

REMEDIATING MODERN SLAVERY IN PROPERTY & CONSTRUCTION

A practical guide for effective
human rights remediation



The essential guide for property and construction businesses to remediate modern slavery effectively.

KPMG Australia (KPMG), in collaboration with the Property Council of Australia, has developed a second practical guide for businesses to better understand and address modern slavery in the property and construction sector in Australia. Together, human rights grievance mechanisms and modern slavery remediation processes are critical components of a good practice response to modern slavery.

This guide should be read in conjunction with *Listening and Responding to Modern Slavery in Property & Construction: A Practical Guide for Effective Human Rights Grievance Mechanisms*, published by KPMG Australia and the Property Council of Australia in July 2022.

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Accessibility

We are committed to making our resources accessible and widely available. As such, two versions of this guide are available: a KPMG and Property Council of Australia branded PDF version and a Microsoft Word version. The KPMG and Property Council of Australia branded PDF version remains the definitive version of this guide.





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01 Modern slavery remediation in the property and construction sector

According to the *United Nations Guiding Principles on Business and Human Rights (UNGPs)*, where a business identifies that it is involved with adverse human rights impacts, such as modern slavery, it should provide for or cooperate in their remediation.

Modern slavery



Modern slavery can happen in any workplace. It describes situations where coercion, deception or threats are used to exploit workers, or to undermine or deprive them of their freedom for commercial gain.

There are many ways people can become trapped in the spectrum of modern slavery situations, including:

- Human trafficking;
- Slavery;
- Servitude;
- Forced labour;
- Debt bondage;
- Forced marriage;
- Worst forms of child labour; and/or
- Deceptive recruitment for labour or services.

The risk of modern slavery can be higher across some areas of the property and construction industry in Australia due to four cross-cutting factors:

1. High risk business models

For example, contracting, subcontracting, use of third-party business partners, complex and opaque supply chains and offshore operations.

2. Vulnerable populations

For example, base skill workers and migrant workers with culturally and linguistically diverse backgrounds, who often have limited access to social protections.

3. High risk business categories

For example, labour-intensive businesses that are reliant on lower skilled labour and where precarious working conditions exist, or which make use of specific raw materials.

4. High risk geographies

For example, some countries in the Asia-Pacific region which have the highest number of people in modern slavery.¹

For more information about modern slavery in the property and construction sector in Australia, please see KPMG Australia and the Property Council of Australia's *Listening and Responding to Modern Slavery in Property & Construction: A Practical Guide for Effective Human Rights Grievance Mechanisms*, which will be referred to regularly throughout this guide.

1.1. What is modern slavery remediation?

Remediation or remedy forms the third pillar of the *United Nations Protect, Respect and Remedy Framework*.

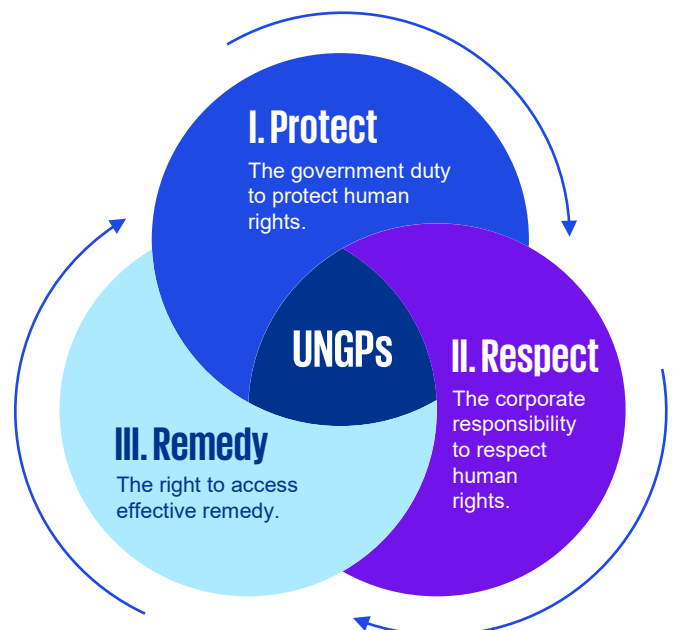


Figure 1: United Nations Protect, Respect & Remedy Framework

Remediation & remedy



To **remediate or remedy** is to make a problem better or right. In human rights, **remediation** is the process of restoring individuals and groups (*rights-holders*), who have been harmed by a business' activities, to the situation they would have been in had the impact not occurred. Where this is not possible, remediation may provide other kinds of remedy that try to make amends for the harm caused.

Modern slavery remediation is therefore 'making good' the harms of modern slavery for affected rights-holders.

This guide offers practical information and real-world insights into modern slavery remediation. This will help businesses better address modern slavery, particularly within the property and construction sector in Australia.

¹ International Labour Organization, Walk Free and International Organization for Migration. (2022). *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*.



1.2. What is the role of Australian property and construction businesses in remediating modern slavery?

The role of business in remediating modern slavery is more important than ever. Implementing remediation processes help businesses demonstrate a respect for rights-holders, and a modern slavery commitment that both satisfies and goes beyond regulatory compliance.

Property and construction businesses include but are not limited to: asset owners, suppliers and (sub)contractors. All these businesses play a crucial role in combatting modern slavery in their workplaces. They do this by listening, responding as well as remediating harm to people across business operations and supply chains.

This is part of the **corporate responsibility to respect human rights**. Taking action to protect people’s rights and stop modern slavery is required by Australian and international laws (see Industry Insights 1). For example, the *Modern Slavery Act 2018 (Cth)* requires larger companies to report on their modern slavery efforts. The global community of governments, investors and civil society also expect businesses to address and prevent modern slavery.

Together, human rights grievance mechanisms and modern slavery remediation are critical to leading modern slavery practice.

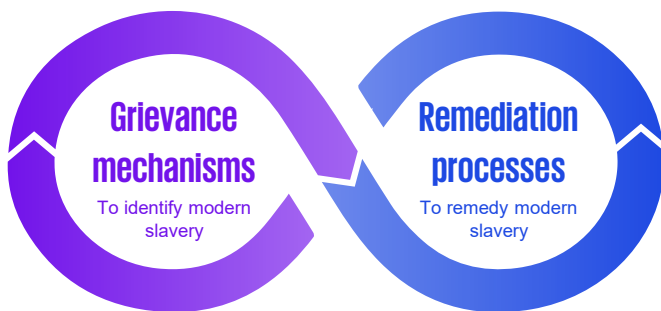


Figure 2: Grievance mechanisms and remediation processes

INDUSTRY INSIGHTS

01 Enhanced regulatory requirements for human rights due diligence

The worldwide ESG (environment, social, and governance) movement has been followed by growing regulation of the corporate responsibility to respect human rights. Australia, Brazil, France, Germany, Italy, Japan, Netherlands, New Zealand, Norway, Switzerland, the United Kingdom, the United States of America and many other countries have or are proposing to mandate modern slavery efforts and/or human rights due diligence.

Human rights due diligence



Human rights due diligence (HRDD) is the ongoing management processes to assess, act, track and communicate how a business is addressing their human rights impacts, including modern slavery. Under the second pillar of the *United Nations Protect, Respect and Remedy Framework* (or the corporate responsibility to respect human rights), there are four parts to HRDD:²



1. Assess

Identifying actual or potential adverse human rights impacts that your business may cause, contribute or be directly linked to (see [section 2.3.](#)).



2. Act

Integrating your impact assessment findings and using leverage to prevent or mitigate adverse human rights impacts (see [section 2.3.](#)).



3. Track

Verifying the effectiveness of your business response to adverse human rights impacts to know if it is working.



4. Communicate

Accounting for how your business is addressing adverse human rights impacts, especially to impacted rights-holders.

Ensuring your business has effective remediation processes in place is an important part of practising HRRD. This is because when HRRD fails to prevent adverse human rights impacts, such as modern slavery, remediation is necessary to redress the harm that takes place.

Grievance mechanisms



Grievance mechanisms are systems used to raise, assess, investigate and respond to concerns, feedback and complaints. The final step of responding to a grievance is **remediation**.

² United Nations. (2011). *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*.



1.3. Why is modern slavery remediation important for the property and construction industry?

Remediation is important because some sectors of the property and construction industry have a heightened risk of modern slavery. Modern slavery remediation helps to address and stop the cycle of exploitation.

Remediation must not be a simple box ticking exercise for businesses. In fact, there are many benefits to operationalising modern slavery remediation:

Benefits for rights-holders:

- **Remediation of modern slavery:** to restore the dignity and agency of the affected rights-holder;
- **Greater trust:** in business responses to modern slavery;
- **Open listening:** through increased engagement with workers (listening to the 'worker voice'); and
- **Safer workplace cultures:** for healthier and happier workers.

Benefits for other stakeholders:

- **Good corporate citizenship:** to meet stakeholder expectations with human rights and modern slavery; and
- **Opportunities to collaborate:** with other stakeholders because modern slavery is a problem that cannot be solved alone.

Benefits for businesses:

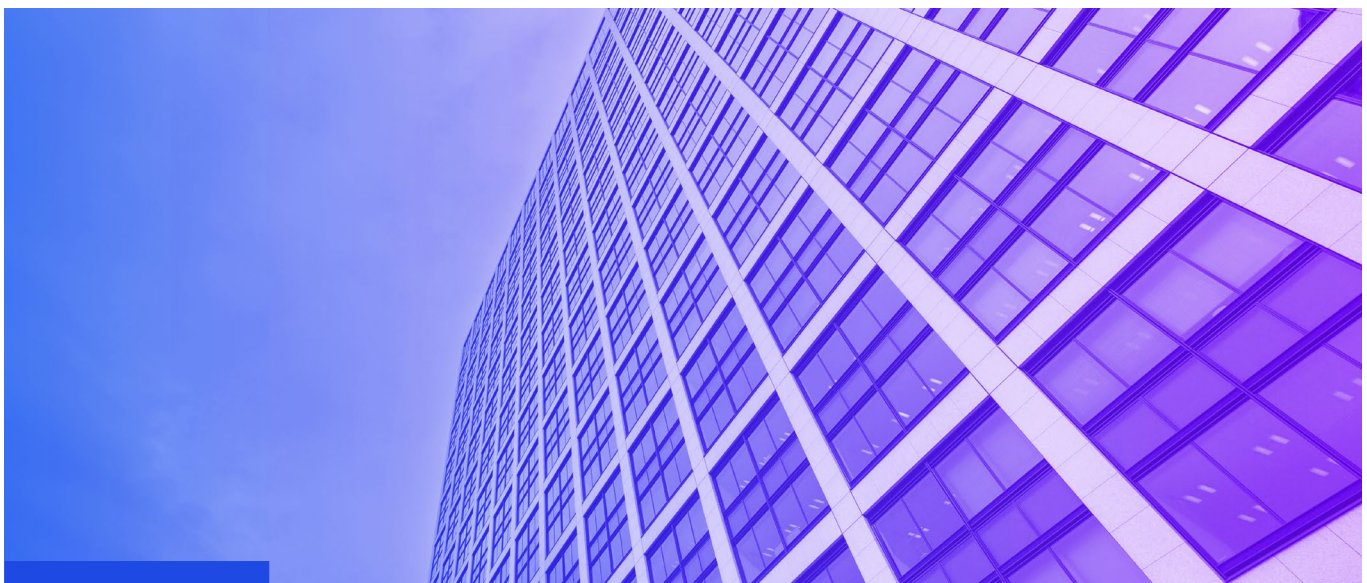
- **Building accountability:** of a meaningful commitment to respect human rights;
- **Improved risk management:** to address modern slavery earlier before it escalates into other human rights violations; and
- **Continuous learning and improvement:** to prevent future instances of modern slavery.

16%

Of adults (or 2.8 million people) experiencing forced labour worldwide work in the construction services sector.³

25%

of people directly or indirectly derive their wage from the property industry in Australia.⁴



³ International Labour Organization, Walk Free and International Organization for Migration. (2022). *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*.

⁴ Property Council of Australia. (2022). *About Our Industry*.



02 Tools for businesses to remediate modern slavery

The modern slavery remediation process is a deep dive into 'Stage 8: Remediating the grievance' of the 'grievance process' in *Listening and Responding to Modern Slavery in Property & Construction*.



Figure 3: Human rights grievance and remediation process



2.2. How to protect rights-holders first during modern slavery remediation? (Step A)

The rights of victims impacted by modern slavery need to be protected throughout every stage of the modern slavery remediation process.

Protecting rights-holders means keeping them safe from further harms or retaliation. It is most important to **‘do no harm’**.

To protect rights-holders, businesses should consider applying the following principles:⁵

- **Consent:** First, obtain rights-holders’ consent to be involved in the process.
- **Privacy:** This may require using confidential channels when collaborating amongst colleagues, or anonymising personal or identifying information before sharing with others or when reporting on instances of modern slavery.
- **Empowerment:** Rights-holders impacted by modern slavery should be supported and encouraged to make their own decisions. Agency of rights-holders is key.
- **Prevention:** It is better to take action before harm occurs. This is relevant not only for the original harm, but also preventing retaliation.
- **Protection:** Provide support and representation for those in need, including through ensuring access to third party supports, trade union representatives, anti-slavery service providers, as well as counselling and mental health support.
- **Partnership:** Work with anti-slavery service-providers, experts, trade unions, civil society organisations, and others to find appropriate and effective remedies.
- **Accountability:** Provide transparency for the rights-holder, and comply with agreed processes for communicating updates.

Rights-holders and their agency



Rights-holders are anyone whose human rights could be impacted by a business’ activities. Rights-holders can also be referred to as ‘victims’ or ‘survivors’.

Rights-holders are the stakeholders who suffer the adverse human rights impact as a result of business activities. These impacts can be traumatic, extensive, and long-lasting.

Agency refers to the rights-holders’ ability to have control over their actions and their consequences.

Rights-holders need to be at the centre of any modern slavery remediation process. When remediating modern slavery, businesses must take a rights-holder centric approach (see [section 3.1.](#)).

RIGHTS-HOLDER PERSPECTIVES

02 Ali and human trafficking

This case study has been adapted from Ali’s real-world modern slavery story from the [Antislavery Usable Past database](#).

Ali has been working from a young age to look after his parents, three sisters and brother, who live in Nepal. When he heard about an overseas high-paying construction job, Ali’s family sold their land and borrowed money from the bank to support his move to Singapore. He paid considerable fees to his agent and training centre, and his identity documents were kept by his boss.

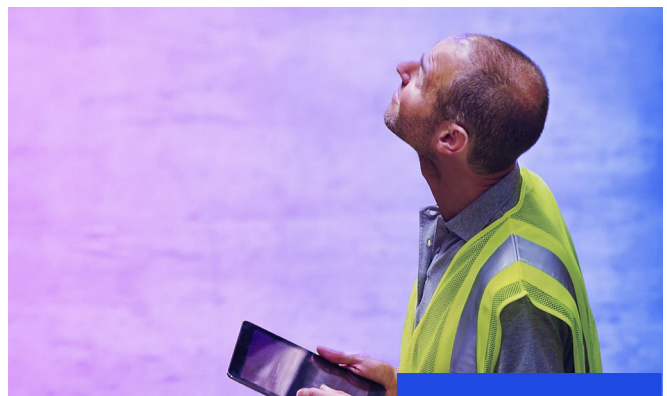
Ali was paid his promised salary for the first five months but did not get paid for any of his overtime. For the next three months, he was not paid at all. Ali later found out that his boss had fled the country. The bank has also lodged a police report against Ali for not being able to repay his bank loan.

Ali works for a supplier subcontracted by an Australian property and construction business. He does not have any of his identity documents with him and is afraid of being deported as well as returning back home.

“We don’t have a lawyer, and I don’t have any money left to pay the agent. I don’t know what to do...”

Ali has experienced human trafficking as he was transported and recruited through deception and fraud. It is imperative for businesses to look beyond their tier 1 supply chains where there are greater risks of modern slavery. Businesses must also be careful that any actions they take do not further harm rights-holders impacted by modern slavery.

How does your business support a culture of ‘open listening’ in your operations and supply chains to identify what impacted rights-holders need from remediation?



⁵ Adapted from Social Care Institute for Excellence. (2022). [Principles of Safeguarding](#)



2.3. What is the extent of your involvement with modern slavery and your leverage to remedy? (Steps B & C)

When modern slavery is identified, businesses need to determine the extent of their involvement and the leverage they have to remediate adverse impacts on rights-holders.

Extent of involvement

The extent of a business' involvement with modern slavery can be:

- **Caused:** where your operational-level business operational activities directly result in modern slavery.

For example, a property management company rushes through its normal recruitment due diligence processes, resulting in the use of an underage cleaner (child labour).

- **Contributed:** where your operational and supply chain business activities indirectly and substantially result in modern slavery, usually involving a third party.

For example, a property investment business contracts a security guard to patrol multiple work sites. The security guard works long, irregular and nightshift hours and does not get paid for their overtime by the contractor.

- **Directly linked:** where your operational and supply chain business activities, products or services are traced to modern slavery caused by a third party business relationship.

For example, a construction company sources low cost floor boards from a supplier who uses raw timber from their overseas supplier. Timber from Brazil, North Korea, Peru and Russia are known to be at high risk of being produced by forced labour.⁶

The extent of a business' involvement with modern slavery may change over time. If a business is unable to properly address modern slavery it has **caused**, **contributed** to or is **directly linked** to; this may continue or increase the seriousness of the modern slavery taking place.



Leverage

Leverage is the ability of businesses to effect change in the operations and supply chain practices causing modern slavery.

As the extent of a business' involvement differs, the leverage of that business may vary throughout its remediation process. Companies can exercise and increase their leverage through:⁷

- **Commercial leverage:** from your business activities within business relationships, such as supplier engagement.

For example, you can conduct thorough modern slavery due diligence processes when contracting with a third-party business relationship to help identify modern slavery risks early.

- **Internal leverage:** from your non-commercial business activities, such as management systems and controls.

For example, you can provide training to uplift workforce capability to proactively listen and respond to modern slavery, such as through effective human rights grievance and modern slavery remediation processes.

- **External leverage:** with stakeholders outside of your business activities (see [section 2.2.](#)).

For example, you can collaborate with stakeholders, such as other businesses, trade unions or non-government organisations, to learn from and continuously improve collective action against modern slavery (see [section 4.1.](#)).

- **Lack of leverage:** sometimes, a business may lack leverage or is unable to increase its leverage to prevent or mitigate the modern slavery it is involved with.

*In this case, the business should consider ending the business relationship causing the modern slavery. If your business decides to remain in the business relationship, it is good practice to demonstrate ongoing efforts to mitigate the modern slavery. If your business chooses to end the business relationship, you must do so through a **responsible exit**.*

Responsible exit



Responsible exit is when a business takes human right due diligence measures to minimise any potential harm to impacted rights-holders, as a result of ending a business relationship. Responsible exit may also be referred to as responsible disengagement.

⁶ United States of America Department of Labor. (2020). [2020 List of Goods Produced by Child Labor or Forced Labor](#).

⁷ Shift. (2013). [Using Leverage in Business Relationships to Reduce Human Rights Risks](#); and Walk Free. (2022). [Modern Slavery Response & Remedy Framework](#).

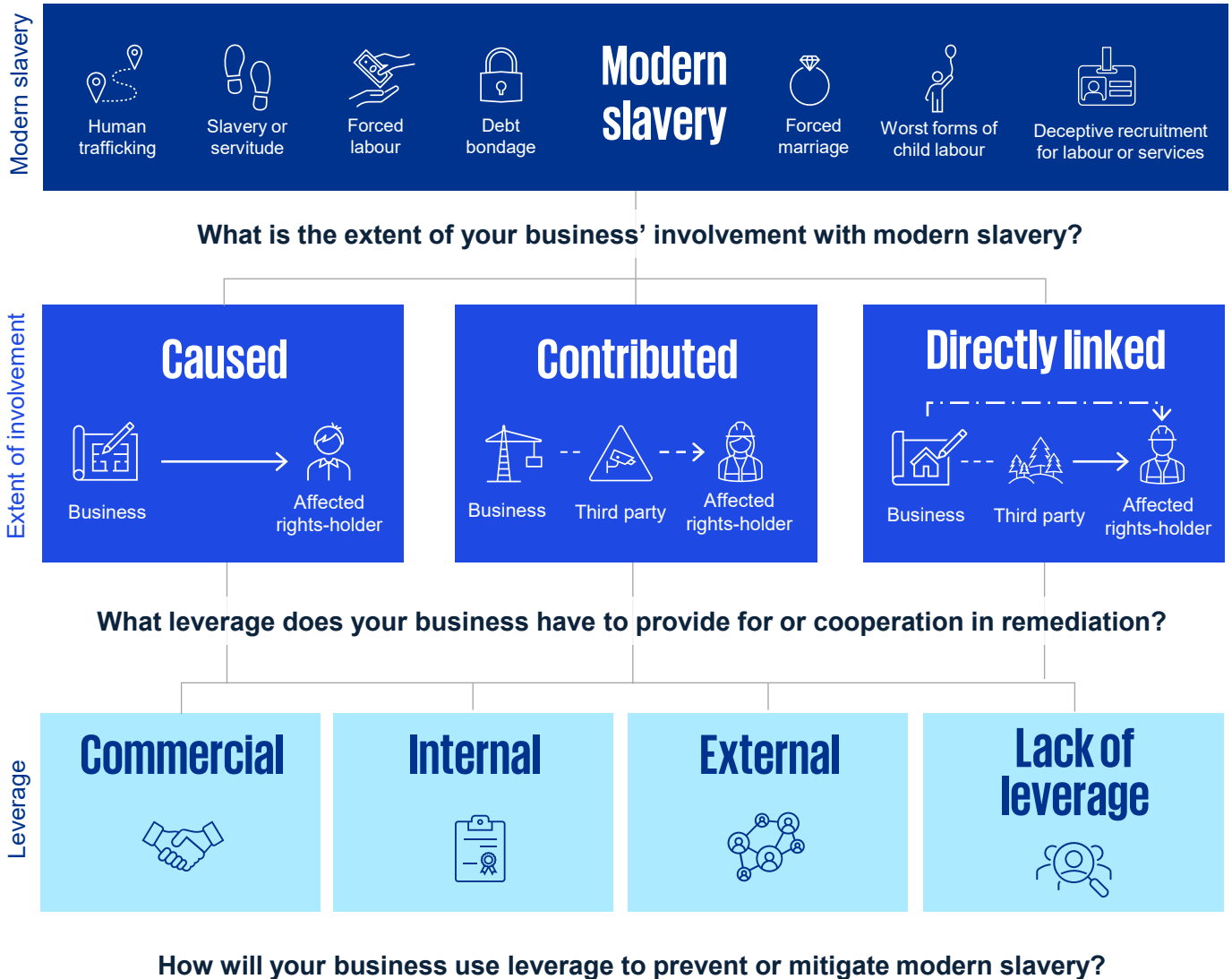


Figure 4: Identifying harm and using leverage

EXPERT INSIGHTS

03 Using leverage to break the cycle of exploitation

- ✓ Your business' extent of involvement with modern slavery may give rise to a responsibility to remediation, even if you do not have any direct legal liability.
- ✓ How your business uses its leverage depends on your involvement with modern slavery. Be aware of all your spheres of influence within your business operations and supply chains, as well as all the opportunities to use leverage.
- ✓ How your business uses its leverage may also depend on your business values and how they are applied to the situation. For example, if your business' values include, say, courage or impact, these may align with taking a more proactive approach to overtly using leverage, despite concerns regarding limiting legal liability.



2.4. What do modern slavery remedies look like? (Step D)

According to the [UN Basic Principles and Guidelines on the Right to a Remedy](#), there are five internationally recognised remedies that may be used separately or as part of a combination of remedies. The decision about which remedy or combination of remedies is most appropriate needs to be discussed and agreed upon with the impacted rights-holders.

Remedy 1: Restitution

Restitution involves correcting and restoring whatever has been lost and returning the rights-holder to the state before the harm(s) occurred. For example:

- ✓ *Reinstating a promotion to a rights-holder that was originally dismissed due to discrimination.*
- ✓ *Rights-holder is able to return to their place of residence which they were previously taken away from or displaced.*

Remedy 2: Compensation

Compensation includes financial and non-financial rewards for any economically assessable damage. For example:

- ✓ *Repaying the unpaid overtime hours of a rights-holder.*
- ✓ *Supporting the costs of legal assistance or visa fees.*

Remedy 3: Rehabilitation

Rehabilitation includes services to continue to care for the impacted rights-holder. For example:

- ✓ *Collaborating with an NGO to provide psychological counselling and social services to support a rights-holder's integration back into society.*
- ✓ *Offering vocational training to build a rights-holder's formal qualifications or work experience.*

Remedy 4: Satisfaction

Satisfaction involves restoring the dignity, reputation and rights of the impacted rights-holder. For example:

- ✓ *Responsibly exiting a business relationship causing modern slavery.*
- ✓ *Publicly apologising and accepting responsibility of the modern slavery a business is involved with.*
- ✓ *Protecting the safety and interests of the impacted rights-holder, including their truth and their family.*
- ✓ *Punitive sanctions, such as fines, for not meeting mandatory reporting under Modern Slavery Acts.*

Remedy 5: Guarantee of non-repetition

Guarantees of non-repetition are actions to prevent and mitigate future modern slavery. For example:

- ✓ *Sharing learnings from incidents of modern slavery within Australian property and construction businesses.*
- ✓ *Regularly reviewing and reforming modern slavery grievance mechanisms and remediation processes for continuous improvement.*

INDUSTRY INSIGHTS

04 Woolworths Group's 'bouquet of remedies' for addressing instances of modern slavery

In their [FY22 Modern Slavery Statement](#), Woolworths Group reported finding forced labour in a Malaysian supplier site. This included "debt bondage, excessive overtime, retention of identity documents, restriction of movement, and withholding wages." In line with the [UNGPs](#), Woolworths Group used their commercial leverage to provide a 'bouquet of remedies'⁸ to support their supplier to remediate these impacts. They used **satisfaction** to publicly take responsibility in their Modern Slavery Statement for the modern slavery they were directly linked to. They also secured **financial compensation** payments of about \$750,000 to reimburse an estimated 226 migrant workers. Woolworths Group shares that a lesson learned is that "affected workers must remain at the centre of decision making, so they are supported and do not experience further harm."

How does your business' modern slavery remediation process encourage a 'bouquet of remedies' to consider the different needs of different impacted rights-holders?

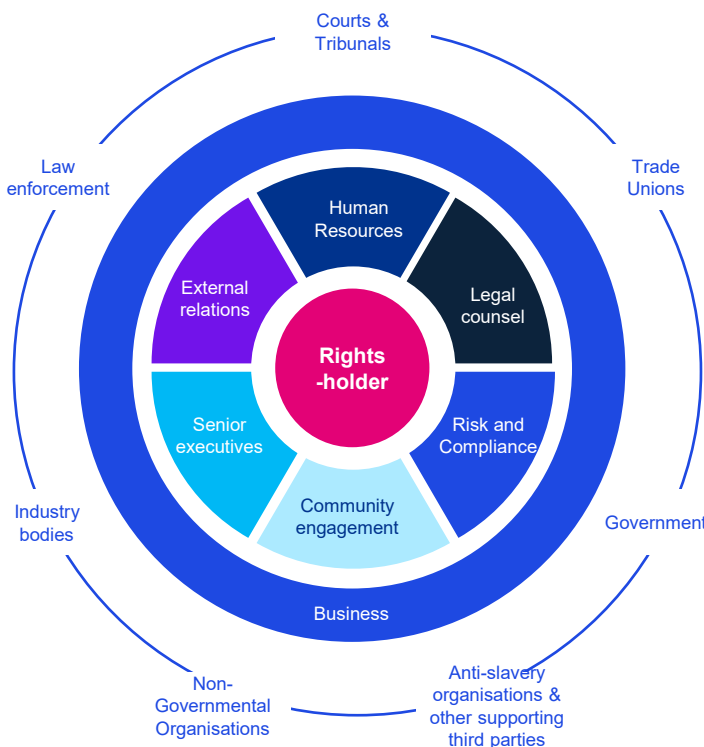
⁸ United Nations. (2017). [Report of the Working Group on the Issue of Human Rights and Transnational Corporations and other Business Enterprises](#).



2.5. Who can be involved in modern slavery remediation and what roles should different stakeholders play? (Step D)

Effective modern slavery remediation is often a multi-stakeholder process. Depending on the extent of involvement in the harm and the leverage the business has, it may need to work with a diverse range of internal and external stakeholders to make things right.*

Potential stakeholders involved in modern slavery remediation



Rights-holders

Rights-holders are anyone whose human rights could be impacted by a business' activities. Rights-holders can also be referred to as 'victims' or 'survivors'.



Businesses

Businesses engage in activities to make a profit which can directly or indirectly impact and harm rights-holders.

The business' responsibility is to create fair, favourable and safe working conditions and provide human rights due diligence processes for grievances and remediation.

Figure 5: Modern slavery remediation stakeholders

Internal stakeholders



Human resources

Human resources support the business to investigate possible outcomes and create cultural change in the business, through people and culture teams. They may be supported or led by a Sustainability or Human Rights team.



Legal counsel

Legal counsels can interpret modern slavery laws to provide legal advice to businesses. Not all business will have legal counsel resources and will work with other stakeholders, such as trade unions or other supporting third parties.



Risk and compliance

Risk and compliance teams co-ordinate the modern slavery due diligence policies and processes, to identify and address risk. They may also involve procurement staff and suppliers.



Senior executives

Senior executives, such as CEOs, COOs, and boards of directors, usually govern a business' modern slavery ambition and their leadership helps to drive organisational change.

*The internal and external stakeholders explored in this section are not an exhaustive list. Your business' modern slavery remediation may involve some or other stakeholders, depending on who is responsible for your modern slavery approach.



External stakeholders



Government

The government regulates modern slavery, including through state-based mechanisms, by developing and implementing laws, policies and programs to respond to and prevent modern slavery.



Industry bodies

Industry bodies provide guidance and recommend shared standards for industry-wide modern slavery action, including with grievance and remediation.



Courts and tribunals

Administrative and judicial bodies put modern slavery laws into operation, such as through the Fair Work Commission, courts and tribunals, when business remediation processes fail to adequately respond to modern slavery.



Trade unions

Trade unions represent, safeguard and promote the interests of their working members, and can offer additional support to rights-holders and businesses during modern slavery remediation processes.



Law enforcement

Law enforcement, such as the Australian Federal Police or the Australian Border Force, respond and help to investigate reports of modern slavery.



Media

The media provides information about businesses and modern slavery issues. Their reporting and commentary may influence other stakeholder actions towards modern slavery.



Non-Governmental Organisations

Non-Governmental Organisations (NGOs), especially those who work with rights-holders in high-risk areas where companies source goods, can help with risk identification or assessment, and be a source of local advice on remediation.



Other supporting third parties

Other supporting third parties may include anti-slavery organisations, victim support services and human rights experts, who offer additional support to businesses and rights-holders during modern slavery remediation processes.

RIGHTS-HOLDERS PERSPECTIVES

05 Maria's remediation process and the stakeholder engagement within a large corporation

Maria is an impacted rights-holder of modern slavery. She is a migrant on a temporary visa, who worked for a commercial cleaning business that contracted to a leading property company. Maria's supervisor regularly offered her and her colleagues additional cash-in-hand work at the same premises, doing odd jobs such as junk removal and demolition. For this additional work, Maria and the other workers were not provided adequate protective equipment and they were often locked in the premises and unable to leave until the supervisor let them out, without any agreed working hours. When she questioned the tasks or raised concerns about the additional work, the supervisor threatened to fire Maria and the other workers.

Maria reached out to a representative from the **Cleaning Accountability Framework**, and the **trade union** which she is a member of, and these representatives raised concerns with **the manager of the premises**. They escalated Maria's case to the **risk and compliance team** at the **property company**, who asked an **external expert** to conduct an investigation. The company's **legal counsel** was brought in, and they recommended filing an action against the contractor with the **Fair Work Ombudsman**, and reporting them to the **Australian Federal Police**. They also recommended ending the contract with this cleaning company. During this process, the **media** was investigating and reported the harm to the community. The **external relations team** also became involved, and the situation was brought to the attention of the **senior executives** of the company and the **board of directors**, and eventually included in the company's Modern Slavery Statement.

The property company worked with Maria and the other workers, asking them how they wanted the situation to be resolved. To ensure they had access to independent free and confidential legal advice and support, the company connected Maria and the other workers with **Anti-Slavery Australia**. With their help, the property company decided to compensate Maria and her colleagues. They also assisted them with finding alternative jobs with another contractor on one of their sites, providing them with mentoring and support, and ensuring their privacy was protected so that they were not stigmatised as victims.

How would your business deal with a situation like this? Which stakeholders would need to be involved? How would you apply the REMEDY Framework (see next page)? How would you ensure rights-holders are heard?



03 Setting up effective remediation for modern slavery

The [United Nations Working Group on Business and Human Rights](#) has established nine criteria that should be applied when businesses design, operationalise and reform effective remediation. Figure 6 summarises these effectiveness criteria into the 'REMEDY Framework' for effective modern slavery remediation.

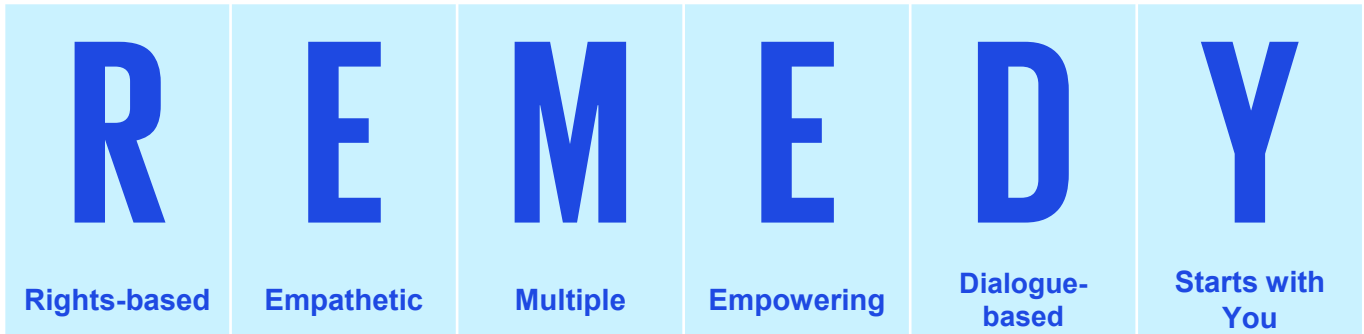


Figure 6: REMEDY Framework for effective modern slavery remediation

3.1. How to put into practice effective modern slavery remediation?

Figure 7 outlines what each of the six effectiveness criteria of the 'REMEDY Framework' means for your business, and the things you need to consider when putting into practice effective human rights remedial processes and remedies. These effectiveness criteria help to place rights-holders at the centre of modern slavery remediation, in line with good practice.

R

RIGHTS-BASED

What does this mean for your modern slavery remediation?

Effective modern slavery remediation is consistent with internationally recognised human rights. Remediation processes and remedies should be accessible for impacted rights-holders seeking their right to access justice.

How do you put this into practice?

- Restore agency to impacted rights-holders by encouraging their active participation in all stages of the modern slavery remediation process (e.g. encourage impacted rights-holders to speak of their perspectives of modern slavery and listen to their expectations of remediation on a case-by-case basis; encourage rights-holders to seek independent legal representation, for example, through [Anti-Slavery Australia](#) or other third party supporters)
- Read the core internationally recognised human rights contained in the International Bill of Human Rights ([Universal Declaration of Human Rights](#), [International Covenant on Civil and Political Rights](#) and [International Covenant on Economic, Social and Cultural Rights](#)) and the [Declaration on Fundamental Principles and Rights at Work](#) and embody a business culture of respecting human rights
- Establish and socialise a remediation policy with a formal accountability structure for modern slavery remediation processes, and communicate this to your suppliers (include compliance with policies in your supplier contracts)
- Publicise your remediation policy in multiple, varying and easy to find access points (e.g. onboarding training, restroom posters, office QR codes, company website and social media platforms)
- Adapt your remediation policy and process to local cultures, languages and workplaces within your operations and supply chain (e.g. translate your remediation policy into different languages)

Figure 7: REMEDY Framework effectiveness criteria



E

EMPATHETIC

What does this mean for your modern slavery remediation?

Effective modern slavery remediation respects the diverse experiences and needs of rights-holders, especially those of vulnerable rights-holders.

How do you put this into practice?

- Offer support to rights-holders should they face any barriers to voicing their needs (e.g. a translator for culturally and linguistically diverse rights-holders or a trusted support person for practical or emotional support for rights-holders)
- Hire or train specialist human resources to carry out your modern slavery remediation process with cultural competence (including the ability to understand and communicate with different cultures with respect)

M

MULTIPLE

What does this mean for your modern slavery remediation?

Effective modern slavery remediation embraces different ways of thinking and working and offers a variety of modern slavery remedies to find the most suitable remediation outcomes on a case by case basis.

How do you put this into practice?

- Provide clear information about the kinds of modern slavery remedies available to rights-holders in a timely and accessible way (i.e. plain English, translation into different languages, combination of written and visual communications, available online)
- Consider engaging an independent third party mediator to resolve conflicting expectations between businesses and impacted rights-holders
- Offer rights-holders the option to appeal remediation outcomes if they believe the outcome is unfair
- Take advantage of existing and new resources in the property and construction sector in Australia (e.g. publicly available modern slavery statements, non-government organisation support services and trade union representatives)

E

EMPOWERING

What does this mean for your modern slavery remediation?

Effective modern slavery remediation does not discriminate against or victimise impacted rights-holders.

How do you put this into practice?

- Build workplace trust through regular communication and training about modern slavery; so that rights-holders are aware of their rights and feel safe to speak up and businesses understand their corporate responsibility to respect human rights, including operationalising effective modern slavery remediation
- Research local, state and national laws to increase understandings of what victimisation and/or retaliation might look like in your workplace (e.g. giving an unsubstantiated warning, excluding the individual from team events, threats of a denial of promotion or dismissing a rights-holder from employment after they seek remediation)
- Establish a non-retaliation policy that protects rights-holders from inappropriate and unlawful victimisation

Figure 7: Modern slavery remediation effectiveness criteria (continued)



D

DIALOGUE-BASED

What does this mean for your modern slavery remediation?

Effective modern slavery remediation ensures relevant stakeholders are meaningfully engaged, and balances the needs of rights-holders with the interests of businesses.

How do you put this into practice?

- ❑ Seek regular feedback about the effectiveness of modern slavery remediation processes from stakeholders to integrate back into learnings for continuous improvement of processes
- ❑ Maintain ongoing communication with stakeholders to develop strong and long-term relationships to support collective action against modern slavery together
- ❑ Reach out to a worker representative organisation, such as Anti-Slavery Australia, United Workers Union or the Cleaning Accountability Framework, to learn more about and to better understand the context of the modern slavery your business may be involved with
- ❑ Engage human rights experts to conduct a tailored modern slavery risk assessment of vulnerable populations within your operations and supply chain to understand their different experiences of business-related human rights abuses

Y

STARTS WITH YOU

What does this mean for your modern slavery remediation?

Effective modern slavery remediation starts with, and is continuously improved by you.

How do you put this into practice?

- ❑ Whether you are an employer, worker, supplier or external stakeholder, if you suspect any modern slavery, you are strongly encouraged to raise it with your available human rights grievance mechanisms or report it to the [Australian Federal Police](#) (131 237).
- ❑ Businesses should be aware of structural power imbalances between businesses and vulnerable rights-holders and adopt special measures to champion the right to effective remedy (e.g. females in a male dominated industry, migrants with culturally and linguistically diverse backgrounds, and base-skill workers with low visibility or legal protections)
- ❑ Businesses should communicate transparently about how your business is remediating or has remediated adverse human rights impacts, as required by the [Modern Slavery Act 2018 \(Cth\)](#) as well as to help build trust and confidence in your modern slavery remediation process

Figure 7: Modern slavery remediation effectiveness criteria (continued)





3.2. What are examples of effective modern slavery remediation?

Let's explore both poor and good examples modern slavery remediation. Figure 6 continues the human rights grievance journeys of Paulo and Sanjana from KPMG Australia and the Property Council of Australia's practical guide to effective human rights grievance mechanisms, *Listening and Responding to Modern Slavery in Property & Construction*.

RIGHTS-HOLDER PERSPECTIVES

06 Paulo and forced labour

Paulo moved to Australia for better opportunities to work and is now a worker for a construction services company. When he arrived, his labour agent confiscated his passport. It has been over six weeks and he has not been paid. His employer threatened that if he tells anyone, they will report him to the Australian authorities. Paulo is afraid of being deported because he is unsure if he is working illegally. He feels isolated and does not know where to seek help.

Paulo is in a situation of forced labour. He is not free to stop working or to leave his place of work.



RIGHTS-HOLDER PERSPECTIVES

07 Sanjana and debt bondage

Sanjana has been promised permanent residency in Australia if she works as a cleaner for a construction project. She has borrowed large amounts of money to move to Australia with the hope of being able to better financially support her family. At the start of her employment, Sanjana did not sign any agreements about her working conditions. She now lives in cramped accommodation, owned by the subcontractor, with five other people. Every week, Sanjana's wages are heavily deducted for the costs of rent, migration processing, job qualification fees and food. She is left with little to no money to send back home.

Sanjana is experiencing deceptive recruitment and debt bondage. She was deceived into servitude-like employment with the false promise of permanent residency.



POOR PRACTICE:
Paulo, forced labour and ineffective modern slavery remediation

GOOD PRACTICE:
Sanjana, debt bondage and effective modern slavery remediation

Modern slavery remediation process

A construction company's remediation policy **does not protect** Paulo from modern slavery. It is also **not accessible** because suppliers and their workers are not aware of this remediation policy.

STEP A Safeguarding rights-holders

A property business recognises Sanjana's **human right to remedy (rights-based)**. It works with human rights experts and a NGO in response to Sanjana's discomfort towards the subcontractor (**empathetic**).

The construction company **does not identify** that it is directly linked to Paulo's forced labour, through their business relationship with the labour agent.

STEP B Identifying harm

The property business identifies that it has **contributed** to the deceptive recruitment of Sanjana into debt bondage, through its business relationship with the subcontractor.

The construction company **does not use its commercial leverage** by continuing to work with the labour hire agent causing Paulo's forced labour.

STEP C Using leverage

The property business uses its **external leverage** with the NGO to support and **empower** Sanjana to safely share her story about modern slavery and her expectations with remediation.

Paulo has been **threatened** by his employer if he speaks up. He **does not know** who else he can talk to in order to make things right.

STEP D Making things right

The property business **compensates** Sanjana for her recruitment fees. It also uses **commercial leverage** to report the subcontractor to the Fair Work Commission and **guarantees** to not use them again (**multiple**).

The construction company later determines that a remedy is inappropriate **without considering the needs** of Paulo. Paulo is also **unable to appeal** this decision.

STEP E Preventing harm

The property business **seeks feedback** from Sanjana to **share learnings** to prevent future incidents of debt bondage in the wider property and construction industry (**you**).

Rights-holders, and especially vulnerable rights-holders like Paulo, need to be at the centre of any modern slavery remediation process. Go to [page 19](#) to read about how to overcome common challenges with modern slavery remediation.

Supporting effective modern slavery remediation

Modern slavery remediation processes are most effective when rights-holders, like Sanjana, are empowered to actively participate in it. Go to [page 14](#) to read about how you can use the REMEDY Framework for effective modern slavery processes.



3.3. How to overcome common challenges with modern slavery remediation?

Putting modern slavery remediation into practice can be challenging. When done effectively, businesses can help improve their human rights due diligence, build workplace trust and accountability, and most importantly, save lives.



There are challenges facing organisations putting remediation processes into place, but also many solutions available. Helping staff and suppliers understand remediation, aiming for continuous improvement, and taking different perspectives will keep your approach focused on people.

Robin Melon, CEO, Better Sydney
Project Manager, Property Council Modern Slavery Working Group & Supplier Platform

Challenge 1: Understanding what modern slavery remediation is and what it is not

Remediation may mean a lot of different things in a business context. Modern slavery remediation is 'making good' the adverse impacts of modern slavery for affected rights-holders. Modern slavery remediation is not corrective action plans, [remediation of land](#), [know your customer remediation payments](#) or a box ticking exercise. In fact, many property and construction businesses may already be familiar with remediation for other adverse human rights impacts, such as occupational health and safety, and bullying and harassment.

You can learn lessons and transfer good practices from these other remediation processes. It is also good practice for your remediation process to explicitly address modern slavery.

Challenge 2: Thinking beyond liability

Modern slavery remediation can be a resource intensive commitment with long lead times. However, a business' commitment to effective modern slavery remediation is more cost-effective than a non-existent or poor remediation process, which may lead to increased (and realised) risks to people, violations of the law, damaged reputation and negative impacts on your social license to operate.

To overcome this challenge, businesses should implement a remediation policy that has the highest level buy-in to ensure modern slavery remediation is operationalised effectively.

Challenge 3: No one-size-fits-all approach

Like all human rights grievance mechanisms, there is no one-size-fits-all approach to modern slavery remediation. Every potential or actual case of modern slavery is complex, and each needs to be treated on a case-by-case basis, to find the most appropriate and effective remediation.

To overcome this challenge, your business should consider your unique context and needs to operationalise a modern slavery remediation process that is fit for purpose.

Challenge 4: Lack of transparency

The lack of transparency with modern slavery remediation can be a result of the need to protect the privacy of impacted rights-holders, comply with legal privilege requirements, as well as the strict anti-competitive conduct rules managed by the Australian Competition and Consumer Commission.

To overcome this challenge, your business should centre affected rights-holders throughout your entire modern slavery remediation process. Businesses could also collaborate with other stakeholders in good faith to learn from each other, or via industry-wide collaborative approaches to remediation.

Challenge 5: Structural power imbalances

Vulnerable or marginalised rights-holders may experience deeply rooted, and often unconscious, discrimination when accessing modern slavery remediation.

To overcome this challenge, your business should build workplace trust and cultural competence by listening to the worker voice and engage additional trusted stakeholders, such as support people or human rights experts.

Risk to people approach



Businesses are said to be taking a 'risk to people approach' when they prioritise addressing the most severe risks to people first. The most severe risks to people in relation to human rights and modern slavery will usually be related to risks to business such as regulation and standards, reputation and relationships, company purpose and investor and lender security.⁹ Both the [UNGPs](#) and the Australian Government under the [Modern Slavery Act 2018 \(Cth\)](#) expect businesses to address risk to people rather than just traditional risk to business.

How might people be harmed as a result of your business activities, decisions or purchases?

⁹ Australian Human Rights Commission & KPMG Australia (2020). [Property, Construction & Modern Slavery: Practical Responses for Managing Risk to People](#).



Rights-holders must be at the centre of remediation processes. Modern slavery takes away agency and dignity, so restoring a rights-holder’s right to choose for themselves is really important to help break the cycle of exploitation.”

Heather Moore
National Contact Point for Modern Slavery
The Salvation Army



04 Collective responsibility to remedy modern slavery as an industry (Step E)

Together, property and construction business can transform their individual modern slavery commitment into impactful collective and cultural change.

4.1. How can the Australian property and construction industry address the need for remediation in the context of modern slavery?

The Australian property and construction industry (Industry) can address the need for remediation in the context of modern slavery by working together and investigating possible collaborative approaches to modern slavery remediation.

The advantages of taking shared responsibility as an industry to prevent modern slavery risks and harm include:

- **Efficiencies in resources:** by collaborating together in establishing shared modern slavery remediation processes, particularly useful when addressing modern slavery in shared supply chains with common suppliers;
- **Pooled resources:** for greater industry-specific capabilities within modern slavery due diligence;
- **Reduced burden:** on relevant stakeholders individually, especially for businesses and rights-holders;
- **Coherence:** in approaches and in requests to suppliers;
- **Shared learnings:** from each other to continuously improve modern slavery efforts across industry; and
- **Strong commitment:** to end modern slavery with top-down support.

Multistakeholder Initiatives to provide remedy:

Some members of the Industry feel a shared responsibility for supporting rights-holders impacted by the modern slavery that seems entrenched in the high-risk areas of this sector. The different stakeholders of the modern slavery remediation process each play a specialised role in addressing modern slavery across the industry, and could collaborate to provide a collective remedy or reparations.

Cross-sector work opportunities for impacted rights-holders

Industry could share the responsibility to support rights-holders impacted by modern slavery within their industry, through providing work opportunities for impacted rights-holders identified by and supported through anti-slavery support organisations. This could help with recovering employment and enhancing future job readiness, including by providing access to references, and can help break the cycle of exploitation.

Industry-led Initiatives for modern slavery remediation:

Shared modern slavery remediation processes

Industry could co-create an approved modern slavery remediation policy and process for property and construction businesses. This agreed approach creates a new norm to standardise each sector's varying levels of understandings and maturity around modern slavery and its remediation.

For example, in the fast-moving consumer goods industry, The Consumer Goods Forum Human Rights Coalition have launched the Guidance on Repayment of Worker-Paid Recruitment Fees and Other Related Costs offering industry-aligned recommended steps to support the remediation processes for victims of modern slavery. Such a tool could establish when and how members collaborate, including lead organisations.

Another example comes from private security, where industry has established a shared grievance mechanism, with an independent body to review complaints and determine appropriate remedy and redress. See the International Code of Conduct Association.

Certification for effective modern slavery processes

Industry could co-create a certification process for property and construction businesses that have grievance and remediation processes. This could build on existing industry-based tools and platforms. Such initiatives help to shift industry culture over time.

INDUSTRY INSIGHTS

08 Working collaboratively to take responsibility for modern slavery together

Mirvac Group's Modern Slavery Statement FY21 provides a real-world case study of leading-practice modern slavery remediation. Their cross-sector partnership with the Anti-Slavery Taskforce, Catholic Archdiocese of Sydney created an employment pathway to support a survivor of modern slavery with obtaining relevant qualifications, uniforms and equipment for site-based work experience. As a result, the impacted rights-holder was able to access casual and then full-time employment on multiple construction sites, through a carefully managed process with safeguards to protect their privacy.

Mirvac notes that lessons were learned through this collaboration, including: tailored coaching and mentoring is helpful for affected rights-holders; and guidance from the Australian Catholic Anti-Slavery Network was vital.



4.2. What are your next steps?

To begin your modern slavery remediation process, or review existing processes to make them more effective, this guide recommends taking the following steps:



Understand your corporate responsibility to respect human rights

Develop a purposeful understanding of the role of your business in remediating modern slavery to translate your human rights commitment into impactful action (see [section 1.3.](#)).



Map your existing modern slavery remediation processes and remedies

Research and map modern slavery remediation processes that are within your spheres of influence. Consider all state-based, non-state-based, judicial and non-judicial processes to build upon and uplift existing modern slavery remediation processes (see [section 2.4.](#) and [section 2.5.](#)).



Establish or improve your approach to human rights remediation

Establish a human rights remediation policy to include modern slavery or monitor and evaluate an existing human rights remediation policy to track the effectiveness of your business response to modern slavery (see [section 3.1.](#)).



Conduct a modern slavery remediation effectiveness gap analysis

Conduct a gap analysis of the effectiveness of existing modern slavery remediation processes to continuously improve your remediation processes and remedies in line with good practice (see [section 3.1.](#)).



Build internal capability

Build the capability of your business and staff through training, learning and development and holding the business to account for your modern slavery commitment to empower rights-holders and improve workplace trust (see [section 3.1.](#)).



Collaborate with others

Collaborate with other stakeholders to exchange learnings, develop a shared understanding of human rights and take collective action against modern slavery (see [section 4.1.](#)).



Call upon human rights experts

Call upon human rights experts to help you better understand and respond to your risks and opportunities with regards to human rights and modern slavery, such as through remediation policy making, modern slavery risk assessments and supply chain mapping (see [Contact us.](#)).



Evaluate your human rights due diligence processes

Regularly evaluate your human rights due diligence processes to prevent potential and address actual adverse human rights impacts, including modern slavery (see [section 1.2.](#)).



05 Further resources

Property Council of Australia

Phone: +61 (0)2 9033 1900

Email: info@propertycouncil.com.au

KPMG Australia and Property Council of Australia

Listening and Responding to Modern Slavery in Property & Construction: A Practical Guide for Effective Human Rights Grievance Mechanisms

<https://assets.kpmg/content/dam/kpmg/au/pdf/2022/kpmg-pca-guide-modern-slavery-grievance-mechanisms-property-construction.pdf>

Anti-Slavery Australia, Mercy Foundation and University of Technology Sydney

Beyond Storytelling: Towards Survivor-informed Responses to Modern Slavery:

https://antislavery.org.au/wp-content/uploads/2022/09/OnlineV1_Beyond-Storytelling-report.pdf

Australian Human Rights Commission and KPMG Banarra

Property, Construction & Modern Slavery: Practical Responses for Managing Risk to People:

<https://home.kpmg/au/en/home/insights/2020/08/property-construction-modern-slavery-practical-guide.html>

Cleaning Accountability Framework

Website: www.cleaningaccountability.org.au

United Kingdom Independent Anti-Slavery Commissioner

Operations Cardinas and Beyond: Addressing Exploitation Risk in the Construction Sector:

https://www.antislaverycommissioner.co.uk/media/1802/iasc-construction-report_april-2022.pdf

International Labour Organisation (ILO), Walk Free, and International Organization for Migration (IOM)

Global Estimates of Modern Slavery, Forced Labour and Forced Marriage:

https://www.ilo.org/global/topics/forced-labour/publications/WCMS_854733/lang--en/index.htm

Supply Chain Sustainability School Australia and New Zealand

Website: www.supplychainschool.org.au

United Nations Global Compact Australia

Implementing Effective Modern Slavery Grievance Mechanisms:

https://unglobalcompact.org.au/wp-content/uploads/2021/03/4261-UNGC-Grievance-Mechanisms-GUIDANCE-DOC_28pp-9-FA.pdf

United Nations Guiding Principles on Business and Human Rights

Guiding Principles on Business and Human Rights:

https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf

United Nations Working Group on Business and Human Rights

Website: <https://www.ohchr.org/en/special-procedures/wg-business>

Walk Free

Modern Slavery Response & Remedy Framework

<https://www.walkfree.org/reports/modern-slavery-response-remedy-framework/>



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