

# The 20 Critical Questions Series

## What Directors should ask about Modern Slavery

**Modern Slavery Defined** – Modern slavery is about people. It involves use of coercion, threats or deception to exploit victims and undermine their freedom. Modern slavery is serious exploitation. It may exist in business operations and supply chains and is a violation of human rights. It can include:

- › Human trafficking
- › Slavery
- › Servitude
- › Forced labour
- › Debt bondage
- › Forced marriage
- › Child labour such as slavery or hazardous work

Modern slavery also distorts global markets, undercuts responsible business and can pose significant legal and reputational risks to organisations. Modern slavery is often hard to detect as it can occur via coercion or subtle means. It is embedded in supply chains which can be complex and fast-changing. Also known as trafficking in persons, human trafficking and neo-slavery.

Under the ‘Modern Slavery Act 2018’ organisations based or operating in Australia with an annual consolidated revenue of more than \$100 million are required to report annually on the risks of modern slavery in their operations and supply chains, and on their actions to address those risks.

*Note – Modern slavery oversight, assurance and reporting may be a component of an organisation’s overall ESG Environmental / Social / Governance program.*

### Five Pivotal Questions

1. Compliance – Has the organisation established whether modern slavery laws and regulations apply to its operations (a) nationally such as Australia ‘Modern Slavery Act 2018’ / New South Wales ‘Modern Slavery Act 2018’ (b) internationally? If the organisation has a reporting requirement, has it met that requirement for example via submitting an annual modern slavery statement?
2. Policy – Has the organisation outlined a specific public commitment to respect and advancement of human rights with regard to modern slavery? Does the organisation have an appropriate policy underpinning action on modern slavery for example within a standalone human rights policy / modern slavery policy? Are requirements relevant to modern slavery and broader labour rights and human rights outlined in a supplier code of conduct?
3. Governance – Are there established governance structures to support identification and management of modern slavery risk and compliance with applicable regulatory requirements? Do the board and audit committee have modern slavery as part of their agendas? Is there an appropriate working group for modern slavery or as part of other sustainability governance? Does the working group have cross-functional representation? Does the working group have carriage of compliance and action on modern slavery risk?
4. Voluntary action and reporting – If the organisation does not have reporting obligations under Australian or other legislation, has it considered whether action on modern slavery such as identification of risk / actions to mitigate risk / voluntary reporting are appropriate based on (a) risk profile of the organisation for example working in or sourcing from high risk sectors / industries / countries (b) stakeholder expectations such as customers / shareholders / other stakeholders?

# What Directors should ask about Modern Slavery

5. Strategy – Is combating modern slavery integrated within the organisation workforce and supply chain strategies? Is there a concerted strategic approach to modern slavery clearly based on principles of the United Nations ‘Guiding Principles on Business and Human Rights’ which form the basis of modern slavery legislation requirements? Is there a stated approach to human rights / modern slavery risk assessment / due diligence?

## Modern Slavery Risk

6. Does the organisation have a specific senior person responsible for modern slavery, perhaps as part of ESG? Does the organisation have a senior level management committee with modern slavery as part of its agenda, perhaps as a component of ESG oversight?
7. Has the organisation assessed the link between modern slavery risk in its operations and supply chains and enterprise risks such as reputation, licence to operate, financial, etc? Has the organisation developed action plans to remediate identified exposures? Does this include (a) potential damage to the organisation’s intangible value (b) reputation (c) ability to operate?
8. Are employees trained in modern slavery fundamentals and what to look for as indicators of modern slavery risk or modern slavery itself? Are those with responsibilities and accountabilities in relation to modern slavery appropriately trained and resourced?
9. Are procurement staff specifically trained in modern slavery (a) in supply chains (b) through labour hire?
10. Are human resources staff specifically trained in what to look for with regard to modern slavery and how to escalate concerns such as labour rights and safety?
11. Is there a clear, accessible and easy-to-find grievance process to report modern slavery allegations? Is modern slavery covered by the organisation whistleblowing policy? Is it clear how people within and outside the organisation can report modern slavery allegations by name or anonymously? Are grievance mechanisms available to suppliers, indirect workers and third parties? Are grievance mechanisms established in accordance with United Nations ‘Guiding Principles on Business and Human Rights’ (a) transparent – honest and open (b) legitimate – trusted and accountable (c) accessible – known to stakeholders and without barriers (d) predictable – having a clear and known procedure (e) equitable – allowing people to engage in fair and informed terms (f) rights-compatible – ensuring outcomes accord with international human rights.
12. Are modern slavery reports and allegations taken seriously and actively followed-up by the organisation? Where improvements have been identified for modern slavery process / reporting / investigations, are these addressed in a timely way?
13. Is there an established commitment and approach to provide remediation for any modern slavery incidents in alignment to United Nations ‘Guiding Principles on Business and Human Rights’ (a) a people-centred approach (b) aim to restore affected persons to the situation they would be in if the adverse impact of modern slavery exploitation had not occurred? Is there an embedded remediation process that aims to promote prevention and embed lessons learned?

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## Assurance and Reporting

14. Has the organisation established processes to verify adequacy of its approach to modern slavery as part of its overall assurance arrangements?
15. Is there an integrated approach to modern slavery assurance and auditing activities that provides real evidence of assurance and not just unvalidated supplier statements?
16. Have assurance and internal audit activities been scheduled and performed to assure the organisation is complying with modern slavery laws and regulations (a) nationally (b) internationally? Does internal audit have modern slavery risk in its audit universe? Has internal audit factored in use of data analytics to identify possible modern slavery indicators?
17. Do suppliers provide (a) evidence of their modern slavery assurance practices (b) independently validated attestations around modern slavery?
18. Are there regular risk-based third-party audits of suppliers (a) nationally (b) internationally?
19. Are modern slavery internal audit and assurance reports provided to senior management, the board and audit committee in a timely way?
20. Is there a modern slavery statement or similar document included in the organisation's annual report whether required by legislation or not? Is modern slavery included in an annual ESG report?

## The Big Question

**How does the board and audit committee know it can be confident modern slavery risk is effectively managed and there is compliance with legal and regulatory obligations?**

### *Acknowledgement*

*The content of this 20 critical questions has been informed by information provided by Annabel Hart in Sydney, Australia.*