



Australian
Human Rights
Commission

Property, construction & modern slavery

**Practical responses for
managing risk to people**





Australian
Human Rights
Commission

The essential guide for managing modern slavery risks in property and construction.

KPMG Australia has joined with the Australian Human Rights Commission to release a series of sector specific resources to help companies understand and effectively identify and manage their modern slavery risks.

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Effective management of modern slavery risks involves placing 'risks to people' at the heart of your response. Taking a rights based approach to addressing modern slavery will assist your business to meet the increasing expectations of investors, governments, clients, consumers, business peers and civil society around business respect for human rights.

Emeritus Professor Rosalind Croucher AM,
President of the Australian Human Rights Commission

Preparing your modern slavery statement can open up critical human rights conversations that educate senior decision makers and others. Once engaged with the value of the human rights risk lens your business is better positioned to prevent harm to people and ultimately manage risk to the business.

Richard Boele, Partner in Charge of KPMG Banarra Human Rights and Social Impact, Global Leader of Business and Human Rights Network, KPMG Australia

CONTENTS

| | |
|---|----|
| Modern slavery in the property and construction sector | 5 |
| 01 An introduction to modern slavery and the reporting requirement | 6 |
| 02 The reality of modern slavery in property and construction | 8 |
| 03 Risk to people & risk to business | 13 |
| 04 Situating modern slavery risk within a broader rights-based approach | 17 |
| 05 Practical responses | 19 |
| Conclusion | 30 |
| References | 32 |
| Endnotes | 33 |

MODERN SLAVERY IN THE PROPERTY AND CONSTRUCTION SECTOR

Corporate human rights reporting in Australia has changed. Modern slavery legislation makes Boards responsible for public statements about their entities' efforts to manage the risk of modern slavery in their operations and supply chains.

Australia's *Modern Slavery Act 2018* (Cth) requires certain companies to report on their efforts to identify and address risks of modern slavery in their operations and supply chains. The Commonwealth Department of Home Affairs' *Guidance for Reporting Entities* provides general guidance to businesses about how to prepare for modern slavery reporting.

We understand that businesses need practical advice on how to respond to modern slavery risks.

This guide:

- 1 Highlights particular modern slavery risks prevalent in the property and construction sector.
- 2 Provides tips for the property and construction sector on leading practice and a rights-based approach to managing modern slavery risk.
- 3 Fosters transparent modern slavery reporting for the benefit of business, government and the people at risk of harm.

1.1 What does the *Modern Slavery Act 2018 (Cth)* require?

Making an annual statement

The Modern Slavery Act 2018 (Cth) requires entities with a consolidated revenue of \$100 million or more to submit an annual modern slavery statement on what they are doing to identify and manage modern slavery risk in their operations and supply chain. The statements will be published on a central government registry.

Modern slavery statements require approval of the Board (or equivalent)¹ and the signature of a Director or a responsible member of the entity.

Entities that fall outside the threshold can demonstrate good practice by reporting through a voluntary 'opt in' mechanism.

The mandatory reporting criteria

There are seven mandatory reporting criteria:

- 1 identify the reporting entity
- 2 your structure, operations and supply chains
- 3 the risks of modern slavery practices in your operations and supply chain and any entities owned or controlled by you
- 4 actions taken to assess and address those risks, including modern slavery due diligence and remediation processes
- 5 how you assess the effectiveness of actions taken
- 6 the process of consultation with entities owned and/or controlled by you
- 7 any other information that you consider relevant

This guide focuses on the **risks** and **actions** to support your practical response to modern slavery.

1.2 What is modern slavery?

Modern slavery refers to a range of serious human rights violations, which are also crimes in Australia. The term is used to describe situations where coercion, threats or deception are used to exploit people and deprive them of their freedom.

Modern slavery includes trafficking in persons, slavery, servitude, forced marriage, forced labour, debt bondage, the worst forms of child labour, and deceptive recruiting for labour or services.²

While the *Modern Slavery Act 2018 (Cth)* requires companies to look specifically at modern slavery, taking a broader approach and considering the full spectrum of human rights risks and impacts will enhance the credibility and strength of your modern slavery response and statement.

02

THE REALITY OF MODERN SLAVERY IN PROPERTY AND CONSTRUCTION

The statistics are stark. Globally, around 7 per cent of the workforce is employed by the property and construction sector and an estimated 18 per cent of modern slavery victims are found in the construction industry. Significantly, at least 22 per cent of forced labour victims are found in the manufacture and production of raw materials including in forestry, mining and quarrying – key suppliers for property and construction. Additionally, building materials are often sourced from high-risk geographies known to be associated with poor working conditions and forced and child labour.

The property and construction sector faces an elevated risk of modern slavery within its operations and supply chains as a result of intersecting structural and contextual risk factors. According to BIS Oxford Economics, trends in the sector include a significant growth in construction in Australia despite the impacts of the COVID-19 pandemic³. This fuels an increased demand for a base-skill workforce (sometimes known as low-skill workers) who are vulnerable to exploitative practices, and for raw materials that are often sourced from high risk geographies. As construction and investment in infrastructure picks up post-COVID-19 the vulnerability of these worker groups will be exacerbated, as people choose work, irrespective of conditions.

Business models in the sector tend to be heavily based on outsourcing, which increases the complexity of operations and supply chains and decreases the visibility of labour risks and impacts. It is not uncommon for hundreds of work streams to be associated with one construction project. The prevalence of numerous short-term engagements across multiple sites, often with small and medium sized enterprises, can make facilitating a collaborative approach to risk management particularly challenging. The sector also places a heavy reliance on contract terms, predicated on low margins and significant pressure on delivery times.

Responding effectively to your modern slavery risks involves understanding the types of exploitative labour practices and breaches of human rights that give rise to situations where modern slavery flourishes. This understanding will allow your entity to prevent or address high risk situations early, before they rise to the severity of modern slavery.

Common modern slavery practices in property and construction:



Forced or unpaid work



Unsafe conditions



Bonded and child labour



Inadequate accommodation



Passport confiscation



Human Trafficking

Why is property and construction high risk?



High demand for low-skilled labour force



Poor visibility over long and complex supply chains



Low-tier suppliers operating in high-risk geographies

Key trends in the sector that intersect with risk:

Australian Infrastructure and Construction expected growth of 10% in 2019. Broad trends for engineering construction are still expected to eventuate in 2020.

↑ 10%

Part-time workers make up 32% of workforce (up from 26% in 2000)

↑ 32%

Commercial Cleaning Services anticipated growth of 2.2% in FY18

↑ 2.2%

CASE STUDIES: SLAVERY-LIKE PRACTICES IN PROPERTY AND CONSTRUCTION

Debt bondage

Debt bondage is a slavery-like practice that occurs when a person has to work to pay off a debt. The value of the person's work usually exceeds the debt owed and illegal fees are often deducted from wages so that the debt is never paid, preventing the person from leaving the exploitative situation. Bonded labourers may also experience various forms of physical and psychological abuse, including long working hours, coercion, intimidation and violence.

On the false promise of long-term work or permanent residency, foreign workers and students have borrowed and paid significant amounts of money for skilled worker visas to come to work in Australia. Instead, they have found themselves in temporary work with little or no pay, forced into debt bondage to pay off the debts. The workers sometimes have their passports seized so they cannot leave and are threatened if they join a union or report their circumstances to authorities.

Korean workers in debt bondage have been found in Australian construction sites, building offices and residential blocks.

The workers had no employment contracts and no agreement on rates of pay or conditions. Hired through contractors and subcontractors, the workers did not receive appropriate training or protective equipment. They were told to use each other's safety induction cards as subcontractors turned a blind eye to reduce costs. To repay the loans to recruitment and migration agents, the workers' salaries were deducted with exorbitant interest rates, along with rent, food and other expenses. They were crowded into small rooms with seven or eight people for accommodation.⁴

In one case in Sydney, a Korean tiler died from severe respiratory illness, most likely due to his tiling work. He was an undocumented worker in the construction industry for 12 years, with no workers' compensation, no superannuation and was never recorded on employers' records. With no money to see a private doctor, he was fearful to seek treatment in a public hospital in case he was detained for working illegally.⁵

Raw materials in construction

Overseas raw materials in the construction supply chain pose an elevated risk of modern slavery practices, including bricks, clay, lime and cement materials, textiles and natural rubber. Sourcing materials and imported goods from overseas often involve complex supply chains and multiple tiers including contractors and sub-contractors, resulting in limited visibility for property and construction companies over modern slavery risks. Raw materials are predominantly sourced from geographies with a high risk of modern slavery, exacerbated by conflict, poverty, displacement, weak rule of law, corruption and state failure to protect human rights.

Forced labour and child labour have been found in brick kilns in countries such as India, Pakistan, Bangladesh and Cambodia.⁶ Dubbed 'blood bricks', men, women and children work in hazardous and physically dangerous conditions, moulding and lifting bricks into brick mounds outside Hyderabad, India.

Tens of thousands of Indian families travel to the brick kilns for the six-month season where workers work 12 to 18 hours a day, suffering abuse, withheld wages, exploitation and poor health conditions from smoking bricks. The bricks are used to build offices, factories and other buildings for multinational companies around the world.⁷

Brick making is laborious and physically demanding work. In Cambodia, the impacts of climate change on crop yields have forced farmers and their families into bonded labour in brickmaking to pay off debts from loan sharks. As a last resort, the families turn to brick factory owners who buy their debts, but few families and their children will ever pay off the loans. Many have been exposed to serious health impacts, including amputated limbs from operating dangerous machinery, lack of safety equipment and noxious gases that cause life-threatening respiratory diseases.⁸

Vulnerability of workers on temporary visas

Workers on temporary visas in Australia are particularly vulnerable to modern slavery practices, including foreign workers, international students and working holiday visitors. While migrant exploitation is a long-standing problem, greater numbers of workers are being exposed to modern slavery risks. The number of temporary visa holders in Australia has grown by more than 50 per cent in the past decade. The Australian Government Migrant Workers' Taskforce estimates up to half of Australia's migrant workers may be underpaid.⁹

Foreign workers on temporary visas face a precarious situation, with little experience working in Australia, language barriers and a lack of understanding of their rights and Australia's workplace laws. Their expectations of work conditions may be based on their experiences in their home country. The seasonal and urgent nature of labour also creates a reliance on outsourcing, subcontracting and use of labour hire operators, with poor governance and oversight.

Temporary visas have conditions and restrictions such as the hours of work permitted and the need to work in a regional area. As well as being underpaid, workers may be coerced to work beyond the restrictions of their visas, causing them to be fearful to report their exploitation as they are in contravention of their own visa conditions which can result in visa cancellation, detention and removal from Australia. Employers may withhold a visa holder's passport and threaten to have the visa cancelled by authorities.

For example, in 2015, the Australian Manufacturing Workers' Union exposed a fit-out company for charging illegal visa fees and underpaying wages to a group of migrant workers on the 457 visa scheme. The skilled fitters moved to Australia on the promise of lucrative wages, board and lodging, but the company paid them at almost half the rate of Australian fitters, failed to pay overtime rates and stopped paying any wage after six weeks. The company also illegally and secretly deducted visa fees and industry fees. With no wages, the workers became homeless and were forced to sleep and live on an office floor.

03

**RISK TO PEOPLE &
RISK TO BUSINESS**

Failing to engage meaningfully with and report on human rights exposes people to harm and companies to significant business risk. The modern slavery reporting requirement will help direct corporate responses, including the development of systems and processes that identify and address modern slavery risk and ultimately mitigate and account for harm to people. In this section we consider how to put risk to people first and then consider how this can help companies assess the risks to their business if they fail to respond to modern slavery.



3.1 Focusing on risk to people

The Australian Government has made it clear that it expects business to identify and manage risk to people. The *Guidance for Reporting Entities* explains that effective company responses to the modern slavery reporting requirement should be grounded in the human rights due diligence framework outlined in the 2011 *United Nations Guiding Principles on Business and Human Rights* (UNGPs).¹⁰

A key difference between human rights due diligence and traditional business due diligence and risk management is that human rights due diligence focuses on risks *to people* rather than risks *to the business*.

A risk-based approach from a human rights due diligence perspective means that businesses should prioritise addressing the most severe risks to people first. The most severe risks to people in relation to modern slavery will usually, though not always, also align with risks to your business (such as reputational or financial risks). However, taking a 'risk to people' approach, you will need to ask the question in a different way: how might people be harmed as a result of this business activity, decision or purchase? For instance, a typical metric used to narrow risk assessment of vendors in your supply chain, may be highest spend, however, the areas of biggest risk to people may sit outside your high-value, strategic suppliers.

Prioritising on the basis of highest risk to people means that property and construction companies would focus on their modern slavery risk hotspots, such as raw materials from high risk geographies, vulnerable populations providing labour in construction and cleaning, or high risk business models with low visibility of labour practices in the supply chain.

Considerations of a company's level of influence, alongside the severity and remediability of potential impacts, can help guide a company's mitigation and response.

As you develop a human rights risk-based response which prioritises severe risks to people, your due diligence process should include a mechanism that will enable you to demonstrate the effectiveness of the steps you are taking over time. Ideally, human rights due diligence processes for managing modern slavery and other human rights risks will be integrated with existing risk management processes in your business.

3.2 Business exposure to risk

Business faces exposure around human rights risks in four domains: regulatory reporting requirements and standards, reputational damage and eroded public trust, investor scrutiny of social impact credentials, and values alignment for employees.



1. Regulations and standards

International frameworks and domestic legislation with cross-jurisdiction reporting requirements are all advancing. Relevant developments include:

- *Modern Slavery Act 2018* (Cth)
- *Modern Slavery Act 2018* (NSW)
- Similar legislation in other jurisdictions, including the *French Corporate Duty of Vigilance Law*, *Modern Slavery Act 2015* (UK), *California Transparency in Supply Chains Act*, and *EU Directive on Non-Financial Disclosures*.

These legislative developments have been driven and informed by the 2011 UNGPs, which confirmed the corporate responsibility to respect human rights and a framework for addressing human rights risks. This framework requires businesses to address their adverse human rights impacts by taking measures to prevent, mitigate and where appropriate, remediate, human rights harm.

Along with increased regulatory requirements, the sector has seen deeper incorporation of social issues into existing certification schemes, including Green Star and Infrastructure Sustainability Council of Australia (ISCA) IS rating tool.



2. Reputation and relationships

Modern slavery reporting requirements are, at their core, transparency requirements aimed at increasing corporate responsiveness to modern slavery.

The reputational risk imposed by stakeholders, including the media, civil society and labour unions, calling out unaddressed modern slavery risk, can be high. There is increased emphasis placed on the benchmarking of corporate performance on human rights, such as the Corporate Human Rights Benchmark (CHRB)¹¹ that is produced annually by an investor and civil society-run organisation. In other jurisdictions, civil society groups have produced reports benchmarking published modern slavery statements and highlighting companies demonstrating leading and poor human rights practice.¹² These are key market accountability mechanisms on which the transparency legislation relies to encourage good practice in managing the risks of harm to people. Increased scrutiny from the media and civil society organisations means that a failure to respond meaningfully to modern slavery can lead to a fundamental corrosion of trust.



3. Company purpose

For many companies, addressing modern slavery is the ‘right thing’ to do. It aligns with their purpose, culture and values. Employees are also increasingly demanding that their employer considers the human rights impacts of their business. The efforts of Australian companies to address their modern slavery risks also contribute to the achievement of United Nations Sustainable Development Goal 8, Target 8.7, which asks for effective measures to eradicate modern slavery by 2025.

In a context where the construction sector in particular is seeking differentiators to attract talent, a focus on responsible business practices provides an opportunity for companies to both appeal to and retain employees. Property management companies, who have typically focused on environmental performance as a key market differentiator, have an opportunity to extend that values-based work into the social domain.



4. Investor and lender scrutiny

Investors and lenders are increasingly analysing human rights performance. Companies that cannot demonstrate that they are putting in place appropriate systems to identify and address these risks may experience loss of substantial investors or devaluation of their business. This applies especially in contexts where third parties raise allegations of modern slavery practices in relation to a company or its supply chains. This pressure is rising with the introduction of modern slavery legislation in Australia and around the world, as investors themselves may be the subject of required reporting.¹³ At present, few companies do any quantitative analysis of financial impacts arising from brand damage, loss of reputation and interruptions to production that may arise from human rights issues.





04 SITUATING MODERN SLAVERY RISK WITHIN A BROADER RIGHTS- BASED APPROACH

While the *Modern Slavery Act 2018* (Cth) requires companies to look specifically at modern slavery, taking a broader approach and considering the full spectrum of the company's human rights risks and impacts in their activities and relationships will enhance the credibility and strength of the modern slavery response and statement. It will also enable a whole of business approach to managing human rights risks and impacts.

Modern slavery does not occur in a vacuum and situations where modern slavery takes place are likely to already involve a range of other violations of the human rights of workers. Ideally, your investigation of modern slavery risks will also involve investigation of the presence of other human rights risks presented by your company's activities and relationships. The benefit of this more holistic approach is that it allows for early identification and response in contexts where human rights violations may be taking place, thus decreasing the opportunities for severe human rights violations like modern slavery to flourish.

While all human rights may be impacted in the course of activities and operations within the property and construction sector, there are a number of human rights of workers that are likely to be adversely impacted. These labour-related rights are the rights that govern the relationship between worker and employer. These rights underpin the core labour standards that are necessary to provide decent working conditions to all people who perform work. For example, the right to work is a fundamental human right. It can significantly affect the enjoyment of other human rights, including the right to health, adequate food, clothing and housing, and culture. The employment relationship can be a site of unequal power dynamics that increase the risk of human rights violations. Extreme erosion of rights may result in forced or involuntary labour, including for vulnerable populations such as children and migrant workers.

Commonly infringed human rights of workers in the property and construction sector



Right to enjoy just & favourable conditions of work



Freedom from discrimination & harassment in employment



Freedom of assembly & association and right to strike



Freedom from discrimination on the basis of protected attributes



Right to health (physical & mental)



Right to safety



Right to decent work



Freedom from slavery & slavery-like conditions

Meeting the business responsibility to respect human rights under the UNGPs also means considering the human rights of communities that may be adversely impacted by a property or construction project, such as the right to social, economic and cultural development, and self-determination. The rights of Indigenous Peoples also often deeply intersect with and can be impacted by infrastructure and construction projects. The right to water is another critical example of a human right that can be impacted by property and construction projects. Property and construction companies in particular have the opportunity to critically reflect on and account for the intersection between environmental harm and human rights risks and impacts.

05 PRACTICAL RESPONSES

A practical response to the mandatory reporting requirements will focus on:

1. identifying modern slavery **risks**
2. **actions** taken to assess and address modern slavery risks and impacts
3. measuring the **effectiveness** of your response.

While you may still need to determine some important threshold questions, such as your consolidated annual revenue, relevant reporting entities, and your approach to joint statements for corporate groups, the most efficient and effective responses will focus on doing the work of finding and addressing modern slavery practices.

In this section, we help you to understand the nature of modern slavery risks in the property and construction sector, along with practical examples of how and where modern slavery can manifest. Second, we provide practical guidance on actions your company can take to manage identified risks, using the rights-based approach outlined in the UNGPs.



5.1 Identifying modern slavery risks

Key modern slavery risk factors

The behaviours and practices which constitute modern slavery are serious human rights violations. The level of risk of modern slavery depends on a range of intersecting contextual factors. Particular procurement categories are also regarded as having more significant inherent modern-slavery related risks.

There are four key factors which elevate the risk of modern slavery: vulnerable populations, high risk business models, high risk categories, and high risk geographies. Where multiple high risk factors co-exist, there is a higher likelihood that actual harm is being experienced, and additional controls are required to ensure that risk does not become harm.



The important role of civil society and communities

The property and construction sector carries inherent modern slavery risks. Even if you are confident in your company's modern slavery risk management systems, often the best information comes from consultation and collaboration. Civil society organisations and communities can be valuable partners in identifying areas at high risk of modern slavery across your operations and supply chain.

Failure to consult and transparently report may have a negative reputational impact. Civil society has called out companies in industries where modern slavery risks are prevalent (such as raw materials), but where the company has nonetheless failed to report the identification of modern slavery risks in their operations and supply chains.¹⁴ Reporting that you have 'no modern slavery risks', or that you are not taking steps to manage modern slavery risks prevalent in property and construction industry may come under similar scrutiny.

Key trends and modern slavery risk areas for property and construction

Over a 17-year period, the construction sector in Australia has produced in excess of 410,000 new jobs and is predicted to grow another 10 per cent in the next few years, although COVID-19 may affect modelling of growth. Part-time workers make up 32 per cent of workforce (this is an increase from 26 per cent in 2000). At the same time, commercial cleaning services associated with asset management had an anticipated growth of 2.2 per cent in FY18, with a similar upward trajectory since. Key growth drivers include outsourcing trends and an increased number of businesses across the economy. Some are predicting an infrastructure-led recovery following the global pandemic, with strong calls for policy settings that will enable us to 'build back better'.

The structure of property and construction tendering and procurement processes contributes to the sector's competitiveness, but also elevates the risk of modern slavery. Part of identifying your company's risks of modern slavery includes considering how your business

structure and timing of project milestones may be creating downward pressure on your supply chains and business relationships, in a way that gives rise to labour exploitation and modern slavery.

For example, the sector experiences relatively high transaction costs relating to procurement, bidding and contract/commercial administration, and has seen increased levels of management and coordination of activities on site, related to a large number of separately contracted trades. Additionally, as a result of the volume of imported materials and services, transactions tend to become commoditised and purchasing decisions are made on simplified commercial criteria such as price and availability.

The long and multi-tiered supply chains that typify the property and construction sector often mean that there is little visibility and control over the recruitment and employment practices of suppliers and subcontractors.

A single supply chain for a major contractor can consist of hundreds of sub-contractors, labour agencies and material suppliers with complex inter-relationships. Low-tier suppliers may operate in multiple high-risk countries, with low-regulated environments, low levels of education and public awareness, and high levels of corruption.

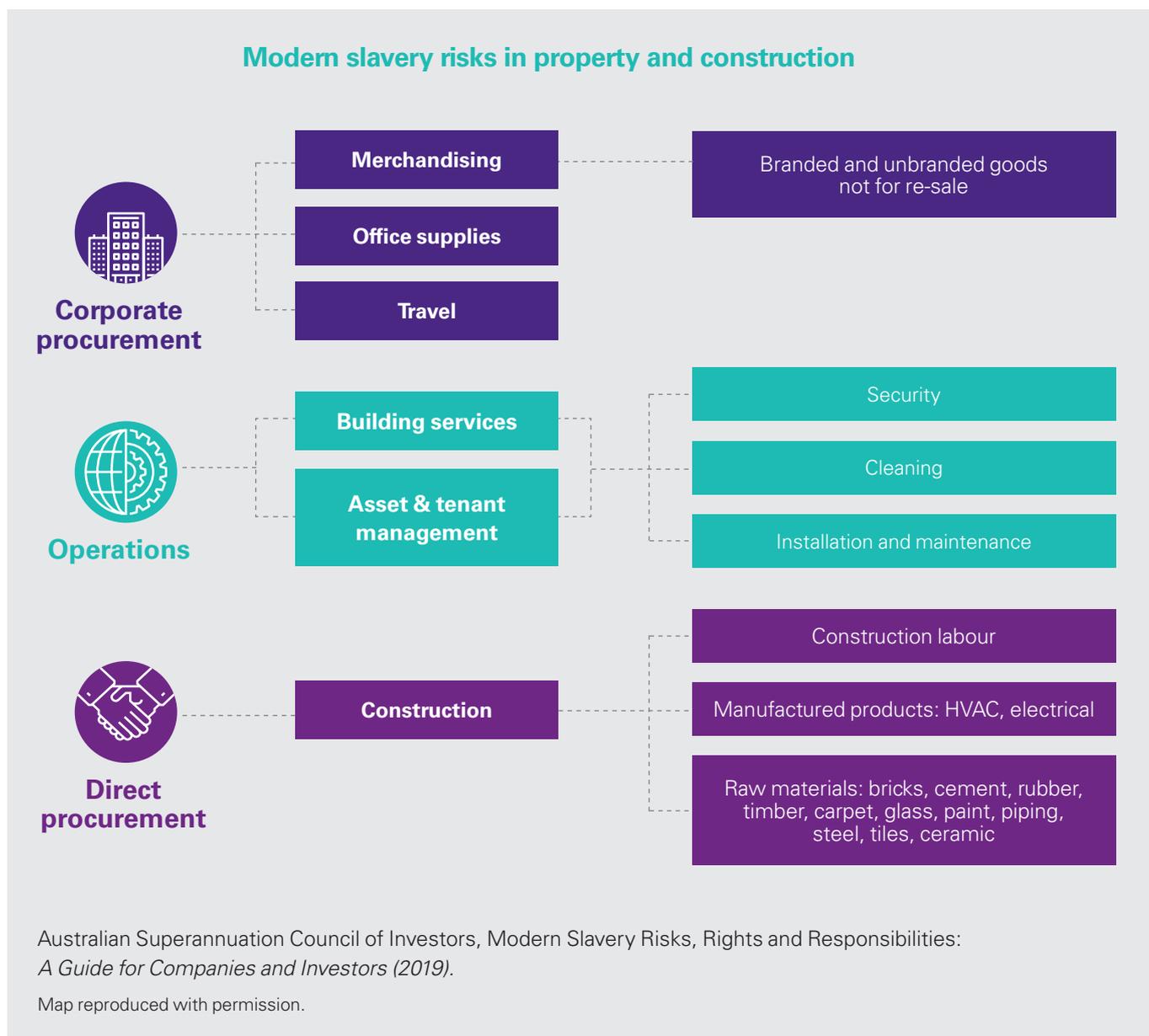
Property companies specialising in operations and maintenance are known to face particular pressures to reduce operational expenditure, which often leads them to choose the lowest cost options in corporate services such as security and cleaning. These services are at high risk of modern slavery due to a confluence of high risk factors.

Currently, risk matrices applied to the purchase of products and services in property and construction rarely take into account additional factors which would give a business visibility over potential human rights impacts. Risk matrices generally do not include explicit human rights criteria, and the health and safety criteria they do include tends to be limited to consideration of fatalities on site or in local supply chains only.

The role of mapping

Mapping critical areas of modern slavery risk in property and construction assists with identification of risk. It is helpful to consider three primary areas of procurement of services and products relevant to property and construction: corporate procurement, operations and direct procurement.

The following pages will help you understand how high-risk factors affect property and construction and support you to identify and map your own modern slavery risk areas.



1. Corporate procurement

Corporate procurement of services, such as merchandising and travel, present significant modern slavery risks.

Travel procurement categories are sometimes overlooked for human rights risks such as modern slavery. Hospitality, hotels and ports are all notorious for the risk of modern slavery practices including trafficking.

Procurement of branded and unbranded goods for merchandising purposes is another significant risk hotspot. Company merchandise such as apparel, umbrellas, and other promotional items, is often sourced from high risk geographies, such as those with weak labour laws, lack of freedom of association or a living wage. Companies can face substantial reputational risk if modern slavery is found to be present in the manufacture of these items, particularly branded goods, especially if the business does not already have appropriate systems in place to identify, address and remediate modern slavery.

2. Operations

The property and construction sector faces a particular modern slavery risk hotspot in building services procurement. For example, security and maintenance tend to carry base-skill labour risks. Asset and tenant management can involve relationships with tenants who operate in hospitality, beauty and other such services which have higher risks of association with forced labour and trafficking practices.

In Australia, the poor working conditions and intersecting risks for cleaners are now well documented. Base-skill labour, vulnerable populations and high-risk business models come together to elevate the risk of modern slavery practices. There is additional information in the cleaning case study which follows in section 5.3.

3. Direct procurement

Construction is a risk hotspot for modern slavery. The seasonal nature of work, the base-skill labour risk, the prevalence of human trafficking and the use of third-party labour hire arrangements all combine to enhance the risk of modern slavery in this space.

The exploitation of construction workers can manifest itself in various forms. Research from the Australian Institute of Criminology describes allegations of serious exploitation of migrant workers (especially those on temporary visas) in the Australian construction industry, that in turn point to modern slavery risks in the sector.¹⁵ These allegations include workers being subject to various forms of exploitation such as being deceived about the legality of their work contracts or their conditions or pay; significant underpayment; improper deductions taken from wages by labour hire companies to pay exorbitant recruitment fees; being expected to work excessive hours; being isolated, confined or subject to surveillance; passport confiscation; physical abuse or threats of abuse; and threats of being reported to authorities.

In addition to construction labour, sourcing raw materials from high risk geographies often compounds the risk. Australian companies commonly source raw building materials from Asia, a region considered as high risk for modern slavery, particularly in India, Pakistan, Cambodia, Myanmar, Bangladesh, Philippines, and workers from North Korea. Common product categories have been found to be produced by child and forced labour, including bricks, tiles, cement, granite, rubber and timber.

The sourcing and use of manufactured products, such as HVAC and electrical products, introduces an additional layer of complexity and risk. The need for multiple components means there are cascading and inter-related supply chains implicated in their procurement.

Key risk identification steps

For property and construction industries, a key initial focus of an effective response to modern slavery risks will be on consolidating supplier information held across the business or group and developing a human rights or modern slavery specific policy that can be cascaded through procurement and commercial practices.

Identifying the modern slavery risks in your business, across corporate procurement, direct procurement and operations (discussed above), should be an ongoing process. As you gain greater visibility over your supply chains and understanding of relevant suppliers and geographies your company is engaging with or sourcing from, you will increase your understanding of the modern slavery risks.

Sector collaboration

Collaborative property sector initiatives aiming to increase visibility over supplier performance are supported by the Property Council of Australia and Green Building Council of Australia.

For example, members of the Property Council's Modern Slavery Working Group comprising procurement, sustainability and risk managers, have collaborated to create the Property Council Supplier Platform, which enables members to collect, compare and share supplier data. The platform asks key suppliers about the actions they are taking to assess and address human rights issues and modern slavery risks across shared operations and supply chains.

Engaging with sector peers could form an element of your practical response and be reported in your modern slavery statement.



SUMMARY: KEY RISK IDENTIFICATION STEPS

- 1 Map your operations and supply chain.
- 2 Identify areas of operations and supply chain where high risk factors are present with internal cross-functional engagement.
- 3 Test your assumptions through consultation with relevant external stakeholders.

5.2 Assessing and addressing modern slavery

According to the Commonwealth Department of Home Affairs' *Guidance for Reporting Entities*, effective business responses to the mandatory reporting requirement should be grounded in the human rights due diligence framework outlined in the UNGPs.

In practice, this means:

1. Having a **policy commitment** to meet the business's responsibility to respect human rights.
2. Conducting a **human rights due diligence process** to identify, prevent, mitigate and account for how the business addresses its human rights risks, such as modern slavery.

This process involves:

- **risk identification and assessment** informed by mapping your operations and supply chain and identifying and prioritising the most severe risks
 - acting on the findings of the risk identification and assessment, by implementing **risk management measures**, including training
 - **monitoring** the risk management measures taken and **reporting** on them for example, in your annual modern slavery statement.
3. **Remediation** of human rights harms (such as modern slavery) that the business causes or to which it contributes. Where the business does not cause or contribute to the harm, but is directly linked to the harm (for example, through a supplier relationship) then the business should use its leverage and influence to prevent or mitigate the harm from reoccurring, and to ensure the person harmed is remediated. Having effective remediation processes in the modern slavery context includes:
 - responding to the identification of instances of modern slavery in a manner that does not jeopardise the safety of victims, ideally working with expert advisors, such as local NGOs
 - having a trusted, confidential grievance mechanism (and ensuring your suppliers have one), to elevate and address worker concerns, and to act as an early warning system for modern slavery risks.



CASE STUDIES: PRACTICAL ACTIONS IN THE PROPERTY AND CONSTRUCTION SECTOR

Below we outline a range of practical examples of companies operating in the Australian property and construction sector undertaking risk management actions to address their modern slavery risks.

Adopting a human rights approach

A diversified property development company in Australia recognised that taking a human rights approach to issues and risk identification was more efficient than taking a siloed view of modern slavery risk management. It understood the benefit of situating efforts to identify and address modern slavery risks within a broader human rights due diligence framework, and undertook a review of its salient human rights issues. This included dedicated research over strategically selected inputs, and a suite of internal and external interviews that gathered information simultaneously socialised human rights across the business. The findings were tested and validated in a range of ambition setting workshops. The company also socialised human rights across the business via an interactive presentation.

Governance for a human rights commitment

Seeing the importance of a whole-of-business response, a property development company established a cross-functional working group to build collaborative ownership of responsible sourcing, including modern slavery risk management. The company made a commitment to undertake a supply chain review to ensure that the products and people within its supply chain come from reputable places and fair working conditions. The responsibility of the cross-functional working group is to assist with establishing a group-wide commitment to responsible supply chain management, establishing an approach to responsible supply chain due diligence, increasing employee awareness and capacity on responsible supply chain management, and to engage suppliers on capacity to meet the company's supplier requirements.

Contract terms and monitoring in high risk geographies

An infrastructure, engineering and social development company identified the risks associated with its overseas operations in high-risk jurisdictions. The first step it took in incorporating human rights and modern slavery risk criteria into each stage of the supplier engagement lifecycle was to include expectations set by its public commitments on human rights into contracts and contract management. Building enforceable human rights terms into standard contract terms provides the company with an opportunity to either: a) terminate a relationship when risk is deemed too high or when a supplier's risk profile changes (depending on risk appetite), or b) use the potential material breach of contract to initiate dialogue and engagement with the supplier. Termination of a supplier relationship is only advised when it won't exacerbate the risk of harm to people.

Building capability through workshop training

Training and raising awareness enable the effective implementation of policies and processes in practice. To train procurement and supplier management staff, a real estate investment trust company delivered tailored human rights and modern slavery workshops with four of its business functions including the office and industrial division, retail, capital works and development. The workshops provided participants with an overview of risks in the property sector and helped them understand the particular human rights risks present in the company's supply chain. The workshops demonstrated to the participants the ways in which they could identify and manage human rights risk in their individual roles, such as monitoring and supplier engagement.

Multi-stakeholder collaboration

Cleaning services have been associated with numerous instances of exploitative labour in Australia and is key risk area for the property and construction sector. The increased risk of modern slavery in cleaning services is largely due to the high demand for base-skill labour intersecting with exploitative and opaque business models.

In the property sector, procurement category managers who are responsible for building services need to understand the particular risks faced by cleaners. Cleaning services are generally provided through outsourced business models, which reduces visibility of labour standards. As a base-skilled workforce, cleaners often come from vulnerable populations, including migrant backgrounds. Uncertain residency status, insecure employment and limited English skills create additional barriers for cleaners to report exploitation and seek assistance.

In Australia, exploitation of cleaners has manifested itself in various ways, including breaches of workplace laws, fraudulent contractual arrangements, payments below minimum wage, as well as poor job security, occupational health and safety issues and poor treatment of workers. These practices disregard the rights of cleaners to fair compensation, safety and dignity at work. Multiple Fair Work Ombudsman inquiries have also revealed breaches of workplace laws by cleaning contractors, including payments well below minimum lawful entitlements.¹⁶

To address the high risk of modern slavery in cleaning services, the Cleaning Accountability Framework (CAF) was established as a cross-sector collaborative effort to increase industry transparency and traceability through a responsible procurement model. CAF aims to drive compliance by incentivising companies to adopt good practice in pursuit of a certified star rating. CAF also seeks to put cleaners at the heart of its certification process by encouraging cleaners to monitor ongoing compliance.¹⁷ CAF's national certification scheme assesses labour rights compliance at buildings. CAF works with independent auditors, cleaners, the union and a certification panel made up of key stakeholders to verify that the CAF Standard is being met at a building.

By ensuring independent and worker voices are included, CAF strengthens its engagement as a multi-stakeholder initiative and adopts a rights-based approach grounded in participation and empowerment. GRESB, the environmental, social and governance benchmark for the property sector now recognises CAF building certification as part of GRESB Assessments.¹⁸

“When cleaners are empowered to speak up about their working conditions and all supply chain stakeholders take accountability for their welfare, the conditions that breed slavery and exploitation cease to exist.

CAF is a world-leading labour rights compliance scheme because we focus on empowering cleaners (and other supply chain stakeholders) to uphold standards throughout the life of certification. This takes us well beyond social and point in time audits as we aim to drive industry-wide change and meaningful improvements/impact to the lives of cleaners.”

Poonam Datar, CEO,
Cleaning Accountability Framework

Key risk management steps

Embedding a human rights commitment and operationalising it requires that a chain of command be established, and clear roles and responsibilities defined to manage human rights, including modern slavery risks. Cross-functional ownership is especially helpful for embedding human rights related commitments across both operations and procurement in the context of the commonly decentralised business practices of the property and construction sector.

The often decentralised or project specific procurement practices in the sector will require specific attention, as will bringing together a range of internal stakeholders to drive a company-wide response. Construction procurement risk management processes are sometimes more robust and there may be key learnings to take across to other parts of the business. As discussed above, your business may benefit from engagement and consultation with experts, civil society and trade unions as you undertake the task of identifying and responding to your modern slavery risks.

As modern slavery risks tend to be common across industries, the process of identifying and managing modern slavery risks provides opportunities for sector-wide collaboration and peer learning. Collaborating with your peers and engaging with external expertise can increase the ease and effectiveness of your response to modern slavery risks and can offer important leverage to secure greater supplier compliance with new expectations regarding modern slavery and other responsible sourcing considerations.



SUMMARY: KEY RISK MANAGEMENT STEPS

- 4 Confirm accountabilities.
- 5 Establish governance structures and cross-functional responsibilities.
- 6 Benchmark existing:
 - commitment
 - risk management systems and controls
 - grievance mechanisms and remediation.
- 7 Incorporate explicit modern slavery risk considerations into risk processes.

CONCLUSION

Some of you will be right at the start of your modern slavery risk management journey. This will mean that you will need significant internal buy-in and require foundational human rights commitments. For others, you may have already developed quite sophisticated approaches to human rights, perhaps as part of an ESG framework or other approaches to social impacts. For most, you will have existing risk systems and controls around which you can build or retrofit human rights considerations.

A robust approach to managing modern slavery risk requires you to understand the maturity of your existing systems and controls and a pathway to enhancing them over time. Building in learning from international leading practice and fundamental human rights principles can set a foundation for reporting on effectiveness under the mandatory criteria year-on-year, providing a benchmark for your response.

The following checklist provides practical guidance for companies starting to take action to manage their modern slavery risks.

A version of these checklists first appeared in Australian Superannuation Council of Investors, *Modern Slavery Risks, Rights and Responsibilities: A Guide for Companies and Investors*. Reproduced with permission.

Understanding how modern slavery risks present in operations and supply chains

- Do you understand what behaviours and practices constitute modern slavery and likely risk factors for the business and sector?

- Has the company included modern slavery risks on its risk register?

- Has the company established accountabilities for identification of modern slavery risk (i.e. allocated lead responsibility at operational and senior management levels, and equipped staff for those roles)?

- Has the company collaborated with experts, civil society, victim advocates or other relevant stakeholders to assist with better identification of modern slavery risks?

Assessing a company's existing supply chain.

- Is the entity able to report at a group-level on behalf of all subsidiaries and across all geographies?

- Does the board receive regular updates on changes to the structure, operations and supply chain of the entity?

- Has the company determined its approach to publicly releasing detailed information about its operations and supply chain?

Designing and implementing a framework to address modern slavery risks

- Has the company established senior executive KPIs for managing modern slavery risk?

- Does the company express its commitment to protect human rights, including modern slavery, through a board approved public statement of policy?

- Does the board receive periodic reports on modern slavery risk? Is the risk committee (or equivalent) undertaking the more granular work associated with addressing modern slavery risks and addressing risks identified on the risk register?

- Has the company introduced assurance measures for reporting on modern slavery due diligence?

- Has the company established an effective grievance mechanism?

- Has the company established a framework for what they do when they have found evidence that modern slavery may exist in their supply chains?

- Has appropriate staff training and education been put in place to ensure the organisation is able to implement their modern slavery obligations effectively?

Monitoring and evaluating the effectiveness of the company's actions

- Does the company monitor and review its human rights policies and their implementation?

- Has the company engaged with organisations that have in place more mature practices or have implemented regulatory obligations in other jurisdictions?

- Are the company's systems and controls effectively identifying instances of modern slavery?

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