

The Hon Michael Daley MP
Attorney General



Ref: SGM25/987

Mr David Blunt
Clerk of the Parliaments
Parliament House
Macquarie St
SYDNEY NSW 2000

Dear Mr Blunt,

Modern Slavery Committee Report No. 3 – Review of the *Modern Slavery Act 2018* – Part 2

I write to provide the Government's response to the report of the Modern Slavery Committee entitled *Review of the Modern Slavery Act 2018 – Part 2* (December 2024), for tabling in both Houses of Parliament.

I would like to thank the Committee members for their work in relation to this important issue.

Greater information-gathering and sanctioning powers for the Anti-Slavery Commissioner (recommendation 1)

The Government does not support the Committee's recommendations to provide the Anti-Slavery Commissioner (the Commissioner) with greater information-gathering and sanctioning powers.

Under the *Modern Slavery Act 2018* (the MS Act), the Commissioner is responsible for several functions including identifying and assisting victims of modern slavery, making recommendation and providing information, advice and education on combatting modern slavery. However, as provided in section 10 of the MS Act, the Commissioner does not have the function of investigating or dealing with complaints relating to modern slavery offences.

The NSW Government considers that investigations of modern slavery offences as set out in the MS Act are appropriately conducted by law enforcement agencies such as the NSW Police Force and the Australian Federal Police. Under the MS Act, the Commissioner may provide any information obtained in the course of exercising the Commissioner's functions to appropriate law enforcement and investigative agencies.

Existing provisions in the MS Act require government agencies and persons and bodies that provide services to, or advocate for, victims of modern slavery to co-operate with the Commissioner in the exercise of the Commissioner's functions.

Clarifying existing rights and privileges (recommendation 2)

The NSW Government notes the recommendation to ensure that the MS Act does not provide the Commissioner powers to expect cooperation that is inconsistent with legal professional privilege and public interest immunity. The NSW Government does not consider this amendment necessary. Legislation will be interpreted in a way that is consistent with common law privileges and immunities unless expressly abrogated in the legislation.

Training for government agencies and non-government entities (recommendation 3)

The Government notes the Committee's recommendation that the NSW Government provide mandatory and ongoing training to government and non-government frontline organisations. Section 19(3)(a) of the MS Act requires the annual report of the Commissioner to review the extent to which the NSW Government has provided mandatory training on modern slavery to front-line government agencies and the public generally.

Government agencies are developing, or have developed, training initiatives relevant to modern slavery. For example, the Department of Communities and Justice (DCJ) has partnered with Anti-Slavery Australia to develop a training package, which will be available to all DCJ staff by the end of this financial year. The training will include information on modern slavery laws, definitions, and identification of pathways for support, both internal and external, as well as provide detailed information on forced marriage.

Further, there are modules on modern slavery available through Buy.nsw (Comperio), while general information is also provided in courses delivered to procurement professionals through the Procurement Academy, run by the Ministry of Health's Strategic procurement Branch. The Health Education Training Institute (HETI), which is a NSW Health agency that delivers training programs to the whole Health System, also provides training to practitioners to care for and support patients who have dealt with trauma including an overview of the impact of trauma on patient engagement.

The Department of Customer Service (DCS) has established a Modern Slavery Policy and a Modern Slavery Risk Management Plan and DCS will provide a phased rollout of the Commissioner's modern slavery training modules. In line the DCS Policy and Plan, DCS Procurement has conducted training on compliance with modern slavery due diligence requirements in our supply chains.

The Small Business Commission has published guidance for small businesses on what they need to know in relation to modern slavery, including strategies to ensure they can effectively identify and mitigate risks. The guide also provides a template Anti-Slavery Policy and is publicly available. The Small Business Commission also provides support through their guide, *Selling to the NSW Government – A Guide for Small Business* which advises small businesses to verify whether the goods and services they use may be linked to modern slavery.

SafeWork is a key partner in the establishment of the first NSW Migrant Workers Centre, led by Multicultural NSW. SafeWork will be contributing over \$3m over the next four years to the Centre which will provide advice and education to help improve the health and safety of migrant workers across NSW.

The NSW Police Force (NSWPF) provides a mandatory training course, 'Look a little deeper – human trafficking and slavery', on the Detective Education Program for sworn officers who would like to be appointed as detectives. The course is a voluntary training course for all other members of the NSWPF. The course covers a number of modern slavery topics including, what human trafficking is; the definition of slavery and examples; the current environment of modern slavery; the difference between human trafficking and people smuggling; areas of identification in Australia; barriers to reporting, and victim support.

Sworn officers in the Detective Designation Course also have access to a 'Modern Slavery – Topic Sheet' which covers a range of matters including relevant legislation and modern slavery offences, indicators of modern slavery, general guidance from caselaw judgements; an internal Sexual Violence – Modern Slavery resource, examples of known recent arrests. This cohort also has access to the open source legal document, 'Modern slavery: a guide for NSW judicial officers'. The NSWPF is also currently developing a 'pilot' domestic violence training workshop which intends to include a modern-day slavery component.

Finally, 'Modern Slavery Awareness' is mandatory training course for NSWPF staff involved in the procurement process.

The Government understands the Anti-Slavery Commissioner and his office extensively engages with Government agencies and private organisations to provide advice, education and training about action to prevent, detect and investigate offences involving modern slavery. The Government commends the Commissioner's efforts and welcomes continued engagement with the Commissioner in developing best practice approaches to this end.

Budget process and funding the Office of the Commissioner (recommendations 4 & 5)

The NSW Government notes the Committee's recommendation to provide, on a trial basis, the Commissioner with the ability to present budget proposals through the Attorney General to Cabinet or the Expenditure Review Committee of Cabinet, and to ensure the Commissioner is adequately resourced.

The Office of the Commissioner is currently resourced and budgeted through DCJ and staffed by DCJ employees. This budgetary precedent is also applicable to other independent offices with staff resourced by DCJ such as the NSW Law Reform Commission Secretariat and the President of the Anti-Discrimination Board. DCJ works collaboratively with the Office of the Commissioner to ensure the Commissioner's assessment of resourcing needs is communicated to the Attorney General in this process. The Commissioner may also make direct representations to the Attorney General regarding this or any other relevant resourcing issues.

The Office of the Commissioner is adequately resourced to carry out its functions under the Act and the NSW Government will continue to work with the Commissioner through DCJ to ensure resourcing is available to allow the Commissioner to carry out their legislated functions.

Tabling of the Commissioner's Report (recommendation 6)

The NSW Government supports the Committee's recommendation to amend the MS Act to explicitly allow for the Commissioner's annual report to be tabled out of session and made publicly available immediately after being furnished to the Presiding Officers of each House

of Parliament. The Government notes this was also recommendation 2 of the Committee's previous Report. The Justice Legislation Amendment (Civil) Bill 2024, which passed both Houses of Parliament on 13 February 2025, implements this recommendation.

Exploring the use of penalties (recommendation 7)

The Government does not support the recommendation to explore the use, scope and efficacy of penalties to reduce the prevalence of modern slavery in New South Wales.

Modern slavery offences in schedule 2 of the MS Act are already criminal offences under various criminal legislation and criminal penalties already attach to these offences. For example, causing sexual servitude under s80D of the *Crimes Act 1900* incurs a maximum penalty of 15 years imprisonment.

The Commissioner is also empowered to maintain a public register that includes government agencies that have failed to comply with directions of the NSW Procurement Board, and State owned corporations that have failed to provide a modern slavery statement to the Commonwealth for publication under the *Modern Slavery Act 2018* (Cth).

Embedding lived experience in the MS Act (recommendations 8 & 9)

The NSW Government notes the Committee's recommendation to embed the participation of people with lived experience in the MS Act and agrees with the Committee's observation that individuals with lived experience of modern slavery provide valuable insight into the realities of modern slavery and the challenges faced when accessing support.

However, the Government does not consider legislative amendments necessary, because existing provisions of the Act already sufficiently enable engagement with people with lived experience by the Commissioner and the Committee in the exercise of their functions. The Government understands the Committee engaged with people with lived experience as part of this review, and that the Commissioner has established a Survivor Advisory Panel. The NSW Government commends the Committee and the Commissioner for these initiatives. The NSW Government also notes that the Commissioner may include a review of the extent to which the NSW Government has engaged with people with lived experience in the Commissioner's annual report without legislative amendment.

Amendments to the *Victims Rights and Support Act 2013* (VRSA)(recommendation 10)

The NSW Government notes the Committee's recommendation to amend the VRSA to expand support available under the victims Support Scheme for victims of modern slavery.

A statutory review of the VRSA is underway. The Government notes that in recent years, demand on the Victims Support Scheme has increased exponentially and placed significant upward pressure on the Scheme's budget. In light of this, the NSW Government considers that the statutory review must be progressed with a focus on reforms that can be implemented within the Scheme's existing financial parameters. Through the statutory review, the Government will consider the recommendations of the Modern Slavery Committee in this context.

Requiring the Commissioner's report to review the Government's actions (recommendation 11)

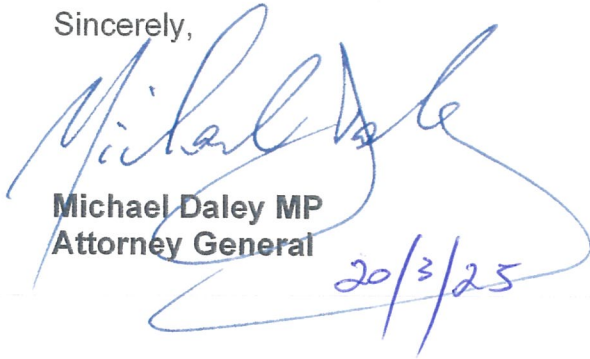
The NSW Government notes the Committee's recommendation to amend the MS Act to require the NSW Anti-slavery Commissioner's annual report to include a review of the government's actions during the year to ensure access for victims of modern slavery to safe, culturally appropriate housing, healthcare and other essential services; and details of mandatory and other training undertaken by government and nongovernment frontline organisations.

The Government does not consider the recommended legislative amendment necessary as there is already sufficient flexibility in sections 9 and 19 of the MS Act to enable the Commissioner to consider the effectiveness of governmental policies and actions in relation to access to housing, healthcare and other essential services for victims of modern slavery. Section 19(3)(a) also requires the Commissioner's annual report to include a review of the extent to which the NSW Government has provided mandatory training on modern slavery to front-line government agencies and the public generally during the year.

Review of the MS Act (recommendation 12)

The NSW Government notes the Committee's recommendation for the MS Act to be reviewed by the Committee once every parliamentary term. The NSW Government recognises the need to ensure that the terms of the Act remain appropriate for securing its policy objectives. The Government will monitor the legislation and the work of the Commissioner, as well as any reports of the Modern Slavery Committee, and consider the need for legislative amendments in response to identified issues.

Sincerely,



Michael Daley MP
Attorney General

20/3/25