSW)
Landcom	<i>Landcom Corporation Act 2001</i> (NSW)
Port Authority of NSW	<i>Ports and Maritime Administration Act 1995</i> (NSW)
Sydney Water	<i>Sydney Water Act 1994</i> (NSW)
Transport Asset Holding Entity of NSW (TAHE)	<i>Transport Administration Act 1988</i> (NSW) Part 2 Transport Asset Holding Entity
Water NSW	<i>Water NSW Act 2014</i> (NSW)

What obligations does a ‘State owned corporation’ have under the *Modern Slavery Act 2018* (NSW)?

Under the *Modern Slavery Act 2018* (NSW), State owned corporations must make and publish modern slavery statements under the *Modern Slavery Act 2018* (Cth) (**Cth Act**).

State owned corporations have reporting obligations under the *Modern Slavery Act 2018* (NSW) and related legislation as follows:

- **Cth Act reporting obligation:** Some State owned corporations have independent obligations to publish modern slavery statements under the Cth Act because they fall within the definition of “reporting entity” provided by section 5 of the Cth Act.
- **Cth Act voluntary reporting obligation:** If a State owned corporation does not fall within the definition of “reporting entity” under the Cth Act, it must instead make a voluntary modern slavery statement, in accordance with section 6 of the Cth Act (section 25A of the *Modern Slavery Act 2018* (NSW)).
- **Publication and notification obligations:** All State owned corporations must, as soon as is practicable after giving the (federal) Minister a modern slavery statement under the Cth Act:
 - publish a copy of the modern slavery statement on a publicly accessible website kept by the State owned corporation, and
 - give the NSW Anti-slavery Commissioner written notice that the statement has been published (section 25B of the *Modern Slavery Act 2018* (NSW)).
- **Public register:** the NSW Anti-slavery Commissioner is to keep a public register in electronic form that identifies any State owned corporation that has failed to provide the (federal) Minister, within the meaning of the Cth Act, with a modern slavery statement for a reporting period under that Cth Act (section 26(1)(c1) of the *Modern Slavery Act 2018* (NSW)).

A council, county council or joint organisation

Is your organisation a ‘council, county council or joint organisation within the meaning of the *Local Government Act 1993* (NSW)’ for the purposes of the *Modern Slavery Act 2018* (NSW)?

The terms ‘council’, ‘county council’ and ‘joint organisation’ are each defined under the *Local Government Act 1993* (NSW).

The [NSW Government Office of Local Government](#) provides a directory of councils, county councils and joint organisation within the meaning of the *Local Government Act 1993* (NSW).

What are the modern slavery obligations of a ‘council, county council or joint organisation within the meaning of the *Local Government Act 1993* (NSW)’?

Councils, county councils and joint organisations within the meaning of the *Local Government Act 1993* (NSW) have reporting and other obligations under the *Modern Slavery Act 2018* (NSW) and related legislation as follows:

- **Reasonable steps:** A council must take reasonable steps to ensure that goods and services procured by and for the council are not the product of modern slavery within the meaning of the *Modern Slavery Act 2018* (NSW) (section 438ZE of the *Local Government Act 1993* (NSW)).
- **Reporting obligation:** A council’s annual report must contain:
 - **significant operational issue:** a statement of the action taken by the council in relation to any issue raised by the Anti-slavery Commissioner during the year concerning the operations of the council and identified by the Commissioner as being a significant issue; and
 - **reasonable steps:** a statement of steps taken to ensure that goods and services procured by and for the council during the year were not the product of modern slavery within the meaning of the *Modern Slavery Act 2018* (NSW) (section 428 of the *Local Government Act 1993* (NSW)).

How are ‘council, county council or joint organisation within the meaning of the *Local Government Act 1993* (NSW)’ activities on modern slavery overseen?

These entities’ activities on modern slavery are overseen in several ways:

- **Effectiveness of policies and action:** the NSW Anti-slavery Commissioner must monitor the effectiveness of legislation and governmental policies and action in combating modern slavery (section 9(1)(f) of the *Modern Slavery Act 2018* (NSW)).
- **Public Register:** the NSW Anti-slavery Commissioner is entitled to include other information they think appropriate in the register they keep under section 26 of the *Modern Slavery Act 2018* (NSW). The Public Register will include a schedule of public buyers with reporting obligations under the *Modern Slavery Act 2018* (NSW) that are not conforming with the Guidance on Reasonable Steps.
- **Modern slavery audit:** The Auditor-General may, when the Auditor-General considers it appropriate to do so, conduct a risk-based audit of all or any particular activities of a government agency to determine whether the government agency is ensuring that goods and services procured by and for the agency are not the product of modern slavery. The Auditor-General is to give the NSW Anti-slavery Commissioner advice as to the result of any modern slavery audit and may recommend a government agency is identified in the public register kept under section 26 of the *Modern Slavery Act 2018* (NSW) (section 38G-38H of the *Government Sector Audit Act 1983* (NSW)).

What are some examples of a ‘council, county council or joint organisation within the meaning of the *Local Government Act 1993* (NSW) for the purposes of the *Modern Slavery Act 2018* (NSW)?

The following are examples of this type of covered entity:

- **council:** Albury City Council, Armidale Regional Council and Ballina Shire Council
- **county council:** Castlereagh-Macquarie County Council and Central Tablelands Water Council
- **joint organisation:** Canberra Region Joint Organisation and Central NSW Joint Organisation

The [NSW Government Office of Local Government](#) provides a directory of councils, county councils and joint organisations within the meaning of the *Local Government Act 1993* (NSW).

Appendix F Hallmarks of best practice due diligence

Since the adoption of the UN Guiding Principles on Business and Human Rights in 2011, a rich body of due diligence practice has emerged worldwide. This has allowed the identification of recurring features of good practice in human rights due diligence). This Appendix summarises hallmarks of best practice MSDD. Entities that fully implement this Guidance to best practice standards, especially in Heightened MSDD procurement contexts, will demonstrate these hallmarks.

Governance

- The entity's most senior governing body discusses progress and challenges in addressing the entity's modern slavery risks, supported by appropriate expertise, informed by the perspective of affected stakeholders and with knowledge of leading practice.
- The entity's most senior governing body reviews the entity's business model and strategy, and proposed changes to them, to ensure inherent modern slavery risks are identified and addressed.
- The entity's most senior governing body formally approves high-level targets for addressing salient modern slavery risks and evaluating the entity's progress in that regard.
- The entity's most senior governing body ensures that entity leadership is accountable for addressing the entity's salient modern slavery risks, including through performance incentives where those are used for other aspects of performance.

Stakeholder engagement

- The entity identifies which stakeholders are most vulnerable to modern slavery impacts in connection with its operations and value chain and seeks insight into their perspectives.
- The entity has structures or processes to hear and respond to the perspectives of affected stakeholders and/or their legitimate representatives, including at senior levels, the use of which is not limited to the entity's own needs or transactions.
- The entity's decisions and actions with regard to identifying, assessing and prioritising risks, and tracking how effectively it addresses them, are informed by the perspectives of affected stakeholders and/or their legitimate representatives.
- The entity engages with affected stakeholders and/or their legitimate representatives to identify whether they are aware of and trust existing structures or processes as a way to raise concerns or grievances and have them addressed.

Risk identification and prioritisation

- The entity's processes for identifying modern slavery risks:
 - Encompass its operations and business relationships throughout its value chain
 - Include impacts the entity may cause, contribute or be linked to
 - Include risks inherent in its business model and strategy
 - Go beyond identifying impacts that the entity considers it can control or impacts that could lead to liability for harms
 - Draw on a variety of well-informed sources to identify relevant risks
 - Are iterative and responsive to changes in the risk environment.
- The entity's prioritisation of its salient modern slavery risks:
 - Is determined by the severity of the potential impacts on people, not by risk to the business
 - Is not determined by where the entity has leverage or what it considers easiest to address
 - Is updated in light of new or emerging risks.
- Where the entity focuses its initial assessment of risks on certain parts of the business, these are selected based on the severity and likelihood of the risks to people, and the entity progressively expands its focus into other parts of the business.

- Where the entity has a broader risk management system, the entity ensures that its salient modern slavery risks are appropriately reflected in that system.

Acting on identified risks

- The entity's main activities to prevent or mitigate modern slavery risks:
 - Are focused on outcomes for affected stakeholders
 - Directly relate to the entity's salient modern slavery risks and are proportionate to them
 - Directly engage those parts of the business whose actions or omissions can influence outcomes for affected stakeholders
 - Include measures to address any contribution of the entity's own activities to its salient risks.
- The entity takes deliberate steps to build leverage to influence others where its existing leverage is insufficient to prevent or mitigate risks, including considering the role of disengagement as a form of leverage.
- The entity identifies where collective leverage with others is needed, and collaborates with relevant stakeholders, peer entities (including companies) and/or experts to advance outcomes for affected stakeholders through processes that demonstrably align with international human rights standards.

Monitoring and evaluating effectiveness in addressing risks

- The entity sets both high-level and operational targets that are:
 - Articulated in terms of the intended outcomes for affected stakeholders
 - Relevant to addressing the entity's salient modern slavery risks as well as specific, measurable, achievable and timebound
 - Developed with input from internal or external subject-matter experts and, wherever possible, from affected stakeholders and/or their legitimate representatives.
- The entity monitors and evaluates progress towards the targets based on a set of indicators that together:
 - Are used to evaluate progress towards the targets
 - Enable analysis of the reasons for progress or setbacks
 - Factor in feedback from affected stakeholders and/or their legitimate representatives.
- The entity discloses progress towards at least its high-level targets, including explanations of any setbacks and resulting changes in strategy.

Providing and enabling remedy

- The entity engages constructively when there are allegations of modern slavery impacts in its operations or value chain to understand the issues being raised and the perspectives of affected stakeholders.
- When providing remedy for impacts it has caused or contributed to, the entity goes beyond measures to prevent the impact recurring to consider what other forms of remedy can best address the harms to affected stakeholders, taking into account their perspectives.
- The entity evaluates its actions to provide remedy for their effectiveness in delivering outcomes that are satisfactory to affected stakeholders.
- The entity uses its leverage to support the development and implementation of effective grievance mechanisms in its value chain that are capable of providing remedy to affected stakeholders.
- The entity draws on information from its own grievance mechanisms to inform the early identification and mitigation of risks to people and to continuously improve its due diligence processes.

Based on Signals of Seriousness.

Appendix G What GRS Capability Level is your entity?

Covered entities are classified into three groups for the purpose of implementation of this Guidance, based on their size and general procurement capability: Low, Moderate and High. These are referred to as GRS Capability Levels.

Answer the following questions to determine your entity's GRS Capability Level at any given time.

Question 1 Is your entity **subject to the *Public Works and Procurement Act 1912* (NSW)**?

- If yes, go to Question 2.
- If no, go to Question 3.

Question 2 Is your entity accredited under the NSW Accreditation Program Requirements for Goods and Services Procurement OR accredited under the NSW Accreditation Program for Construction Procurement?

- If yes:
 - If *either* accredited to Goods and Services Accreditation Level 2, or accredited under the Construction accreditation program, then your entity's GRS Capability Level for the procurement in question is deemed to be: **High**.
 - If accredited to Goods and Services Accreditation Level 1, then your entity's GRS Capability Level for the procurement in question is deemed to be: **Moderate**.
- If no:
 - For construction procurement, your entity's GRS Capability Level for the procurement in question is deemed to be: **Moderate**.
 - For goods and service procurement, your entity's GRS Capability Level for the procurement in question is deemed to be: **Low**.

Notes:

- **Type of accreditation:** The accreditation that is relevant is the accreditation that pertains to the type of procurement you are conducting in any given procurement process – for goods and services, or for construction. Your entity may thus have different GRS Capability Levels for different types of procurement.
- **Changes during the year:** If your accreditation changes during the reporting period, the relevant accreditation is the one held at the time the procurement process formally commenced.
- **Endorsement arrangements:** Where, under an Accreditation Program, an agency requires endorsement for a particular procurement due to its value, it is the accreditation level of the procuring agency, not the endorsing agency, that is used to determine GRS Capability Level. The endorsing agency will need to comply with their obligations under the relevant Accreditation Program but does not need to report on this activity in their modern slavery reporting information.

Question 3 If you answered no to question 1, is your entity **subject to the *Local Government Act 1993* (NSW)**?

- If yes, go to Question 4.
- If no, go to Question 5.

Question 4 What is your entity's **OLG Group Classification**?

Drawing on the Australian Classification of Local Governments (ACLG) as determined by the Australian Bureau of Statistics, the NSW Office of Local Government has

classified NSW local government areas into 11 groups and 5 overall Classifications – Metropolitan, Regional Town/City, Metropolitan Fringe, Rural and Large Rural. The current listing of NSW councils by OLG Group and Classification is available on the ‘Your Council’ website via OLG website. Use the following table to understand how your entity’s OLG Classification determines your GRS Capability level.

If your entity is subject to the Local Government Act 1993 (NSW) but does not have an OLG Group classification, *go to question 5*.

OLG Group No.	OLG Council Classification	GRS Capability Level
1,3, 5, 7	<ul style="list-style-type: none"> • Capital City • Large/Very large metropolitan fringe • Large/Very large regional town/city • Large/Very large metropolitan 	High
2, 4, 6	<ul style="list-style-type: none"> • Small/Medium regional town/city • Small/Medium metropolitan fringe • Small/Medium metropolitan 	Medium
8, 9, 10, 11	<ul style="list-style-type: none"> • Large rural (very large agricultural) • Large rural (large agricultural/remote) • Rural (medium agricultural/remote) • Rural (small agricultural) 	Low

Question 5 For all other entities, use the following table to assess your GRS Capability level:

Total income or comprehensive income	GRS Capability Level
More than AUD 50,000,000	High
Between AUD 5,000,000 and 50,000,000	Moderate
Below AUD 5,000,000	Low

Note: ‘Total income’ (or comprehensive income) should be calculated in accordance with the applicable Australian Accounting Standards Board guidance for your entity. The relevant income is the income for the previous reporting period.

The following table summarises the factors that determine each GRS Capability level:

Type of covered entity		Low	Moderate	High
Subject to the Public Works and Procurement Act 1912 (NSW)	<i>For goods and services procurement:</i>	Unaccredited	Goods and Services Accreditation Level 1	Goods and Services Accreditation Level 2
	<i>For construction procurement:</i>	N/A	Not construction accredited	Construction accredited
Subject to the Local Government Act 1993 (NSW)	<i>As classified by the Office of Local Government:</i>	<ul style="list-style-type: none"> • Large rural (very large agricultural) • Large rural (large agricultural/remote) • Rural (medium agricultural/remote) • Rural (small agricultural) 	<ul style="list-style-type: none"> • Small/Medium regional town/city • Small/Medium metropolitan fringe • Small/Medium metropolitan 	<ul style="list-style-type: none"> • Large rural (very large agricultural) • Large rural (large agricultural/remote) • Rural (medium agricultural/remote) • Rural (small agricultural)
All other entities	<i>Using AASB accounting standards, total income is:</i>	< AUD 5 million	From AUD 5 million to AUD 50 million	> AUD 50 million

Appendix H GRS High Risk Product List

The GRS High Risk Product List (GRS HRPL) is a list proposed to be maintained and published by the Office of the NSW Anti-slavery Commissioner. The first edition of the GRS HRPL is under development with a view to formal publication in 2024.

The GRS HRPL will form part of the public register maintained under section 26 of the *Modern Slavery Act 2018* (NSW). (See 'Public register'.)

At the time of writing, it is anticipated that the GRS HRPL will contain products for which the Commissioner assesses there to be reasonable grounds for the belief that the product is in fact made with modern slavery.

It is the Commissioner's intention that, in order for a specific product to be included on the list, the Commissioner must identify or receive specific, reliable evidence of actual use of modern slavery in the production or distribution of a product (good, service, or construction) produced in a specified location, as a recurring matter.

The assessment methodology is currently under development. It is likely to draw on publicly available evidence, submissions to the NSW Anti-slavery Commissioner, and/or information gathered through use of the Commissioner's statutory information-gathering powers.

This evidence is likely to be assessed against the following five criteria:

The methodology for assessing this evidence is under development, but it is proposed to use the following five criteria:

- **Nature of information.** Whether the information is relevant, probative, and indicates modern slavery as defined under NSW law.
- **Date of information.** Age of the information. More current information will generally be given priority, and information older than 7 years will generally not be considered.
- **Source of information.** Whether the information, either from primary or secondary sources, is from a source whose methodology, prior publications, degree of familiarity and experience with international labour standards or human rights law, and/or reputation for accuracy and objectivity warrants a determination that it is relevant and probative.
- **Extent of corroboration.** The extent to which the information about the use modern slavery in the production or distribution of a good(s) is corroborated by other sources.
- **Prevalence.** Whether the information about the use of modern slavery in the production of a good(s) indicates that such use is prevalent in the production of that good in that sector in that place, and not limited to a single company or facility.

The inclusion of a product on the GRS HRPL does not require covered entities to exclude or create barriers to entry for suppliers from particular countries (except as permitted under Australia's trade and investment treaties). Covered entities are not prohibited from purchasing products on this List, particularly where there are few or no reasonable alternative suppliers. Instead, goods on the HRPL necessarily require Heightened modern slavery due diligence, as explained in this Guidance. The Guidance sets out the risk management steps that must be taken if such goods are being procured, including those under Reasonable Step 5 – Remedy.

More information about the GRS HRPL will be made available in 2024.

Appendix I GRS Model Tender Clauses

Explanatory Note: These GRS Model Tender Clauses on modern slavery have been prepared by the Office of the NSW Anti-slavery Commissioner. The GRS Model Tender Clauses are intended as a resource for NSW public entities and should be read in conjunction with the NSW Anti-slavery Commissioner's *Guidance on Reasonable Steps*. The concepts of 'Heightened', 'Standard', 'Light' and 'Minimal' Due Diligence procurements are set out in that Guidance.

Clauses

Clause	Heightened version (for Heightened Due Diligence procurements)	Streamlined version (for Light, Minimal and Standard Due Diligence procurements)
Drafting Note	<p><i>These tender clauses and schedule are designed to be used in conjunction with the NSW Anti-slavery Commissioner's Guidance on Reasonable Steps ('GRS') and the NSW Anti-slavery Commissioner's Model Contract Clauses on modern slavery.</i></p> <p><i>These clauses should be used where the reporting entity determines, in conformance with the GRS, that the procurement requires Heightened Due Diligence.</i></p> <p><i>These tender clauses and schedule assist the reporting entity to discharge its statutory responsibility to take reasonable steps to ensure it is not procuring goods or services that are products of modern slavery.</i></p> <p><i>They do this by facilitating effective due diligence by the Buyer on the Tenderer.</i></p> <p><i>In these clauses the reporting entity is referred to as the 'Buyer' and the bidders are referred to as the 'Tenderer'. The tender document is referred to as the 'Tender'. This terminology should be adjusted for consistency with the tender documents in which these clauses will be inserted.</i></p>	<p><i>These tender clauses and schedule are designed to be used in conjunction with the NSW Anti-slavery Commissioner's Guidance on Reasonable Steps ('GRS') and the NSW Anti-slavery Commissioner's Model Contract Clauses on modern slavery.</i></p> <p><i>These clauses should be used where the reporting entity determines, in conformance with the GRS, that the procurement requires Light, Minimal and Standard Due Diligence.</i></p> <p><i>These tender clauses and schedule assist the reporting entity to discharge its statutory responsibility to take reasonable steps to ensure it is not procuring goods or services that are products of modern slavery.</i></p> <p><i>They do this by facilitating effective due diligence by the Buyer on the Tenderer.</i></p> <p><i>In these clauses the reporting entity is referred to as the 'Buyer' and the bidders are referred to as the 'Tenderer'. The tender document is referred to as the 'Tender'. This terminology should be adjusted for consistency with the tender documents in which these clauses will be inserted.</i></p>
1 Modern Slavery 1.1 Definitions	Modern Slavery: (a) means any conduct that constitutes or would constitute a modern slavery offence, namely an	Modern Slavery (a) means any conduct that constitutes or would constitute a modern slavery offence, being an

Clause	Heightened version (for Heightened Due Diligence procurements)	Streamlined version (for Light, Minimal and Standard Due Diligence procurements)																																
	<p>offence against one of the following provisions, or an offence of attempting or incitement to commit an offence against one or more of the following provisions:</p> <table border="1" data-bbox="584 336 1218 408"> <tr> <td colspan="2">An offence against the following sections of the <i>Crimes Act 1900</i> –</td> </tr> <tr> <th>Section</th> <th>Description of offence</th> </tr> <tr> <td>80D</td> <td>Causing sexual servitude</td> </tr> <tr> <td>80E</td> <td>Conduct of business involving sexual servitude</td> </tr> <tr> <td>91G (1) and (2)</td> <td>Children not to be used for production of child abuse material</td> </tr> <tr> <td>91G (3)</td> <td>Aggravated offence of using children for production of child abuse material</td> </tr> <tr> <td>91H</td> <td>Production, dissemination or possession of child abuse material</td> </tr> <tr> <td>91HAA</td> <td>Administering a digital platform used to deal with child abuse material</td> </tr> <tr> <td>93AA–93AC</td> <td>Slavery and slavery-like offences</td> </tr> </table> <p>An offence against the following section of the <i>Human Tissue Act 1983</i> –</p> <table border="1" data-bbox="584 970 1218 1126"> <tr> <th>Section</th> <th>Description of offence</th> </tr> <tr> <td>32, but only in relation to tissue that is an organ</td> <td>Trading in tissue prohibited</td> </tr> </table> <p>An offence against any of the following sections of the Commonwealth Criminal Code –</p> <table border="1" data-bbox="584 1198 1218 1436"> <tr> <th>Section</th> <th>Description of offence</th> </tr> <tr> <td>270.3</td> <td>Slavery offences</td> </tr> <tr> <td>270.5</td> <td>Servitude offences</td> </tr> <tr> <td>270.6A</td> <td>Forced labour offences</td> </tr> <tr> <td>270.7</td> <td>Deceptive recruiting for labour or services</td> </tr> </table>	An offence against the following sections of the <i>Crimes Act 1900</i> –		Section	Description of offence	80D	Causing sexual servitude	80E	Conduct of business involving sexual servitude	91G (1) and (2)	Children not to be used for production of child abuse material	91G (3)	Aggravated offence of using children for production of child abuse material	91H	Production, dissemination or possession of child abuse material	91HAA	Administering a digital platform used to deal with child abuse material	93AA–93AC	Slavery and slavery-like offences	Section	Description of offence	32, but only in relation to tissue that is an organ	Trading in tissue prohibited	Section	Description of offence	270.3	Slavery offences	270.5	Servitude offences	270.6A	Forced labour offences	270.7	Deceptive recruiting for labour or services	<p>offence described in Schedule 2 of the <i>Modern Slavery Act 2018</i> (NSW), or an offence of attempting or incitement to commit an offence described in Schedule 2 of the <i>Modern Slavery Act 2018</i> (NSW).</p> <p>(b) includes any conduct that constitutes or would constitute an offence under any of the Modern Slavery Laws as amended from time to time, including an offence of attempting or incitement to commit such an offence; and</p> <p>(c) includes conduct engaged in elsewhere than in New South Wales that, if it occurred in New South Wales, would constitute a modern slavery offence under paragraphs (a) or (b).</p> <p>Modern Slavery Laws means:</p> <p>(a) the <i>Modern Slavery Act 2018</i> (Cth);</p> <p>(b) the <i>Modern Slavery Act 2018</i> (NSW);</p> <p>(c) Divisions 270 and 271 of the Commonwealth Criminal Code;</p> <p>(d) section 176(1A) of the <i>Public Works and Procurement Act 1912</i> (NSW);</p> <p>(e) section 438ZE of the <i>Local Government Act 1993</i> (NSW); and</p> <p>(f) any other laws, regulations, codes and international conventions aimed at combatting modern slavery, forced labour or human trafficking, from time to time in force in or ratified by Australia and, where relevant, in or by other jurisdictions in which the parties operate,</p> <p>each as amended from time to time.</p> <p>reasonable steps means those steps that are reasonable in the circumstances to prevent, identify, mitigate and remedy</p>
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	<table border="1"> <tr><td data-bbox="584 217 757 252">270.7B</td><td data-bbox="757 217 1218 252">Forced marriage offences</td></tr> <tr><td data-bbox="584 252 757 287">270.7C</td><td data-bbox="757 252 1218 287">Offence of debt bondage</td></tr> <tr><td data-bbox="584 287 757 363">270.8</td><td data-bbox="757 287 1218 363">Slavery-like offences – aggravated offences</td></tr> <tr><td data-bbox="584 363 757 399">271.2</td><td data-bbox="757 363 1218 399">Offence of trafficking in persons</td></tr> <tr><td data-bbox="584 399 757 475">271.3</td><td data-bbox="757 399 1218 475">Trafficking in persons – aggravated offence</td></tr> <tr><td data-bbox="584 475 757 510">271.4</td><td data-bbox="757 475 1218 510">Offence of trafficking in children</td></tr> <tr><td data-bbox="584 510 757 587">271.5</td><td data-bbox="757 510 1218 587">Offence of domestic trafficking in persons</td></tr> <tr><td data-bbox="584 587 757 663">271.6</td><td data-bbox="757 587 1218 663">Domestic trafficking in persons – aggravated offence</td></tr> <tr><td data-bbox="584 663 757 724">271.7</td><td data-bbox="757 663 1218 724">Offence of domestic trafficking in children</td></tr> <tr><td data-bbox="584 724 757 801">271.7B</td><td data-bbox="757 724 1218 801">Offence of organ trafficking – entry into and exit from Australia</td></tr> <tr><td data-bbox="584 801 757 836">271.7C</td><td data-bbox="757 801 1218 836">Organ trafficking – aggravated offence</td></tr> <tr><td data-bbox="584 836 757 871">271.7D</td><td data-bbox="757 836 1218 871">Offence of domestic organ trafficking</td></tr> <tr><td data-bbox="584 871 757 948">271.7E</td><td data-bbox="757 871 1218 948">Domestic organ trafficking – aggravated offence</td></tr> </table>	270.7B	Forced marriage offences	270.7C	Offence of debt bondage	270.8	Slavery-like offences – aggravated offences	271.2	Offence of trafficking in persons	271.3	Trafficking in persons – aggravated offence	271.4	Offence of trafficking in children	271.5	Offence of domestic trafficking in persons	271.6	Domestic trafficking in persons – aggravated offence	271.7	Offence of domestic trafficking in children	271.7B	Offence of organ trafficking – entry into and exit from Australia	271.7C	Organ trafficking – aggravated offence	271.7D	Offence of domestic organ trafficking	271.7E	Domestic organ trafficking – aggravated offence		<p>modern slavery. In assessing whether steps are reasonable, the parties may refer to the NSW Anti-slavery Commissioner’s Guidance on Reasonable Steps and related information and resources published by the Anti-slavery Commissioner.</p>
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	<p>(b) the <i>Modern Slavery Act 2018</i> (NSW);</p> <p>(c) Divisions 270 and 271 of the Commonwealth Criminal Code;</p> <p>(d) section 176(1A) of the <i>Public Works and Procurement Act 1912</i> (NSW);</p> <p>(e) section 438ZE of the <i>Local Government Act 1993</i> (NSW); and</p> <p>(f) any other laws, regulations, codes and international conventions aimed at combatting modern slavery, forced labour or human trafficking, from time to time in force in or ratified by Australia and, where relevant, in or by other jurisdictions in which the parties operate,</p> <p>each as amended from time to time.</p> <p>reasonable steps means those steps that are reasonable in the circumstances to prevent, identify, mitigate and remedy modern slavery. In assessing whether steps are reasonable, the parties may refer to the NSW Anti-slavery Commissioner’s Guidance on Reasonable Steps and related information and resources published by the Anti-slavery Commissioner.</p>	
1.2 Modern slavery contract clauses	By lodging a Tender, the Tenderer agrees that, if it is the successful Tenderer, it will comply with the modern slavery contract clauses at clause XX of the draft Contract in the Tender documents.	By lodging a Tender, the Tenderer agrees that, if it is the successful Tenderer, it may be required to comply with modern slavery contract clauses in the contract entered into with the Buyer.
1.3 Price	By submitting a Tender, the Tenderer acknowledges and agrees that if it is awarded the Tender based on the pricing or compensation information it has submitted in its tender documents, this submitted pricing or compensation will support it to comply with its Core Obligations as defined in the modern slavery contract clause at clause XX of the draft Contract in the Tender documents.	By submitting a Tender, the Tenderer acknowledges and agrees that if it is awarded the Tender based on the pricing or compensation information it has submitted in its tender documents, this submitted pricing or compensation will allow it to perform the contract without causing or contributing to modern slavery, and to provide or enable an effective remedy to any modern slavery it does cause or to which it does contribute.
1.4 Evaluation	Tenders will be evaluated to determine the Tender which represents the best value for money to the Buyer.	Tenders will be evaluated to determine the Tender which represents the best value for money to the Buyer.

Clause	Heightened version (for Heightened Due Diligence procurements)	Streamlined version (for Light, Minimal and Standard Due Diligence procurements)
	<p>In considering the Tender, the Buyer will apply the following evaluation criteria: Modern slavery ([INSERT 5 or 10]% weighting) The Tender will be evaluated with reference to whether it has demonstrated that it is capable of taking reasonable steps to identify, assess and address Modern Slavery in its operations and supply chain and ensure compliance with Modern Slavery Laws. <i>[Drafting note: this clause is intended to supplement the existing evaluation clause in the tender documents, and should be adjusted for consistency with the tender documents in which these clauses will be inserted. The use of a weighted modern slavery tender evaluation clause is not mandatory and alternative evaluation criteria or clauses may be considered for the particular tender (for example, incorporating modern slavery within other ‘social’ criteria for high value and complex tenders)]</i></p>	<p>In considering the Tender, the Buyer will apply the following evaluation criteria: Modern slavery (pass/fail; no weighting): The Tender will be evaluated with reference to whether it has completed the modern slavery tender schedule to the Buyer’s satisfaction. <i>[Drafting note: this clause is intended to supplement the existing evaluation clause in the tender documents, and should be adjusted for consistency with the tender documents in which these clauses will be inserted]</i></p>

Tender schedules

Tender Schedules	<p>Question: The Tenderer is to provide details of the reasonable steps it takes to identify, assess and address Modern Slavery in its operations and supply chain and ensure compliance with Modern Slavery Laws.</p> <p>Note: reasonable steps means those steps that are reasonable in the circumstances to prevent, identify, mitigate and remedy modern slavery. In answering the tender schedule, the Tender may refer to the NSW Anti-slavery Commissioner’s Guidance on Reasonable Steps and related information and resources published by the ASC.</p> <p>Answer: [Tenderer to provide details below]</p>	<p>Question: The Tenderer is to provide details of the reasonable steps it takes to identify, assess and address Modern Slavery in its operations and supply chain and ensure compliance with Modern Slavery Laws.</p> <p>Note: reasonable steps means those steps that are reasonable in the circumstances to prevent, identify, mitigate and remedy modern slavery. In answering the tender schedule, the Tender may refer to the NSW Anti-slavery Commissioner’s Guidance on Reasonable Steps and related information and resources published by the ASC.</p> <p>Answer: [Tenderer to provide details below]</p>
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Guidance on use

Guidance	Heightened version (for Heightened Due Diligence procurements)	Streamlined version (for Light, Minimal and Standard Due Diligence procurements)
General Guidance	<p>Modern slavery tender clauses and schedules should be proportionate and not impose any unnecessary burdens that would deter a wide diversity of suppliers, including small and medium sized enterprises (SMEs) and Aboriginal and Torres Strait Islander entities from bidding for government contracts. The model tender clauses should be adjusted for consistency with the tender documents, including in particular the evaluation clauses.</p> <p>Buyers should refer to the <i>NSW Anti-slavery Commissioner's Guidance on Reasonable Steps ('GRS')</i> to inform their assessment of Tenderer's responses.</p>	
Use and adaption of MTCs	<p>For <i>Heightened</i> modern slavery due diligence procurements, there is an expectation that the MTCs are used in some form.</p> <p>The MTCs including the evaluation clause, are intended to supplement the existing clauses in the tender documents, and should be adjusted for consistency with the tender documents in which the clauses will be inserted. The use of a weighted modern slavery tender evaluation clause is not mandatory and alternative evaluation criteria or clauses may be considered for the particular tender (for example, incorporating modern slavery within other 'social' criteria for high value and complex tenders)].</p>	<p>For <i>Light, Minimal and Standard</i> modern slavery due diligence procurements, the MTCs, including the recommended evaluation criteria clause, are not mandatory.</p> <p>The MTCs, including the evaluation clause, are intended to supplement the existing clauses in the tender documents, and should be adjusted for consistency with the tender documents in which the clauses will be inserted.</p>
Evaluation Criteria	<p>For <i>Heightened Due Diligence</i> procurements, modern slavery weighted evaluation criteria are recommended to 1) encourage Tenderers to provide more extensive responses to the tender schedule to allow the Buyer to undertake more extensive due diligence on the Tenderers and 2) allow Buyers to factor the Tenderer's modern slavery response into the overall weighted score of the Tenderer, and into contracting.</p> <p>Buyers should:</p> <ul style="list-style-type: none"> • assess and score the quality of the responses of the modern slavery tender schedule, as they would do for any other weighted evaluation criteria in accordance with the tender documents and tender evaluation guide; 	<p>For <i>Light, Minimal and Standard Due Diligence</i> procurements, a pass/fail tender modern slavery tender schedule is recommended that 1) allows Buyers discretion to consider whether the response is satisfactory and the outcome where a satisfactory response is not achieved and 2) still encourages Tenderers to provide modern slavery information, without burdening them with a lengthy supplier self-assessment questionnaire.</p> <p>It will be in the Buyer's discretion to consider whether the response is satisfactory and the outcome where a satisfactory response is not achieved.</p>

Guidance	Heightened version (for Heightened Due Diligence procurements)	Streamlined version (for Light, Minimal and Standard Due Diligence procurements)
	<ul style="list-style-type: none"> refer to the <i>NSW Anti-slavery Commissioner's Guidance on Reasonable Steps ('GRS')</i> to inform their assessment of tenderer's responses; establish an effective scoring approach to suit the procurement and allow clear differentiation between tenderers' responses to the modern slavery criteria. For example, under the 5-band scoring regime below the optimal tender response could score 5 (Excellent), whilst a non-response or complete failure to meet the required standard would score 0 (Fail). The scoring methodology of the modern slavery evaluation criteria must be consistent with the evaluation process set out in the tender documents. 	
Evaluation Guidance	See below example. The evaluation of the modern slavery evaluation criteria must be consistent with the evaluation process set out in the tender documents.	See below example. The evaluation of the modern slavery evaluation criteria must be consistent with the evaluation process set out in the tender documents.

Heightened version (for Heightened modern slavery due diligence procurements)

Requirement	
<p>The Tender will be evaluated with reference to whether it has demonstrated that it is capable of taking reasonable steps to identify, assess and address Modern Slavery in its operations and supply chain and ensure compliance with Modern Slavery Laws.</p> <p>Has the Tenderer demonstrated that it is capable of taking reasonable steps to identify, assess and address Modern Slavery in its operations and supply chain and ensure compliance with Modern Slavery Laws?</p>	
<i>Assessment against the evaluation criteria</i>	<i>Score</i>
<p>Excellent: the response exceeds what is expected for the modern slavery criteria. The response therefore shows:</p> <ul style="list-style-type: none"> Excellent understanding of the reasonable steps required to identify, assess and address Modern Slavery in its operations and supply chain and ensure compliance with Modern Slavery Laws. Demonstrated through relevant and thorough evidence. The response also proposes additional value above that expected. 	5
<p>Very good: meets the modern slavery criteria to a high standard. The response therefore shows:</p> <ul style="list-style-type: none"> Very good understanding of the reasonable steps required to identify, assess and address Modern Slavery in its operations and supply chain and ensure compliance with Modern Slavery Laws. Demonstrated through relevant evidence. 	4

Requirement		
<p>Good: meets the modern slavery criteria to a good standard. The response therefore shows:</p> <ul style="list-style-type: none"> • Good understanding of the reasonable steps required to identify, assess and address Modern Slavery in its operations and supply chain and ensure compliance with Modern Slavery Laws. • Demonstrated through some evidence, but evidence lacking in some areas. 		3
<p>Fair: meets the modern slavery criteria to a fair standard. The response therefore shows:</p> <ul style="list-style-type: none"> • Fair understanding of the reasonable steps required to identify, assess and address Modern Slavery in its operations and supply chain and ensure compliance with Modern Slavery Laws. • Demonstrated through minimal evidence, with evidence lacking in some areas. 		2
<p>Poor: partially addresses the modern slavery criteria, with obvious deficiencies The response therefore shows:</p> <ul style="list-style-type: none"> • Minimal or low understanding of the reasonable steps required to identify, assess and address Modern Slavery in its operations and supply chain and ensure compliance with Modern Slavery Laws. • Minimal or low relevant evidence. 		1
<p>Fail: non response or complete failure to address the modern slavery criteria.</p>		0

Streamlined version (for Light, Minimal and Standard modern slavery due diligence procurements)

Requirement	
<p>The Tender will be evaluated with reference to whether it has completed the modern slavery tender schedule to the Buyer's satisfaction. The Tender schedule requires the Tenderer to provide details of the reasonable steps it takes to identify, assess and address Modern Slavery in its operations and supply chain and ensure compliance with Modern Slavery Laws.</p>	
<p>Has the Tenderer completed the modern slavery tender schedule to the Buyer's satisfaction?</p>	
<p><i>Assessment against the evaluation criteria</i></p>	<p><i>Outcome</i></p>
<p>If YES, to the Buyer's satisfaction</p>	<p>Pass If the Tenderer is the successful Tenderer, consider inclusion of the 'Streamlined version' of the Modern Contract Clauses and undertake modern slavery contract management processes per those Model Contract Clauses</p>
<p>If NO, to the Buyer's satisfaction For example:</p> <ul style="list-style-type: none"> - Tenderer has not provided any details or failed to complete the tender schedule at all - Tenderer has completed the tenderer schedule but provided poor, incomplete or vague answers 	<p>Fail It will be in the Buyer's discretion to determine the outcome where a satisfactory response is not achieved. For example, the Buyer may:</p> <ul style="list-style-type: none"> - Request additional information in relation to the tender schedule - Engage with the Tenderer to undertake modern slavery training or awareness raising or otherwise institute modern slavery risk controls

Appendix J GRS Model Contract Clauses

Explanatory Note: These GRS Model Contract Clauses on modern slavery have been prepared by the Office of the NSW Anti-slavery Commissioner. They were prepared with generous support from the Responsible Contracting Project (RCP) and their pro bono counsel, Allens. The GRS Model Contract Clauses are intended as a resource for entities implementing the NSW Anti-slavery Commissioner’s *Guidance on Reasonable Steps*. The concepts and identification of ‘Heightened’, ‘Standard’, ‘Light’ and ‘Minimal’ modern slavery due diligence procurements are set out in that Guidance.

Clause	Heightened version (for Heightened Due Diligence procurements)	Streamlined version (for Light, Minimal and Standard Due Diligence procurements)
Drafting Note	<p><i>This clause is designed to be used in conjunction with the NSW Anti-slavery Commissioner’s Guidance on Reasonable Steps (‘GRS’).</i></p> <p><i>It is an expectation that a reporting entity will use this clause where it determines, in conformance with the GRS, that the procurement requires Heightened Due Diligence.</i></p> <p><i>This clause may be subject to negotiation with counterparties, but covered entities should avoid fundamentally altering or removing any of the parties’ obligations and should ensure that any adapted version of this clause maintains the ‘shared responsibility’ approach to modern slavery risk management provided for here.</i></p> <p><i>This clause assists the reporting entity to discharge its statutory responsibility to take reasonable steps to ensure it is not procuring goods or services that are products of modern slavery.</i></p> <p><i>It does this by creating a framework for shared responsibility for modern slavery risk management between the parties to the contract.</i></p> <p><i>In this clause, the reporting entity is referred to as the ‘Buyer’ and the counterparty is referred to as the ‘Supplier’. This terminology should be adjusted for consistency with the agreement in which this clause will be inserted.</i></p>	<p><i>This clause is designed to be used in conjunction with the NSW Anti-slavery Commissioner’s Guidance on Reasonable Steps (‘GRS’).</i></p> <p><i>This clause is not mandatory, but is intended as a resource. Covered entities are strongly encouraged to use this clause where they determine, in conformance with the GRS, that the procurement requires Light, Minimal and Standard Due Diligence.</i></p> <p><i>This clause may be subject to negotiation with counterparties, but covered entities should avoid fundamentally altering or removing any of the parties’ obligations and should ensure that any adapted version of this clause maintains the ‘shared responsibility’ approach to modern slavery risk management provided for here.</i></p> <p><i>This clause assists the reporting entity to discharge its statutory responsibility to take reasonable steps to ensure it is not procuring goods or services that are products of modern slavery.</i></p> <p><i>It does this by creating a framework for shared responsibility for modern slavery risk management between the parties to the contract.</i></p> <p><i>In this clause, the reporting entity is referred to as the ‘Buyer’ and the counterparty is referred to as the ‘Supplier’. This terminology should be adjusted for consistency with the agreement in which this clause will be inserted.</i></p>

Clause	Heightened version (for Heightened Due Diligence procurements)	Streamlined version (for Light, Minimal and Standard Due Diligence procurements)						
<p>1 Modern Slavery</p> <p>1.1 Definitions</p>	<p>Contract means this agreement.</p> <p>Contract Date means the date of execution of this agreement.</p> <p>Core Obligations means those obligations set out in clause 1.2 (Core Obligations).</p> <p>Engaged Entity of a party means any first tier (direct) suppliers, subcontractors, consultants and contractors engaged by that party (or that party's directors, officers and employees) in connection with this Contract. For the avoidance of doubt, 'Engaged Entities' includes independent contractors (whether an individual or body corporate), secondees, consultants and any other workers (however described) who may be engaged for the purposes of this Contract but are not employed by the relevant party.</p> <p>Grievance Mechanism means a process for handling a complaint or grievance about Modern Slavery that is consistent with the criteria set out in Principle 31 of the 2011 United Nations Guiding Principles on Business and Human Rights.</p> <p>Management Plan means a plan to take reasonable steps to manage risks of Modern Slavery in the Supplier's operations and supply chains (including in the operations and supply chains of Supplier's Engaged Entities).</p> <p>Material Breach has the meaning given in clause 1.8.</p> <p>Modern Slavery:</p> <p>(a) means any conduct that constitutes or would constitute a modern slavery offence, namely an offence against one of the following provisions, or an offence of attempting or incitement to commit an offence against one or more of the following provisions:</p> <table border="1" data-bbox="584 1182 1218 1362"> <tr> <td colspan="2" data-bbox="584 1182 1218 1262">An offence against the following sections of the <i>Crimes Act 1900</i> –</td> </tr> <tr> <th data-bbox="584 1262 748 1310">Section</th> <th data-bbox="748 1262 1218 1310">Description of offence</th> </tr> <tr> <td data-bbox="584 1310 748 1362">80D</td> <td data-bbox="748 1310 1218 1362">Causing sexual servitude</td> </tr> </table>	An offence against the following sections of the <i>Crimes Act 1900</i> –		Section	Description of offence	80D	Causing sexual servitude	<p>Contract means this agreement.</p> <p>Contract Date means the date of execution of this agreement.</p> <p>Core Obligations means those obligations set out in clause 1.2 (Core Obligations).</p> <p>Engaged Entity of a party means any first tier (direct) suppliers, subcontractors, consultants and contractors engaged by that party (or that party's directors, officers and employees) in connection with this Contract. For the avoidance of doubt, 'Engaged Entities' includes independent contractors (whether an individual or body corporate), secondees, consultants and any other workers (however described) who may be engaged for the purposes of this Contract but are not employed by the relevant party.</p> <p>Management Plan means a plan to take reasonable steps to manage risks of Modern Slavery in the Supplier's operations and supply chains (including in the operations and supply chains of Supplier's Engaged Entities).</p> <p>Material Breach has the meaning given in clause 1.8.</p> <p>Modern Slavery:</p> <p>(a) means any conduct that constitutes or would constitute any offence listed in Schedule 2 of the <i>Modern Slavery Act 2018 (NSW)</i>, including an offence of attempting or incitement to commit such an offence;</p> <p>(b) includes any conduct that constitutes or would constitute an offence under any of the Modern Slavery Laws as amended from time to time, including an offence of attempting or incitement to commit such an offence; and</p> <p>(c) includes conduct engaged in elsewhere than in New South Wales that, if it occurred in New South Wales, would constitute a modern slavery offence under paragraphs (a) or (b).</p> <p>Modern Slavery Laws means:</p> <p>(a) the <i>Modern Slavery Act 2018 (Cth)</i>;</p> <p>(b) the <i>Modern Slavery Act 2018 (NSW)</i>;</p>
An offence against the following sections of the <i>Crimes Act 1900</i> –								
Section	Description of offence							
80D	Causing sexual servitude							

Clause	Heightened version (for Heightened Due Diligence procurements)		Streamlined version (for Light, Minimal and Standard Due Diligence procurements)
	80E	Conduct of business involving sexual servitude	(c) Divisions 270 and 271 of the Commonwealth Criminal Code;
	91G (1) and (2)	Children not to be used for production of child abuse material	(d) section 176(1A) of the <i>Public Works and Procurement Act 1912</i> (NSW);
	91G (3)	Aggravated offence of using children for production of child abuse material	(e) section 438ZE of the <i>Local Government Act 1993</i> (NSW); and
	91H	Production, dissemination or possession of child abuse material	(f) any other laws, regulations, codes and international conventions aimed at combatting modern slavery, forced labour or human trafficking, from time to time in force in or ratified by Australia and, where relevant, in or by other jurisdictions in which the parties operate,
	91HAA	Administering a digital platform used to deal with child abuse material	each as amended from time to time.
	93AA–93AC	Slavery and slavery-like offences	Price means [the price specified in clause [*] / the rates for the supply of the goods specified in Schedule [*] / the performance of the services specified in Schedule [*]].
	An offence against the following section of the <i>Human Tissue Act 1983</i> –		reasonable steps means those steps that are reasonable in the circumstances to prevent, identify, mitigate and remedy modern slavery. In assessing whether steps are reasonable, the parties may refer to the NSW Anti-slavery Commissioner’s Guidance on Reasonable Steps and related information and resources published by the Anti-slavery Commissioner.
	Section	Description of offence	Related Body Corporate has the meaning given to that term in the <i>Corporations Act 2001</i> (Cth).
	32, but only in relation to tissue that is an organ	Trading in tissue prohibited	Related Entity means, in respect of a party, a Related Body Corporate of such party.
	An offence against any of the following sections of the Commonwealth Criminal Code –		Remediation Plan has the meaning given to it in clause 1.9.
	Section	Description of offence	
	270.3	Slavery offences	
	270.5	Servitude offences	
	270.6A	Forced labour offences	
	270.7	Deceptive recruiting for labour or services	
	270.7B	Forced marriage offences	
	270.7C	Offence of debt bondage	

Clause	Heightened version (for Heightened Due Diligence procurements)		Streamlined version (for Light, Minimal and Standard Due Diligence procurements)
	270.8	Slavery-like offences – aggravated offences	
	271.2	Offence of trafficking in persons	
	271.3	Trafficking in persons – aggravated offence	
	271.4	Offence of trafficking in children	
	271.5	Offence of domestic trafficking in persons	
	271.6	Domestic trafficking in persons – aggravated offence	
	271.7	Offence of domestic trafficking in children	
	271.7B	Offence of organ trafficking – entry into and exit from Australia	
	271.7C	Organ trafficking – aggravated offence	
	271.7D	Offence of domestic organ trafficking	
	271.7E	Domestic organ trafficking – aggravated offence	
	(b) includes any conduct that constitutes or would constitute an offence under any of the Modern Slavery Laws as amended from time to time, including an offence of attempting or incitement to commit such an offence; and		
	(c) includes conduct engaged in elsewhere than in New South Wales that, if it occurred in New South Wales, would constitute a modern slavery offence under paragraphs (a) or (b).		
	Modern Slavery Laws means:		
	(a) the <i>Modern Slavery Act 2018</i> (Cth);		
	(b) the <i>Modern Slavery Act 2018</i> (NSW);		

Clause	Heightened version (for Heightened Due Diligence procurements)	Streamlined version (for Light, Minimal and Standard Due Diligence procurements)
	<p>(c) Divisions 270 and 271 of the Commonwealth Criminal Code;</p> <p>(d) section 176(1A) of the <i>Public Works and Procurement Act 1912</i> (NSW);</p> <p>(e) section 438ZE of the <i>Local Government Act 1993</i> (NSW); and</p> <p>(f) any other laws, regulations, codes and international conventions aimed at combatting modern slavery, forced labour or human trafficking, from time to time in force in or ratified by Australia and, where relevant, in or by other jurisdictions in which the parties operate, each as amended from time to time.</p> <p>Price means [the price specified in clause [*] / the rates for the supply of the goods specified in Schedule [*] / the performance of the services specified in Schedule [*]].</p> <p>RBA Code means the Responsible Business Alliance Code of Conduct version 7.0 (2021), or as revised from time to time.</p> <p>RBA Definition of Fees means the ‘Definition of Fees’ published by the Responsible Business Alliance, as revised from time to time.</p> <p>reasonable steps means those steps that are reasonable in the circumstances to prevent, identify, mitigate and remedy modern slavery. In assessing whether steps are reasonable, the parties may refer to the NSW Anti-slavery Commissioner’s Guidance on Reasonable Steps and related information and resources published by the Anti-slavery Commissioner.</p> <p>Recruitment Fee means any fee, expense or similar financial obligation paid or incurred in the recruitment process by a worker or jobseeker in order for a worker or jobseeker to secure or retain employment or placement, regardless of the manner, timing or location of its imposition or collection. It includes the recruitment and service fees and related costs set out in sections IV.3 and IV.4 of the RBA Definition of Fees.</p> <p>Related Body Corporate has the meaning given to that term in the <i>Corporations Act 2001</i> (Cth).</p>	

Clause	Heightened version (for Heightened Due Diligence procurements)	Streamlined version (for Light, Minimal and Standard Due Diligence procurements)
	<p>Related Entity means, in respect of a party, a Related Body Corporate of such party.</p> <p>Remediation Plan has the meaning given to it in clause 1.9.</p> <p>Remediation Steps has the meaning given to it in clause 1.9.</p> <p>Terminable Material Breach has the meaning given to it in clause 1.8.</p>	
<p>1.2 Core Obligations</p>	<p>Each party must:</p> <ul style="list-style-type: none"> (a) not engage in Modern Slavery; (b) take reasonable steps to ensure that it, its directors, officers, employees, Related Entities and Engaged Entities comply with Modern Slavery Laws as applicable; (c) take reasonable steps to ensure that its Engaged Entities include provisions equivalent to the Core Obligations (including this sub-clause) in their contracts with their suppliers; and (d) take reasonable steps to ensure that its Engaged Entities provide their respective directors, officers, employees and suppliers with at least the minimum level of wages and other entitlements required by law. 	
<p>1.3 Price</p>	<p>Each party acknowledges and agrees that the Price supports each Party to comply with its Core Obligations.</p>	
<p>1.4 Systems and policies</p>	<p>Each party agrees that it will establish, implement, and maintain for the term of this Contract, appropriate systems and policies as required to meet its Core Obligations.</p>	
<p>1.5 Implementation</p>	<p>Without limiting the Core Obligations and clause 1.4 (Systems and policies), the parties agree that:</p> <ul style="list-style-type: none"> (a) [Management Plan] the parties will work cooperatively to prepare a Management Plan as soon as reasonably practicable (and, in any event, within [*] weeks of the Contract Date). The Management Plan must outline, at a minimum: <ul style="list-style-type: none"> (i) the steps each party will take to identify and assess Modern Slavery risks in its operations and supply chain on an ongoing basis; (ii) the processes each party has in place to address any identified Modern Slavery risks; (iii) the content and timing of any training relating to Modern Slavery; and 	<p>Without limiting the Core Obligations and clause 1.4, and to the extent permitted by law, the Supplier agrees that it will notify the Buyer immediately with adequate particulars of the Modern Slavery and the actions taken, or being taken, to remedy the Modern Slavery if the Supplier becomes aware of any actual or reasonably suspected Modern Slavery engaged in, or any notices, investigations, proceedings or claims arising in any jurisdiction in relation to any actual or reasonably suspected breach of Modern Slavery Laws by the Supplier, the Supplier's directors, officers, employees, Related Entities, or by any of its Engaged Entities, whether or not the Modern Slavery occurs or is suspected to occur in the performance of the Contract.</p>

Clause	Heightened version (for Heightened Due Diligence procurements)	Streamlined version (for Light, Minimal and Standard Due Diligence procurements)
	<p>(iv) any Grievance Mechanism or other remediation process each party has instituted in relation to Modern Slavery.</p> <p>(b) [Notification] to the extent permitted by law, each party will notify the other party immediately with adequate particulars of the Modern Slavery and the actions taken, or being taken, to remedy the Modern Slavery if the party becomes aware of any actual or reasonably suspected Modern Slavery engaged in, or any notices, investigations, proceedings or claims arising in any jurisdiction in relation to any actual or reasonably suspected breach of Modern Slavery Laws:</p> <p>(i) by the party, the party's directors, officers, employees, or Related Entities;</p> <p>(ii) by any Engaged Entity involved in the performance of the Contract, whether or not the Modern Slavery occurs or is suspected to occur in the performance of the Contract.</p> <p>(c) [Common Preventive measures] Each party must:</p> <p>(i) provide training necessary to meet obligations of Modern Slavery risk identification, management and remediation under the Contract to its relevant directors, officers and employees;</p> <p>(ii) take reasonable steps to progressively implement the Migrant Worker Standard contained in Appendix O Migrant Worker Standard, of the NSW Anti-slavery Commissioner's Guidance on Reasonable Steps;</p> <p>(iii) ensure that no Recruitment Fees or related costs are charged to, or otherwise borne by, any worker engaged by the party, including its Engaged Entities where such Engaged Entities are individuals;</p> <p>(iv) not destroy or exclusively possess (without informed consent), whether permanently or</p>	

Clause	Heightened version (for Heightened Due Diligence procurements)	Streamlined version (for Light, Minimal and Standard Due Diligence procurements)
	<p>otherwise, the travel or identity documents of its directors, officers, employees or Engaged Entities (where such Engaged Entities are individuals); and</p> <p>(v) ensure that workers involved in performance of the contract who are provided accommodation are provided with ready access to clean toilet facilities, potable water and sanitary food preparation, storage, and eating facilities. Worker dormitories provided by the party, its Engaged Entities or by a labour agent on their behalf are to be maintained to be clean and safe. Such workers are to be provided with appropriate emergency egress, hot water for bathing and showering, adequate lighting and heat and ventilation, individually secured accommodations for storing personal and valuable items, and reasonable personal space along with reasonable entry and exit privileges.</p> <p>(d) [Supplier's Preventive Measures] The Supplier agrees that it will:</p> <p>(i) ensure access to an effective Grievance Mechanism for any worker in its operations;</p> <p>(ii) to the extent permitted by law, notify the Buyer of any Modern Slavery related grievances submitted through the Grievance Mechanisms that the Supplier or the Supplier's Engaged Entities have in place and provide, at least once every six (6) months for the duration of the Contract, reports regarding the operation of the Supplier's internal Grievance Mechanism with sufficient detail to demonstrate that it is operational and accessible to impacted stakeholders (including persons potentially or actually adversely impacted by the Supplier's activities); and</p>	

Clause	Heightened version (for Heightened Due Diligence procurements)	Streamlined version (for Light, Minimal and Standard Due Diligence procurements)
	<p>(iii) provide the Buyer with such access, information and documentation as the Buyer (or its nominee) reasonably requires to enable the Buyer (or its nominee) to:</p> <ul style="list-style-type: none"> - verify that the Supplier, and the Supplier's directors, officers and employees, comply with this Contract; and - undertake due diligence on the Buyer's supply chains with respect to this Contract; and - comply with the Buyer's reporting obligations under any Modern Slavery Laws; and - cooperate and comply fully with any audit required by law. 	
<p>1.6 Assistance</p>	<p>Without limiting the Core Obligations, clause 1.4 (Systems and policies) and clause 1.5 (Implementation) each party must provide, and use reasonable endeavours to ensure its directors, officers, employees, Related Entities and Engaged Entities provide, all reasonable assistance to the other party to enable the other party to comply with its obligations under this clause 0 (Modern Slavery) and under applicable Modern Slavery Laws.</p>	
<p>1.7 Disclosure</p>	<p>The Supplier represents and warrants to, and for the benefit of, the Buyer that, as at the Contract Date and on a continuing basis for the duration of the term of this Contract, the Supplier has disclosed, in accordance with clause 1.5:</p> <p>(a) to the extent the Supplier is aware, any:</p> <ul style="list-style-type: none"> (i) actual or reasonably suspected Modern Slavery engaged in; and (ii) notices, investigations, proceedings or claims arising in any jurisdiction in relation to any actual or reasonably suspected breach of Modern Slavery Laws, <p>by the Supplier, the Supplier's directors, officers, employees, or Related Entities, or by any of the Supplier's Engaged Entities while performing any contract with the Supplier, whether or not the Modern Slavery arises in the performance of the Contract; and</p> <p>(b) all actions taken to remedy said Modern Slavery or breach of Modern Slavery Laws.</p>	
<p>1.8 Material Breach and Termination</p>	<p>Without limiting the parties' rights under this Contract, including recourse to other remedies:</p> <p>(a) the parties agree that a breach of:</p> <ul style="list-style-type: none"> (i) either party's obligations under clause 1.2 (Core Obligations), 1.4 (Systems and policies), 1.5 (Implementation), 1.6 (Assistance), 1.7 (Disclosure), or 1.9 (Remediation Plan); or 	<p>Without limiting the parties' rights under this Contract, the parties agree that:</p> <p>(a) a breach of either party's obligations under this clause will be taken to be a Material Breach of this Contract; and</p> <p>(b) before exercising any termination rights that may arise as a result of this Material Breach, a party shall consult with relevant stakeholders on whether Modern Slavery may</p>

Clause	Heightened version (for Heightened Due Diligence procurements)	Streamlined version (for Light, Minimal and Standard Due Diligence procurements)
	<p>(ii) the Supplier’s obligations under clause 1.2 (Core Obligations), 1.4 (Systems and policies), 1.5 (Implementation), 1.6 (Assistance), 1.7 (Disclosure), 1.9 (Remediation Plan), which the Buyer reasonably suspects to have occurred, and which the Supplier has not, within a commercially reasonable timeframe, confirmed to the Buyer’s satisfaction is not in fact a breach,</p> <p>will be taken to be a Material Breach of this Contract.</p> <p>(b) Where a Material Breach (other than a breach of clause 1.9 (Remediation Plan)) is, in the non-breaching party’s reasonable assessment, capable of being remedied and the non-breaching party has notified the breaching party of the same, the non-breaching party must afford the breaching party an opportunity to provide a Remediation Plan in accordance with clause 1.9 (Remediation Plan) and remedy the Material Breach within [*] days or such other timeframe as agreed by the parties.</p> <p>(c) Where a Material Breach is a breach of the Supplier’s obligations under clause 1.9 (Remediation Plan), or is otherwise a Material Breach by the Supplier that is, in the Buyer’s reasonable assessment, incapable of being remedied, and the Buyer has notified the party of the same, such Material Breach shall constitute a Terminable Material Breach.</p> <p>(d) Prior to exercising, and in deciding whether to exercise, any of its termination rights under this clause, the non-breaching party must:</p> <p>(i) assess, including through consultation with relevant stakeholders, whether termination would increase the risk of Modern Slavery occurring (whether or not linked to the non-breaching party); and</p> <p>(ii) take reasonable steps to prevent or mitigate such Modern Slavery.</p>	<p>arise from such termination and the reasonable steps to prevent or mitigate such risk of Modern Slavery.</p>

Clause	Heightened version (for Heightened Due Diligence procurements)	Streamlined version (for Light, Minimal and Standard Due Diligence procurements)
	<p>(e) Provided that its obligations under clause 1.8(d) have been fulfilled, the Buyer may terminate the Contract immediately upon the provision of notice to the Supplier that a Terminable Material Breach has occurred.</p>	
<p>1.9 Remediation Plan</p>	<p>(a) This clause applies if:</p> <ul style="list-style-type: none"> (i) a party forms the view that there is a Material Breach, as defined in clause 1.8 (Material Breach and Termination); and (ii) the Material Breach is, in the non-breaching party's reasonable assessment, reasonably capable of being remedied. <p>(b) If this clause applies, the non-breaching party must notify the other party of the following matters:</p> <ul style="list-style-type: none"> (i) that the non-breaching party has formed the view that there is a Material Breach and the reasons for that view; (ii) reasonable details of the Material Breach; (iii) that the non-breaching party has formed the view that the Material Breach is capable of being remedied; and (iv) that the breaching party must prepare and implement a Remediation Plan in accordance with this clause 1.9. <p>(c) Upon receiving notice under clause 1.9, the breaching party must prepare, and submit to the non-breaching party within [*] days, or such other timeframe as agreed by the parties, a Remediation Plan that includes:</p> <ul style="list-style-type: none"> (i) the steps that the breaching party proposes to take (the Remediation Steps) to remedy the Material Breach; (ii) a timeline for the completion of the Remediation Steps, to be agreed between the parties; 	<p>(a) Where one party forms the view that there is a Material Breach that is reasonably capable of being remedied, then the parties shall develop a remediation plan to take reasonable steps to remedy the breach in accordance with this Contract (the Remediation Plan).</p> <p>(b) Each party shall take reasonable efforts proportionate to their contribution to the Material Breach to implement this Remediation Plan.</p>

Clause	Heightened version (for Heightened Due Diligence procurements)	Streamlined version (for Light, Minimal and Standard Due Diligence procurements)
	<ul style="list-style-type: none"> (iii) an explanation as to how the Remediation Steps will remedy the Material Breach; and (iv) quantitative and/or qualitative indicators for determining when the Remediation Steps are completed. (d) The breaching party must make all reasonable efforts to implement the Remediation Plan within the timeframe agreed between the parties and must provide to the non-breaching party reasonable evidence of the Remediation Plan's implementation. (e) The non-breaching party must provide reasonable assistance to the breaching party in preparing and implementing the Remediation Plan, on request, and the non-breaching party acknowledges and agrees that it shall provide assistance in the preparation and implementation of the Remediation Plan that is at least proportionate to the non-breaching party's contribution to the relevant Material Breach, which may include in-kind contributions, capacity-building and reasonable technical or financial assistance. (f) A failure by the breaching party to prepare, or properly implement, a Remediation Plan is a Terminable Material Breach of this Contract for the purposes of clause 1.8 (Material Breach and Termination) and triggers the non-breaching party's termination rights unless the breaching party can demonstrate, to the non-breaching party's reasonable satisfaction, that: <ul style="list-style-type: none"> (i) despite the breaching party's best efforts, the Remediation Plan cannot be implemented; and (ii) to the extent possible, the initial Material Breach the subject of the Remediation Plan is not ongoing. 	

Appendix K GRS Annual Reporting Template

Explanatory Note: This Annual Reporting Template can be used by covered entities to report against the NSW Anti-slavery Commissioner's *Guidance on Reasonable Steps*. For reporting on activities occurring up to 31 December 2023, it can be used as inspiration for entities' reporting.

For reporting from 1 January 2024, entities should report in two places:

1. By including relevant information in their entity's formal annual report.

The timing for this report is determined by other legislation or your entity's policies. This GRS Annual Reporting Template provides a template that you can use in preparing the modern slavery section of your annual report, or as a stand-alone report.

2. Using the online GRS Annual Reporting Form.

The GRS Annual Reporting Form is an online form on the OASC website which allows covered entities to share data directly with the Office of the Anti-slavery Commissioner. You should complete and submit this form upon publishing your Annual Report.

Information submitted may be published on the OASC website.

Note that there is a separate reporting template specifically for reporting Heightened Modern Slavery Due Diligence procurements, which – from 1 July 2024 – should be completed within 45 days of a contract involving such due diligence coming into force – see *Appendix L Heightened MSDD reporting*.

Report drafting instructions

- Each entity should report the steps it has taken during the reporting period to identify and address modern slavery risks in its own operations and to ensure it did not procure goods or services made with modern slavery.
- Each entity must report individually. Entities may however refer to steps undertaken jointly, or incorporate a joint report by reference.
- Report only those steps taken during the reporting period.
- Report only those activities for which you are responsible. For example, endorsing agencies do not need to report on the activities of procuring entities that they endorse.

Part A. General information

Your report should include the following information:

A.1 Reporting Entity Details

Reporting entity details	
Reporting entity	
Reporting period – start date	
Reporting period – end date	
Name of individual authorising this report	
Position of individual authorising report	
Contact details: <ul style="list-style-type: none"> • Contact phone • Contact email • Confirm contact email 	
Organisational (shared) email	

A.2 Procurement Spend Details

A.2.1 What was your entity's total procurement spend in this reporting period, to the best of your knowledge?

A.2.2 Complete the following table with information for this reporting period:

GRS Due Diligence Level	Identified procurement spend <i>To complete this column, add up the total value of all procurements you are aware of at each GRS Due Diligence Level during the reporting period. Record the aggregate value at that GRS Due Diligence Level - do not break it down by product or service category procured.</i>	Categories procured <i>List the categories of good or service that you procured using each GRS Due Diligence Level during the reporting period. If applicable, use the relevant procurement category taxonomy in the IRIT (i.e. the procurement category taxonomy at Level 3).</i>
Heightened		
Standard		
Light		
Minimal		

Part B. Annual modern slavery reporting

B.1 Significant operational issues (section 31(1)(a) of the *Modern Slavery Act 2018 (NSW)*)

Identify any 'significant operational issue' that has been identified as such to your entity, during the reporting period, by the NSW Anti-slavery Commissioner, and explain the steps taken to address this issue.

B.2 Reasonable Steps

Describe the steps taken to ensure that goods and services procured by and for the entity during the reporting period were not the product of modern slavery.

Reasonable Steps taken	Form of response for annual reporting	Response mandatory / optional for annual reporting
1 Commit		
<i>1.1 Stakeholder Engagement</i>		
What steps did your entity take to engage with stakeholders during this reporting period in relation to modern slavery?	Describe steps taken	Mandatory

Reasonable Steps taken	Form of response for annual reporting	Response mandatory / optional for annual reporting
Did you engage with external stakeholders on modern slavery risks in this reporting period?	Yes/No	Mandatory
<i>1.2 Identify salient risks at the organisational level</i>		
What steps did your entity take to identify salient modern slavery risks at the organisational level (i.e. across all operational and procurement activities) during this reporting period?	Describe steps taken	Mandatory
Did you conduct or update a Salient Modern Slavery Risk Assessment in this reporting period?	Yes / No	Mandatory Option to upload copy of risk assessment
<i>1.3 Modern Slavery Policy</i>		
What steps did your entity take to adopt a Modern Slavery Policy during this reporting period?	Describe steps taken	Mandatory
Do you have a modern slavery policy, approved by your senior governing body (e.g. Agency Head / Secretary), in place?	Yes / No	Mandatory Option to upload copy of policy
Does your modern slavery policy include high-level targets?	Yes / No	Optional
<i>1.4 Modern Slavery Risk Management Plan</i>		
What steps did your entity take to adopt a Modern Slavery Risk Management Plan during this reporting period?	Describe steps taken	Mandatory
Do you have a modern slavery risk management plan, approved by your senior management, in place?	Yes / No	Mandatory Option to upload copy of plan
Does your plan assign accountability for performance against high-level targets to specific roles?	Yes / No	Optional

Reasonable Steps taken	Form of response for annual reporting	Response mandatory / optional for annual reporting
2 Plan		
<i>2.1 Identify and map your supply-chain risks for each procurement</i>		
What steps did your entity take to identify and map your modern slavery risks at the supply-chain level during this reporting period?	Describe steps taken	Mandatory
<i>2.2 Develop a risk-reducing sourcing strategy</i>		
What steps did your entity take to develop a modern slavery risk-reducing sourcing strategy during this reporting period?	Describe steps taken	Mandatory
In what percentage of procurement processes was modern slavery factored into your entity's sourcing strategy or other procurement planning activities during this reporting period?	Percentage	Optional
3 Source		
<i>3.1 Select appropriate suppliers</i>		
What steps did your entity take to address modern slavery risks when selecting suppliers during this reporting period?	Describe steps taken	Mandatory
In what percentage of competitive procurement processes were the Model Tender Clauses used during this reporting period?	Percentage	Optional
<i>3.2 Adopt a shared responsibility approach to contracting</i>		
What steps did your entity take to adopt a shared responsibility approach to modern slavery risks, in contracting during this reporting period?	Describe steps taken	Mandatory
In what percentage of competitive procurement processes were the Model Contract Clauses used during this reporting period?	Percentage	Optional

4 Manage		
<i>4.1 Monitor and evaluate supplier performance</i>		
What steps did your entity take to monitor and evaluate supplier performance relating to modern slavery, during this reporting period?	Describe steps taken	Mandatory
Has your entity required any of your Tier 1 suppliers to undergo an audit addressing modern slavery risks in this reporting period?	Yes / No	Mandatory
What percentage of your Tier 1 suppliers underwent an audit addressing modern slavery in this reporting period?	Percentage	Optional
During the reporting period, what percentage of your Tier 1 suppliers' workforce were surveyed about their working conditions?	Percentage	Optional
What percentage of your Tier 1 suppliers' workforce are temporary migrant workers?	Percentage	Optional
What percentage of workers engaged by your Tier 1 suppliers in the last reporting period paid or incurred a fee to secure their engagement?	Percentage	Optional
<i>4.2 Develop supplier capabilities</i>		
What steps did your entity take to develop supplier capabilities relating to modern slavery risks during this reporting period?	Describe steps taken	Mandatory
What percentage of your entity's Tier 1 suppliers reported that they had participated in modern slavery training during this reporting period?	Percentage	Optional
5 Remedy		
<i>5.1 Provide or enable access to effective grievance mechanisms</i>		
What steps did your entity take to provide or enable access to effective modern slavery grievance mechanisms during this reporting period?	Describe steps taken	Mandatory
How many complaints relating to modern slavery associated with your operations or the goods or services you procure were lodged during the reporting period, whether with your organisation's grievance mechanism(s) or with others?	Number	Optional

<i>5.2 Take safe immediate steps to remedy harm</i>		
What steps did your entity take to safely and immediately remedy modern slavery harms to which you were connected during this reporting period?	Describe steps taken	Mandatory
<i>5.3 Use leverage to remediate deficient practices</i>		
What steps did your entity take to use leverage to remediate deficient modern slavery risk management practices during this reporting period?	Describe steps taken	Mandatory
In how many procurement contracts or arrangements was a material breach related to modern slavery formally notified during this reporting period?	Number	Optional
<i>5.4 Withdraw responsibly</i>		
What steps did your entity take to withdraw responsibly during this reporting period, in connection to modern slavery risks?	Describe steps taken	Mandatory
How many procurement contracts or arrangements were terminated on modern slavery grounds during the reporting period?	Number	Optional
6 Report		
<i>6.1 Establish a victim-centred reporting protocol</i>		
What steps did your entity take to establish a victim-centred modern slavery reporting protocol during this reporting period?	Describe steps taken	Mandatory
Do you have a modern slavery reporting protocol in place that prioritises the interests of the victim/survivor?	Yes / No	Mandatory
<i>6.2 Report on your modern slavery risk management efforts</i>		
What steps did your entity take to report on your modern slavery risk management efforts during this reporting period?	Describe steps taken	Mandatory
Did your entity report on modern slavery in its prior Annual Report?	Yes / No	Mandatory

During the period, did your entity comply with its obligations to report heightened modern slavery due diligence procurements valued at \$150,000 (inc. GST) or more within 45 days?	Yes / No	Mandatory
7 Improve		
<i>7.1 Learn lessons from your performance and others'</i>		
What steps did your entity take to learn lessons from your modern slavery performance and others' during this reporting period?	Describe steps taken	Mandatory
Has your entity updated its modern slavery policies or procedures based on stakeholder feedback or lessons from a grievance mechanism during this period?	Yes / No	Mandatory
<i>7.2 Train your workforce</i>		
What steps did your entity take to train your workforce during this reporting period?	Describe steps taken	Mandatory
What percentage of your workforce received modern slavery training in the period?	Percentage	Mandatory
<i>7.3 Cooperate with the Anti-slavery Commissioner</i>		
What steps did your entity take to cooperate with the Anti-slavery Commissioner during this reporting period?	Describe steps taken	Mandatory

Appendix L Heightened Modern Slavery Due Diligence reporting

Starting 1 July 2024, covered entities will be expected to file an online report about each contract the entity is a party to that:

- commenced on or after 1 July 2024
- has a value of AU \$150,000.00 (including GST) or more, and
- requires Heightened modern slavery due diligence on the GRS Due Diligence Level scale. (See Figure 16 GRS Due Diligence Levels.)

The online report must be submitted within 45 working days after the contract becomes effective.

An online reporting mechanism will be rolled out in the second quarter of 2024, to allow covered entities time to prepare. The mechanism will capture data allowing the Commissioner to discharge the statutory obligation to monitor the effectiveness of these due diligence efforts.

The exact data fields to be captured and published will be finalised in 2024, through consultation with relevant stakeholders, but are likely to include data relating to:

- who is reporting and when
- identifying details for the procurement and resulting contract
- identifying details for the supplier
- the procurement category
- how and what modern slavery risks were identified in relation to this procurement
- the steps taken by the supplier(s) to prevent, identify, mitigate and remedy modern slavery in line with the Guidance on Reasonable Steps.

Appendix M Good practice in identifying forced labour

Forced labour is often hidden from view, with workers being threatened and coerced not just in the workplace, but during recruitment, in the way they are accommodated, fed and transported, and by being made unable to leave without repercussions.

International good practice has developed an approach to identifying forced labour that uses a set of 11 ILO Forced Labour Indicators to assess whether any given worker's situation rises to the level of forced labour. These indicators, based on international law, are:

- Abuse of vulnerability
- Deception
- Restriction of movement
- Isolation
- Physical and sexual violence
- Intimidation and threats
- Retention of identity documents
- Withholding of wages
- Debt bondage
- Abusive working and living conditions
- Excessive overtime.

Together, the Indicators address two underlying questions:

1. Has the worker been the subject of a threat or menace of **penalty**?
2. Did the worker provide his or her consent to work freely and is he or she free to leave? The absence of these freedoms is the concept of **involuntariness**.

These questions should be asked to identify specific indicators of forced labour related to different stages of an employment relationship. These are:

- **Workers subjected to exploitative recruitment practices:** this covers forced and deceptive recruitment practices, for example a significant and deliberate failure to deliver on the terms and conditions of employment promised to the worker.
- **Work and life under duress:** this covers adverse working or living situations imposed on a person by the use of force, penalty or menace of penalty.
- **Impossibility of leaving an employer:** this addresses situations where leaving an employer entails an excessive penalty or risk.

To identify an instance of forced labour **at least one indicator of involuntariness** and **at least one indicator of penalty** must be present – and **at least one of these must be 'strong'**. For example, if a worker builds up debt during recruitment and is then threatened with physical violence when trying to leave, then that person would be recognised as a victim of forced labour.

Stages	Strength of indicator	Indicators of involuntariness	Indicators of penalty (or menace of penalty)
Workers subjected to exploitative recruitment practices	Strong	<ul style="list-style-type: none"> • Tradition, birth (birth/descent into 'slave' or bonded status) • Coercive recruitment (abduction, confinement during recruitment) • Sale of the worker • Recruitment linked to debt • Deception about the nature of the work (e.g. promise of work in a hotel, only to end up as a sex worker) 	<ul style="list-style-type: none"> • Denunciation to authorities • Confiscation of identity papers or travel documents • Sexual or physical violence • Other forms of punishment • Removal of rights or privileges (including promotion) • Religious or political retribution • Withholding of assets (cash or other) • Threats against family members
	Medium	<ul style="list-style-type: none"> • Deceptive recruitment (around working conditions, content or legality of employment contract, housing and living conditions, legal documentation or acquisition of legal migrant status, job location or employer, wages/earnings) • Deceptive recruitment through promise of marriage 	<ul style="list-style-type: none"> • Exclusion from future employment • Exclusion from community and social life • Financial penalties • Informing family, community or public about worker's current situation (blackmail)
Work and life under duress	Strong	<ul style="list-style-type: none"> • Forced overtime (beyond legal limits) • Forced to work on call (day and night) • Limited freedom of movement and communication • Degrading living conditions • Forced engagement in illicit activities 	<ul style="list-style-type: none"> • Denunciation to authorities • Confiscation of identity papers or travel documents • Confiscation of mobile phones • Further deterioration in working conditions • Isolation • Locked in workplace or living quarters

Stages	Strength of indicator	Indicators of involuntariness	Indicators of penalty (or menace of penalty)
		<ul style="list-style-type: none"> Induced addiction to illegal substances 	<ul style="list-style-type: none"> Sexual or physical violence Other forms of punishment (e.g. deprivation of food, water, sleep) Violence against worker in front of other workers Removal of rights or privileges (including promotion) Religious or political retribution Constant surveillance Withholding of assets (cash or other) Withholding of wages Threats against family members
	Medium	<ul style="list-style-type: none"> Forced to work for employer's private home or family Induced or inflated indebtedness (e.g. by falsification of accounts, inflated prices for goods/services purchased, reduced value of goods/services produced, excessive interest rate on loans) Multiple dependencies on employer (e.g. the employer provides accommodation, food, travel and work) Pre-existence of a dependency relationship with employer Being under the influence of employer or people related to employer for non-work life 	<ul style="list-style-type: none"> Exclusion from future employment Exclusion from community and social life Extra work for breaching labour discipline Financial penalties Informing family, community or public about worker's current situation (blackmail)
Impossibility of leaving an employer	Strong	<ul style="list-style-type: none"> Reduced freedom to terminate labour contract after training or other benefit paid by employer No freedom to resign in accordance with legal requirements Forced to stay longer than agreed while waiting for wages Forced to work for indeterminate period to repay outstanding debt or wage advance 	<ul style="list-style-type: none"> Denunciation to authorities Confiscation of identity papers or travel documents Imposition of worse working conditions Locked in work or living quarters Sexual and or physical violence Other forms of punishment (e.g. deprivation of food) Removal of rights or benefits (including promotion) Religious retribution Constant surveillance Violence imposed on workers in front of all workers Withholding of assets (cash or other) Withholding of wages Threats against family members (violence or loss of land or jobs)
	Medium	<ul style="list-style-type: none"> N/A 	<ul style="list-style-type: none"> Exclusion from future employment Exclusion from community and social life Extra work for breaching labour discipline Financial penalties Informing family, community or public about worker's current situation (blackmail)

Based on ILO Forced Labour Indicators; ILO Hard to See; CDC Good Practice Note, p. 17; ETI Base Code Guidance pp. 6-11; Sedex, Guidance on Operational Practice and Indicators of Forced Labour.

Appendix N Speaking with victims of modern slavery

When speaking with a potential victim of modern slavery, their safety and welfare should be the primary concern.

Victims might be reluctant to tell their story and could feel fear or shame and worry they won't be believed. They might not recognise they are in fact a victim and might not know their rights. They might be suffering from stress and mental health concerns due to their circumstances.

A victim-centred approach is recommended to support them and their wishes, including:

- if it is a victim who is disclosing the incident, listen carefully and non-judgmentally. Assure them they are being taken seriously. Do not push them to share more than they are comfortable with.
- provide reassurance and look after the welfare of the victim and try to build rapport and trust.
- protect the identity of the victim as well as the identity of the person reporting the incident, if they are not the same person. Keep the victim separate from those who may be involved in exploitation. The aim is to minimise further harm.
- try to create a safe environment where the victim feels comfortable sharing details.
- do not promise complete confidentiality. Explain that the incident has to be reported to a manager or someone else who can help with the individual's protection and concerns.
- if the victim or witness is in immediate danger, call relevant law enforcement or other support bodies immediately and ensure the individual(s) is in a safe place until they arrive.
- if an interpreter is required, use a professional service. Asking a friend or colleague of the victim is strongly discouraged.
- honour the wishes of the victim (e.g. if they want to leave with the potential perpetrator or do not wish their name to be used when reporting to law enforcement).
- it is not your job to investigate. Take down what details you can, but do not try to take a formal statement. Report the incident to relevant managers or authorities who can address the matter further.

Adapted from BS 25700:2022 B.1.4.

Appendix O Migrant Worker Standard

Appendix O Migrant Worker Standard provides a template standard that can be used or adapted as a resource for procurements involving supply-chains with high numbers of vulnerable migrant workers.

Objective

The objective of this standard is to set out the minimum requirements for the appropriate and ethical recruitment, employment and management of, and support for migrant workers by or on behalf of suppliers doing business with [BUYER].

Although this standard sets out good practice that could be applied to recruitment and management of all workers, we recognise the heightened vulnerabilities of migrant workers. Migrant workers face additional modern slavery risk given the common challenges of travel, distance from family and home, language barriers, ethnic inclusion, and living and working in an unfamiliar environment.

[BUYER] defines a migrant worker as a person who either migrates within their country of origin (internal migration) or outside it (crossing an international border) to pursue employment. A foreign migrant worker is an individual who is recruited and migrates from their country of origin to another country where they are not a permanent resident for specific purposes of employment with the supplier. An internal, or sometimes known as domestic, migrant worker is an individual who is recruited and migrates from their habitual place of residence to another state/province/region within the same country where they are a national for specific purposes of employment.

For the purposes of this document, the term 'migrant worker' refers to foreign migrant workers and internal migrant workers.

Policy

The NSW Supplier Code of Conduct (Supplier COC) requires suppliers to take steps to address connections between businesses in their supply chains and modern slavery and other human rights abuses.

Recognising the particular vulnerability of migrant workers to exploitative labour practices and risks of modern slavery, this policy sets out the minimum requirements for the recruitment, selection, hiring and management of migrant workers by or on behalf of suppliers doing business with [BUYER].

- Suppliers must comply with all applicable national and local labour laws, together with this Standard and shall respect the rights expressed in the ILO Core Conventions regarding forced labour (including Forced Labour Convention, 1930 (No. 29) and Abolition of Forced Labour Convention, 1957 (No. 105)) and the United Nations Guiding Principles on Business and Human Rights (UNGPs).
- Where this Standard and the national or local laws and/or guidelines have requirements in the same area, suppliers shall meet the more stringent requirements, implementing best practice approaches along with legal compliance.
- All work shall be freely chosen, overtime work shall be voluntary, and migrant workers shall be free to terminate their employment with a supplier upon reasonable notice without penalty.
- Migrant workers shall not be required to pay for their employment.
- Suppliers shall maintain adequate controls to ensure that migrant workers have not been charged recruitment or placement fees during their recruitment process.
- There shall be no fraud, deception, nor coercion in the recruitment, placement, transportation or management of migrant workers.

- Suppliers and their recruitment agents shall proactively communicate with migrant workers about all aspects of employment terms and conditions, including leave policies, and be transparent about the job and its requirements and terms and conditions at all times.
- All foreign migrant workers must be [employed and] paid directly by the supplier, not by agents, sub-agents, or third parties.
- All migrant workers must be provided a written employment contract, in their native language, prior to departure from their home country that describes all the terms and conditions of their employment with the supplier.
- Neither suppliers, recruitment agents, nor any other third parties shall hold official migrant worker identification documents, passports, travel papers or other personal documents.
- Suppliers shall establish appropriate due diligence and monitoring programs to screen and manage any recruitment agents used to select, recruit and/or transport migrant workers.
- Due diligence should include all recruitment business partners including sub-agents and ensure ethical recruitment practices.
- Under no circumstances should any worker be recruited from a prison, detention, re-education or similar centre.
- Suppliers shall establish systems to oversee the training and management of migrant workers on equal terms with local workers, consistent with local law.

Employment Contracts

- Employment contracts for migrant workers shall be signed directly with the supplier, not with a recruitment agent.
- Migrant workers shall be [employed and] managed directly by the supplier.
- The required notice period for migrant workers to terminate their contracts early shall not exceed one month, unless required to be less per local law.
- Migrant workers shall not be penalised for early termination of their employment contract with required notice.
- If a migrant worker does not give required notice they shall not be penalised. The supplier must ensure they are paid for all hours worked.
- Workers are not required to provide full notice, if termination is due to abuse or threat to their own safety.
- Contracts shall be provided to migrant workers for review and signature in reasonable advance of their departure from their home country.
- Migrant workers shall be provided a signed copy of their employment contract in their native language prior to their departure from their home country.
- For illiterate migrant workers, the contract terms and conditions shall be verbally explained in their native language prior to signing the contract and workers' understanding of the contract terms shall be confirmed.
- Suppliers shall only hire migrant workers who are legally permitted to work in the receiving country/location and employment contracts shall be legally valid and enforceable in the receiving country/location.
- All employment contracts shall stipulate, at a minimum, the following terms:
 - Name and address of the supplier (the employer)
 - Worker's full name
 - Worker's date of birth
 - Work start date and duration of contract

- Contract termination requirements including notice period not to exceed one month, or less per local law
 - Contract renewal provisions
 - Description of the location and nature of work to be performed
 - Regular wage rate
 - Overtime and holiday wage rates
 - Regular work hours and shifts
 - Anticipated overtime hours with total working hours not to exceed 60 hours per week or local law, whichever is lower
 - Method and frequency of wage payment
 - Any bonuses and conditions for earning them
 - Any allowances
 - Full listing of any and all deductions including specification of the type and amount of each deduction and which, if any, are optional
 - Description of additional benefits including medical insurance coverage, accident/injury insurance, holidays, annual leave, sick leave, and/or any other applicable benefits (some details may be included in employee handbook or other policy documents)
 - Detailed description of living conditions and breakdown of any deductions for accommodations, meals, transportation or other services provided or offered by the supplier
 - Description of repatriation process and specification of the costs to be borne by the supplier and the worker
 - Any other facility specific requirements, as applicable
 - Any other terms required by applicable laws and regulations, including those related to prohibitions on trafficking in persons
 - Clear prohibition on charging of recruitment or placement fees
 - No terms restricting a worker's rights to freedom of association and collective bargaining consistent with local law
- Contract substitution is prohibited. Any amendments to the employment contract after arrival in the receiving country or new location must be in line with local labour laws, clearly explained to the migrant workers in their native language, and authorised through an amendment freely consented to and signed by the worker. If an amendment is for materially worse terms and the migrant worker does not consent to the change, they should be provided the choice to terminate their contract without penalty and be provided return transportation at the supplier's cost to their home.

Use of Recruitment Agents

- Suppliers should seek, where possible, to minimise the use of recruitment agents and hire migrant workers directly. Where recruitment agents are used, suppliers shall only use legally licensed recruiters in both the sending and receiving countries or domestic locations.
- Suppliers shall conduct proper due diligence on recruitment agents and sub-agents prior to their engagement. Such due diligence shall evaluate the recruitment agent's legal status, ethical practices, any record of penalties or complaints, and the capability to fulfill the supplier's requirements while meeting the specifications of this standard and the Supplier COC.
- Suppliers shall have a written contract (e.g. service agreement) with any recruitment agents specifying the terms and conditions for recruitment and hiring of migrant workers including adherence to the requirements of this standard and the Supplier or Responsible Business

Alliance (RBA) COC. Supplier shall provide copies of recruitment agent contracts to [Buyer] for all agents used at the facility to demonstrate compliance with these requirements.

- Supplier-recruitment agent contracts shall explicitly prohibit the charging of fees to potential migrant workers by recruitment business partners including any sub-agents, and assign responsibility to the supplier for reimbursement should fees be identified.
- Suppliers shall conduct audits of recruitment agents every two years to ensure that they meet the requirements specified in the contract, this standard, and the Supplier COC.
- Suppliers are responsible for ensuring recruitment agents conduct due diligence on sub-agents including legal status and compliance history and are to disclose the details of any sub-agents to suppliers including the terms of agreement between the recruiter and sub-agent. Contracts between agents and sub-agents must stipulate which party bears costs, and no fees required by workers.
- Suppliers (including employees and representatives) shall not accept any compensation, benefit, reimbursement or other items of value from recruitment agents, sub-agents or other third parties involved in the recruitment process.

Recruitment Fees and Costs

- Migrant workers shall not be required to pay for their employment. The costs and fees associated with recruitment, travel and processing of migrant workers shall be covered by the supplier.
- Suppliers hiring migrant workers shall report invoice and payment documentation demonstrating that any recruitment fees were paid by the supplier for all migrant workers in their facility.
- Suppliers shall pay the costs of recruitment directly to the extent possible. In instances where workers were found to have paid fees, suppliers shall reimburse within 90 days of the identification of fees paid by migrant workers.

Deposits/Forced Savings

- Migrant workers shall not be required to lodge deposits or post bonds at the time of their recruitment or at any point during their employment.
- Migrant workers shall not be required to participate in savings programs, unless legally required. If a migrant worker chooses to voluntarily participate in a savings program, the worker shall retain full access to their account at all times.

Document Retention

- Neither suppliers, recruitment agents nor any other third parties shall hold original migrant worker identification documents, passports, travel papers, or other personal documents. Where suppliers are legally required to hold documents, suppliers shall securely store and protect the document and must implement alternative means to ensure worker freedom of movement, including workers' right to request and retrieve documents at any time. Where documents must be submitted to authorities for visas or work permits (new or renewal), the worker shall be given a photocopy of all documents submitted.
- Suppliers must provide migrant workers with individual, safe, secure, lockable storage for documents and other valuables. Such storage shall be adequately protected from unauthorised access, and at no cost to the worker.

Working Conditions during Employment

- The treatment of migrant workers shall be equal with that of local workers. This includes the same wage rate for the same job, equal opportunity for bonuses and promotions, regular and overtime hours, shift arrangements, holidays, access to facilities, insurance and any other benefits, except where different benefits are specified under local law. Registration of migrant

workers' applicable social security, work accident insurance and other benefits shall be made timely.

- Suppliers shall ensure that migrant workers are treated ethically and humanely, and provided with a safe working environment consistent with the Supplier COC.
- Migrant workers shall not be subjected to any forms of discrimination, threats, harassment or abuse. Suppliers should take proactive steps to provide resources and guidance to support migrant workers in their understanding of and adapting to local life, and ensuring a welcoming environment, free from discrimination. [Buyer] encourages suppliers to embrace diversity as beneficial to business and society, and to understand specific vulnerabilities of workers based on ethnicity, culture, religious beliefs, sexual orientation and preferences.
- Migrant workers shall not be unreasonably restricted in their movements including during working hours to access drinking water and toilets, to leave the facility during meal breaks or from supplier provided accommodations unless there are legitimate security concerns or where required by law. Any such restrictions should be clearly specified in the employment contract and should be applied equally to all workers.
- Migrant workers shall be free to return home during leave, without threat of penalty or termination.
- All facility policies and procedures shall be provided in the migrant worker's native language.
- Migrant workers shall be adequately trained in the facility's policies and procedures, health and safety requirements, exit routes in case of fire or other emergencies and any other job-related requirements necessary to their role prior to commencing their employment. Such training shall be conducted in the native language of the migrant workers.
- Migrant workers shall be provided access to proper medical care when they are ill or injured with assistance from translators if they do not speak the local language.

Accommodation

- Where suppliers provide, facilitate access to or manage accommodations for migrant workers, such accommodations shall be safe, hygienic, and well maintained with access to potable water, clean toilet facilities, sanitary food preparation areas (if applicable), appropriate emergency exits, fire suppression and notification equipment, clean bathing/showering facilities, adequate heat and ventilation, reasonable personal space, and secure storage.
- Where suppliers provide, facilitate access to or manage accommodations, such accommodations shall meet or exceed receiving country/location housing and safety standards, and should seek to meet global best practice as identified by the IFC & EBRD Guidance Note and ILO Guidance.
- Migrant workers shall be offered safe, free transportation between that accommodation and place of work.

Wages and Working Hours

- Migrant workers may not be paid by a third party.
- Migrant workers shall be compensated at the same rates for the same work as local workers and shall be provided with no less than the minimum wage and benefits specified by local law.
- Migrant workers shall be paid regularly and in a timely manner.
- Migrant workers shall be provided a pay slip with appropriate details to understand the basis on which they are compensated. This shall include separate itemization for overtime, bonuses, deductions and other components of compensation.
- Pay slips shall be provided in the migrant worker's native language or the worker shall be provided a key to enable them to translate the itemization.
- Total working hours as stated in the employment contract are not to exceed local law, or 60 hours per week, whichever is lower.

- All overtime must be voluntary. Workers shall have the right to refuse overtime requests without threat of penalty.

Grievance Mechanisms and Worker Voice

- Suppliers shall have effective, confidential grievance mechanisms, available in the migrant workers' native languages, and shall ensure that workers can raise grievances without intimidation or fear of retaliation. Such mechanisms should also include the ability to report grievances anonymously if desired, unless restricted by local law.
- Suppliers shall have procedures in place to respond to and address grievances in a prompt manner. The resolution of grievances shall be reported back to workers. Workers who disagree with how a grievance is resolved shall be given the opportunity to appeal the decision. No retaliation shall be taken against any worker, including migrant workers who report grievances.
- Suppliers shall support migrant workers' well-being by providing outreach and training to help them settle locally, understand their rights, and access a channel for emotional or personal support.

Freedom of Association

- All workers, including migrants shall have the right to freely join trade unions in accordance with local law, or through alternative worker representation where local law limits freedom of association.
- Employment contracts, facility rules and management must not restrict migrant workers from exercising their rights to freedom of association and collective bargaining in accordance with local law.

Payment of Transportations Costs and Repatriation

- Suppliers shall pay for inbound transportation costs where the migrant worker has been hired from another country.
- Suppliers shall pay return transportation costs for workers to return to their home country upon completion or termination of an employment contract.
- Should a supplier need to terminate a worker's contract early due to downsizing, facility closure, pandemic, or other business-related purpose, the supplier shall pay the cost of return transportation to the worker's home country. Alternatively, if other legal employment opportunities are available in the receiving country and the worker wishes to take such employment instead of returning home, then the supplier may support the worker to do so, subject to local law.
- Transportation costs either to the receiving country or return costs to the worker's home country are not required to be paid by the supplier for migrant workers already within the receiving country at time of hire with valid working documents. Additionally, return transportation costs are not required to be paid by the supplier if the migrant worker finds alternative legal employment in the receiving country upon completion of the employment contract.

Remedy

- Suppliers must adhere to all standards in this document and prevent modern slavery to the best of their ability. [Buyer] recognises that supplier due diligence may not surface all incidences and may be due to third party actors' actions or omissions. When nonconformance with this standard is identified, suppliers must take corrective action and remedy in cases where workers underwent harm or paid fees. For additional guidance, suppliers can request a copy of the RBA Standard for the Investigation and Repayment of Fees.
- Suppliers shall be accountable for a timely response and remedy when nonconformance with this standard is identified. Suppliers will commission or cooperate with an investigation, be open and transparent with [Buyer], engage with and seek [Buyer] approval of a remediation plan, and regularly report on progress. Workers should be engaged in the development or roll-out of the

plan, the supplier should continue to engage with workers and monitor impact on workers, and the supplier should commission a third-party assessment to verify closure of modern slavery incidences.

- In cases where worker-paid recruitment fees are discovered, the supplier will:
 - Consult with all migrant workers to assess the degree and amount of fees, propose a reimbursement schedule and amount based on an average (or median) amount workers reported per migration corridor, and engage workers in the plan.
 - Implement management systems improvements to prevent, identify and mitigate cases of fees.
 - Communicate a prohibition of worker-paid recruitment fees policy to all workers and communicate a channel for raising concerns safely and effectively.
 - Engage with all recruitment agencies to ensure agencies and sub-agencies also adopt a policy of no fees, communicate the policy with applicants and workers and maintain management systems to prevent and monitor for fees.
 - Provide a reimbursement plan for [Buyer] approval within 90 days after verification of fee charging. After [Buyer] approves the reimbursement plan, the supplier will complete reimbursement to all in scope workers in the next 90 days.
 - In cases where workers' contracts are completed or terminated, suppliers agree to reimburse all fees upon the workers' last day of employment.
- The supplier is responsible for ensuring the full reimbursements are paid directly to the worker.
- The supplier shall have their worker payments verified through an on-site visit.
- When not possible, or where the migrant worker is legally required to pay a fee or cost directly, the migrant worker shall be reimbursed by the supplier as soon as practicable upon arrival, but no later than 90 days after the worker's arrival in the receiving country.
- Suppliers will put processes and checks in place to ensure worker safety and well-being are prioritised throughout remediation and management system improvements.
- Departed workers that are found to have paid fees shall be repaid within 90 days of providing relevant details for repayment (i.e. bank information, etc.).

Based on Hewlett Packard Enterprise Migrant Worker Standard, version 2.

Appendix P Immediate forced labour remediation measures

This Appendix sets out immediate remediation measures that buyers can take or enable to respond to indicators of forced labour. These should not be understood as a ‘total’ remediation plan, nor as fully providing or enabling effective remedy. Nor are all steps appropriate in all circumstances. The Appendix should be read in conjunction with the discussion of how to approach remediation and reporting in Part 5 Remedy and section 6.1 Establish a victim-centred reporting protocol. It should also be read in conjunction with the discussion of Remedy in *Appendix O Migrant Worker Standard*.

Circumstances	Potential Immediate Remediation Measures
<i>Recruitment practices</i>	
Workers abducted, confined during the recruitment process or sold.	Work with law enforcement and local civil society groups to provide victims a safe place to stay and link them to needed services, and afford them a safe reporting opportunity.
Workers recruited through a loan or advance and are working to pay it off.	If the supplier paid the loan or advance, determine whether the terms were reasonable and lawful. If not, work out reasonable terms between supplier and worker. If the loan/advance was paid by a labour recruiter, determine whether the supplier had knowledge of the arrangement. If so, work out reasonable terms between supplier, recruiter and worker. If not, require the supplier to work with the recruiter to correct its practices or to discontinue its relationship with the recruiter. Report unlawful practices to authorities.
Deceptive recruitment: workers promised types of work, working conditions, contract terms, housing or living conditions, job locations, employers or wages/earnings that do not materialise.	If the supplier made a false promise, the supplier should provide all employees who wish to leave their full wages and entitlements due and transportation home. If the false promises were made by a labour recruiter, determine whether the supplier had knowledge of the arrangement or undertook effective due diligence in relation to such practices. Require the supplier to work with the recruiter to correct its practices or consider discontinuing its relationship with the recruiter. Report unlawful practices to authorities.
<i>Working and living conditions</i>	
Workers working excessive overtime beyond legal limits	Ensure that the supplier pays workers back wages for all overtime hours worked. Work with the supplier and relevant stakeholders, including unions, to evaluate staffing policies and compensation practices, such as piece rates, that are contributing to overtime. Examine your own sourcing practices, including lead times, changes in orders, pricing and other pressures that could necessitate extreme cost-cutting measures on the part of the supplier, including excessive overtime. Ensure that all workers receive training on their rights under the law and the social compliance system.
Workers expected to work ‘on call’	Work with the supplier to design a more structured staffing plan that meets your requirements. Ensure that all workers receive training on their rights under the law and access to grievance mechanisms.
Employer restricts workers’ freedom of movement or communication	Determine who – management, supervisors, shift leaders, etc. – are involved in restricting workers’ freedom of movement or communication and investigate these individuals’ actions. If individuals were acting on their own without management knowledge, take appropriate action with these individuals, which could include training, suspension, termination and/or reporting to regulatory or law enforcement authorities. If these restrictions came from management, require the supplier to remediate these practices within a short window of time. Further investigate conditions and circumstances at the worksite that management or supervisors may

Circumstances	Potential Immediate Remediation Measures
	be trying to conceal – including through off-site interviews with workers and other knowledgeable community members. Ensure that all workers receive training on their rights under the law, including access to grievance mechanisms. Ensure that workers who wish to leave the job are able to do so and receive their full wages and entitlements due.
Degrading living conditions	Ensure that the supplier, and any labour recruiter on whom they rely, fully understands the minimum standards for employee housing. Give the supplier a short window of time to remediate all living condition deficiencies. Ensure that all workers receive training on their rights under the law, including housing standards, and access to grievance mechanisms. Ensure that workers who wish to leave the job are able to do so and receive their full wages and entitlements due. Consider following up with an unannounced investigation that includes off-site interviews with workers and other knowledgeable community members. If the living conditions have not improved, consider penalising the supplier within the terms of the contract, and/or terminating the relationship with the supplier – while mitigating the impact of this on the workers.
Workers forced to engage in illicit activities, to work for private home/family or to take addictive drugs	Determine who – management, supervisors, shift leaders, etc. – are involved in restricting workers’ freedom of movement or communication and investigate these individuals’ actions. If individuals were acting on their own without management knowledge, take appropriate action with these individuals, which could include training, suspension, termination and/or reporting to regulatory or law enforcement authorities. If these restrictions came from management, consider penalising the supplier within the terms of the contract, and/or provide the supplier a short window of time to end all such practices. Further investigate conditions and circumstances at the worksite that management or supervisors may be trying to conceal – including through off-site interviews with workers and other knowledgeable community members. Ensure that all workers receive training on their rights under the law, including grievance mechanisms. Ensure that workers who wish to leave the job are able to do so and receive their full wages and entitlements due. Consider any obligation you may have to report criminal activity, and refer to the discussion in Part 6 on reporting.
Supplier inflates workers’ indebtedness	<p>Determine the source of workers’ initial debt. If the initial debt was to the supplier, require the supplier to cancel this debt and repay any wrongful repayments (with interest). If the initial debt was to a labour recruiter, investigate whether the supplier had knowledge of the debt arrangement. If so, require the supplier to cancel the debt and ensure repayment of any wrongful repayments (with interest). If not, use leverage to encourage the supplier to address these practices with the recruiter, or consider terminating its relationship with the recruiter. Consider reporting the recruiter to authorities.</p> <p>If debt is inflated through purchases from the employer, such as at a canteen, transportation service, or for access to accommodation, kitchen or laundry facilities, determine whether workers have other options. If purchases at employer-owned stores are the only viable option for workers, work with the supplier to ensure that prices and terms are reasonable.</p> <p>Ensure that workers who wish to leave the job are able to do so and receive their full wages and entitlements due.</p>
Workers depend on employer for housing, food or other necessities	In some cases, particularly for migrant workers, provision of housing, food and other necessities by the employer may be the best option for all involved. However, the quality of the housing and food must be

Circumstances	Potential Immediate Remediation Measures
	<p>examined. If they do not meet minimum standards, work with the supplier to improve quality.</p> <p>Follow up with an unannounced review that includes off-site interviews with workers and other knowledgeable community members. If the living/food conditions have not improved, consider terminating the relationship with the supplier.</p>
<p>Workers have personal dependency on employer</p>	<p>Ensure that all workers receive training on their workplace rights under the law, regardless of personal relationships.</p>
<p><i>'Impossibility of leaving' issues</i></p>	
<p>Workers do not feel free to resign because of benefits they have received or because employer restrictions</p>	<p>If a supervisor or other individual is leading workers to believe they cannot leave because the supplier has provided training or other benefits, or because of an illegal contractual requirement, require the supplier to take appropriate corrective action against this individual, from training to termination. If workers simply do not understand their rights, provide training in suitable formats and languages to ensure they know when they may resign, and other workplace rights. Ensure that workers who wish to leave the job are able to do so and receive their full wages and entitlements due.</p>
<p>Workers feel compelled to stay because they are due wages</p>	<p>Ensure that wages are being computed accurately and that all employees involved in payroll are adequately trained in wage computation. Require the supplier to pay all wages and entitlements due under local law. Ensure that payment schedules are formalised, within legal limits and your contract. Follow up with an unannounced audit. Ensure that workers who wish to leave the job are able to do so and receive their full wages due</p>
<p>Workers work for an excessive or indefinite amount of time to repay a debt or advance from the employer or recruiter</p>	<p>If the supplier paid the loan or advance, determine whether the terms were reasonable. If not, work out reasonable terms between supplier and worker. If the loan/advance was paid by a labour recruiter, determine whether the supplier had knowledge of the arrangement. If so, work out reasonable terms between supplier, recruiter and worker. If not, require the supplier to work with the recruiter to correct its practices or discontinue its relationship with the recruiter. Report unlawful practices to authorities.</p>
<p><i>Penalty or threat issues</i></p>	
<p>Supplier or recruiter has possession of workers' identity or travel documents</p>	<p>Suppliers should never confiscate or take exclusive possession of workers' identity or travel documents unless it is purely for safekeeping purposes, and then only if workers consent and are able to retrieve their documents promptly upon request. Require the supplier to return all workers' identity documents. If workers prefer that the supplier hold them for safekeeping, ensure that a policy is in place for retrieval of documents and that all workers are aware of the policy. Follow up to check on the issue through an unannounced audit.</p>
<p>Employer threatens to turn workers in to immigration authorities</p>	<p>In any situation of violence, penalty, intimidation or threat, determine who – management, supervisors, shift leaders, etc. – are involved in these violations. If individuals were acting on their own without management knowledge, take appropriate action with these individuals, which could include training, suspension, termination and/or reporting to relevant authorities. If these penalties, threats, etc., were initiated by management or if management has failed to conduct effective due diligence to identify and address such practices, work with the supplier or contract to immediately remediate these practices, or consider terminating the relationship with the supplier. Ensure that all workers receive training on their rights under the law and your contract, including how to access effective grievance mechanisms. Ensure that workers who wish to leave the job are able to do so and</p>
<p>Employer perpetrates or threatens physical or sexual violence against worker, other workers, family or friends</p>	
<p>Employer or recruiter threatens to remove privileges like promotion potential, threatens further deterioration in working</p>	

Circumstances	Potential Immediate Remediation Measures
conditions or threatens to fire workers	receive their full wages and entitlements due. Follow up with unannounced audits that include off-site interviews with workers and knowledgeable community members. Where the threats involved are serious or demonstrate a pattern, consider whether it may be appropriate, while putting the interests of victims first (including the risk of retaliation against themselves or their family members), to consider reporting to relevant law enforcement authorities.
Employer or recruiter exploits religious or cultural beliefs of workers	
Employer or recruiter withholds workers' pay or assets or threatens financial penalties	
Employer threatens extra work for uncooperative workers	
Employer uses blackmail to coerce workers	

Based on tools from the US Department of Labor, Chartered Institute of Purchasing and Supply, and Walk Free.

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