

What small businesses need to know

This factsheet has been developed to help small businesses supplying to organisations with obligations under legislation designed to combat modern slavery.

Modern slavery is a term used to describe where offenders use coercion, threats or deception to exploit victims and undermine their freedom.

The Commonwealth *Modern Slavery Act 2018* (Commonwealth Act) requires the Commonwealth Government, large businesses and other organisations with annual revenue of \$100 million or more (reporting entities) to prepare annual Modern Slavery Statements reporting on their efforts to assess and address modern slavery risks in their global operations and supply chains. Large entities have the capacity and leverage to drive change through their supply chains and influence a reduction in incidence of modern slavery worldwide.

The NSW *Modern Slavery Act 2018* (NSW Act), which commenced on 1 January 2022, requires large organisations such as NSW Government agencies and local Councils not already required to report under the Commonwealth Act to take reasonable steps to ensure goods and services they procure are not the product of modern slavery.

Small businesses are not required to report under the modern slavery legislation. As suppliers to larger entities, small businesses may be asked to provide information to help those organisations meet any reporting or other obligations. If you cannot provide this information, it may become harder to do business with these customers. Small businesses may also voluntarily prepare and submit a modern slavery statement under the Commonwealth Act.

As a small business operator, why should you be concerned about modern slavery?

It is a crime. It degrades people through the unfair coercion of their labour and may also involve trafficking of people, forced labour and servitude.

- Modern slavery distorts global markets and undercuts pricing and viability of legitimate businesses.
- When slavery is uncovered it can cause major legal, commercial and reputational risks, and damage commercial business relationships.
- Consumers are increasingly seeking to buy ethically produced goods and services. Having processes in place to prevent modern slavery enhances community reputation and provides assurance to customers.

What is modern slavery?

The Commonwealth Act is the first national legislation in the world to define modern slavery. It defines modern slavery as including eight types of serious exploitation:

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

Modern slavery does not include practices like substandard working conditions or underpayment of workers, though these practices are also harmful and may be present in some situations of modern slavery. The website for the Australian Fair Work Ombudsman has guidance on labour contracting, pay entitlements and working conditions and undertakes investigations related to these matters.

What could I be asked to do by an organisation with obligations under modern slavery legislation?

Small businesses are not required to report under modern slavery legislation. As a small business supplier, you may be required to provide information to assist larger businesses, government agencies or councils to meet their obligations. While the intention of modern slavery legislation is not for large entities to shift their obligations down the line onto small businesses in their supply chains, small business suppliers necessarily play a key role in assisting larger entities to identify, understand and address their modern slavery risks.

Reporting entities are encouraged to adopt a targeted, risk-based approach to addressing modern slavery risks in their supply chains. They are encouraged to adopt a 'continuous improvement' approach to their response. Reporting entities' responses should improve in quality and demonstrate progress over time as the business community increases its understanding of modern slavery. There is no mandatory or standard template for a Modern Slavery Statement and different organisations may ask for different things when performing their due diligence. If you supply to a customer with reporting obligations they may ask you to:

- complete a supplier questionnaire
- provide information on your operations and supply chains, whether there are any risks of modern slavery and what steps your business has taken or plans to take to identify and address any potential modern slavery
- provide your business's Anti-Modern Slavery policy (if you have one) or other relevant policies and procedures implemented in your business
- provide information on the make-up of your workforce (number of employees, part-time, full-time, casual, unionised, non-unionised etc.)
- provide information on grievance processes available for your workers
- provide information on the geographic regions and countries where you source from.

As a small business what should I do?

If you supply to a reporting entity, government agency or local council there are things your business can do to prepare, even before being asked to provide information. These actions will also give you confidence that your business does not contribute to modern slavery. Taking the time to review your supply chain will help your business provide a timely response if your customers request this information, while preventative actions may even help your business to secure new opportunities. As a small business your approach should be proportionate and you shouldn't worry if you are unable to fully investigate your supply chain.

Even if you do not supply to a larger entity, you may still be interested to know how you can help prevent modern slavery. While small businesses may have less influence over practices within supply chains, they can consider alternative suppliers or ask for information to confirm modern slavery risks are mitigated.

Small businesses can voluntarily elect to prepare a Modern Slavery Statement under the Commonwealth Act. Providing a voluntary Modern Slavery Statement can benefit your business by demonstrating leadership on modern slavery and show you are a responsible business that acts with integrity. It is important to note that should you choose to prepare a voluntary statement, you must comply with all mandatory reporting requirements, including addressing the mandatory criteria in the Commonwealth Act. Choosing to submit a voluntary modern slavery statement for one reporting period does not oblige you to continue preparing voluntary statements for further reporting periods. You must opt in for every reporting period you wish to prepare a voluntary statement for.



Five things your business can do

1

Develop or adopt an Anti-Modern Slavery policy (template policy provided at the end of this fact sheet). You can provide this when supplying to other organisations.

2

Map your supply chain to assess potential risk areas. Know where all your goods, services or raw materials are coming from and know the circumstances of the workers making them. Identify any potential areas of risk where people could be exploited in your operations or supply chain. Inspect operations if you have the opportunity. If appropriate for the size and nature of your business, set up a mechanism to enable people to safely report modern slavery risks in your operations and supply chain.

3

Set clear expectations for your suppliers. Provide them a copy of your Anti-Modern Slavery policy and ask them to confirm what actions they are taking to prevent slavery in their supply chains and operations. If this is done verbally, record the date and time of the conversation. If there are risks in your supply chain, consider asking your suppliers to complete a questionnaire to verify they are suitably mitigated.

4

Take specific actions if you cannot mitigate risks. The approach will vary from business to business depending on their supplier arrangements. Do your due diligence – if an existing or prospective supplier is unresponsive, look for alternatives. Build capacity by talking to your staff, suppliers, customers and business partners about why stopping modern slavery is important and what your business is doing.

5

Act if you are unsure and cannot mitigate risks, including by changing suppliers if issues are not addressed. Contact the Australian Federal Police on 131 237 immediately if you have discovered illegal activity.

How can I assess potential risk areas in my business's supply chain?

Modern slavery can occur in every industry and sector, however some sectors, industries and types of work have been associated with higher risks of exploitation and slavery practices. When considering whether your supply chain may have modern slavery risks, you may wish to consider.



Higher risk sectors, products, services and raw materials

- agriculture
- mining, fisheries
- forestry
- food processing
- textiles
- fashion
- building and construction
- tourism and hospitality
- cleaning
- security
- logistics and warehousing
- bricks
- cobalt
- cotton
- rubber
- electronics
- cocoa

Types of work and entities with a poor track record

- jobs that are dangerous or involve poor conditions
- sectors that use migrants or overseas workers
- work performed in complex offshore supply chains
- entities with poor governance structures or a record of human rights violations

Geographical location

Some countries are recognised as being higher-risk. If you source goods or services from offshore then consider:

- governance and rule of law
- whether a country is involved in a conflict
- migration flows
- socio economic factors such as poverty

Resources to assist you assessing geographic risk:

- Walk Free Global Slavery Index: www.globalsslaveryindex.org

Low-cost goods and services

If you receive abnormally low pricing, ask the supplier why they can provide the goods and services at that cost.

For more information on assessing potential risks please refer to the Commonwealth Modern Slavery Act



What if a request seems unreasonable or inappropriate?

Modern slavery legislation does not require small business suppliers to:

- certify or sign a contract to supply with a clause requiring you to warrant that there is no modern slavery in your supply chains, as this is impossible to determine or verify in many cases, particularly in relation to offshore suppliers. In such cases, negotiate with your customer that you are appropriately monitoring and managing any modern slavery risks in your supply chain. You may need to be able to back this up by demonstrating that your business has a policy in place and that you have assessed risks and engaged with suppliers where appropriate.
- lodge a voluntary Modern Slavery Statement (although you may be asked by your customers to provide some of the information required for a Modern Slavery Statement)
- meet onerous or unreasonable reporting requirements
- provide detailed information identifying your suppliers, their contact details or pricing
- provide confidential business information

You should contact your customer if a request for information seems unreasonable or inappropriate. You may wish to clarify whether the request relates to their obligations under modern slavery legislation or other supplier policies they may have.

Where can I get more information?

News and resources in relation to the Commonwealth Act can be found at modernslaveryregister.gov.au/resources.

Who can I contact?

- If you or someone is in immediate danger call the Police on 000.
- If you identify modern slavery practices that are occurring onshore, contact the Australian Federal Police on 131 237 or email NOSSC-Client-Liaison@afp.gov.au
- In the case of practices occurring offshore, contact the ABF at slavery.consultations@abf.gov.au
- For more information about rights and responsibilities in the workplace contact the Fair Work Ombudsman at www.fairwork.gov.au.



A template Anti-Slavery Policy

If your small business would like to have an anti-slavery policy, you can use or adapt the following template Anti-Slavery Policy or develop your own.

NOTE: The highlighted text is optional and can be deleted

Anti-Slavery Policy Statement

This policy reflects <Business Name>'s commitment to ensure to the best of our ability that there is no modern slavery in any part of our business operations. We are committed to acting ethically and with integrity in all business dealings and relationships, and where possible, to ensure modern slavery is not taking place in our own business or supply chain.

As part of our contracting processes, we will include specific prohibitions against the use of forced, compulsory or trafficked labour, or anyone held in slavery or servitude.

Our business also expects its service providers, suppliers and contractors to share our commitment to act lawfully and ethically and to work to ensure that modern slavery is not taking place within its organisation or within its supply chain.

Definitions

The term 'modern slavery' describes situations where coercion, threats or deception are used to exploit victims and undermine their freedom. Coercion, threats and deception can be explicit or implicit.

The *Modern Slavery Act 2018* (Cth) 'Act' defines modern slavery as including eight types of serious exploitation; trafficking in persons, slavery, servitude, forced labour, forced marriage, debt bondage, the worst forms of child labour and deceptive recruiting for labour or services.

The worst forms of child labour means extreme forms of child labour that involve the serious exploitation of children, including through enslavement or exposure to dangerous work. The worst forms of child labour does not mean all child work.

Under Australian law, modern slavery is defined in the Act. In the event of any inconsistency, the definitions in the Act take precedence over this policy.

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