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Cleaning up their Act?

Modern Slavery Due Diligence in the Australian Property Sector

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The Australasian Centre for Corporate Responsibility (ACCR) is a not-for-profit association that promotes responsible investment through undertaking and publishing research to evaluate and improve the performance of Australian listed companies on environmental, social and governance (ESG) issues. We have a small portfolio of shares that we hold for the purpose of engaging with listed companies, including through the filing of shareholder proposals.

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Executive Summary

This report reviews the first round of reporting by large, listed office and retail property owners under the Commonwealth's Modern Slavery Act 2018 (MSA): Charter Hall (CHC), Dexus (DXS), GPT (GPT), Mirvac (MGR), Scentre Group (SCG), Stockland (SGP), Vicinity Centres (VCX). It focuses specifically on the due diligence policies and procedures that these companies have put in place to manage modern slavery and labour exploitation in one of their highest risk portfolios: commercial cleaning.¹

Non-compliance with labour laws is rife in the commercial cleaning sector. Cleaners often experience underpayment, withholding of wages and excessive working hours.² Sexual harassment and even assault is common. The sector also has some of the highest rates of workplace injuries in Australia, due to the intensification of work over decades. 85% of the cleaning workforce in CBD office buildings and in the retail malls of major cities are international students or temporary workers.³ They report threats against immigration status and the confiscation of personal and travel documents.⁴

COVID-19 has exacerbated these risks.⁵

Key drivers of non-compliance in the sector include:

- Complex subcontracting arrangements;
- Low barriers to entry for contract service providers;
- A largely migrant workforce, often with precarious visa conditions; and
- 'Aggressive price competition'.⁶

In analysing company reports, ACCR strove to distinguish between due diligence mechanisms that do little more than provide “cosmetic compliance” and those which deliver best practice protections against labour exploitation and modern slavery. Good disclosures do not always indicate good performance. As such, the first section of this report identifies key principles that underpin best practice supply chain due diligence, contrasting them with mechanisms that lack efficacy and consistently fail to identify non-conformances, with severe and tragic consequences.⁷

ACCR identifies the following three principles as central to effective due diligence:

- Supplier accreditation and compliance is determined through a multi-stakeholder approach, involving workers and the representative organisation(s) of their own choosing.
- Workers receive peer-led labour rights education with the involvement of representative organisation(s) of their own choosing.
- Grievance procedures are led by workers, and involve the representative organisation(s) of workers' own choosing in the resolution of complaints.

¹ ACSI (2019). [Modern Slavery, Risks, Rights and Responsibilities](#); Commonwealth of Australia (2017). [Hidden in Plain Sight](#).

² Parliament of Australia (2018). [The exploitation of general and specialist cleaners working in retail chains for contracting or subcontracting cleaning companies](#).

³ CAF (2020). [New Report Reveals Exploitation of International Students](#).

⁴ Nolan and Boersma (2019). [Addressing Modern Slavery](#), p. (footnote 20).

⁵ CAF (2020). [Cleaners are our frontline defence](#).

⁶ UTS Centre for Business and Social Innovation (2018). 'The exploitation of general and specialist cleaners working in retail chains for contracting or subcontracting cleaning companies' - *Submission to the Senate inquiry into the exploitation of general and specialist cleaners working in retail chains for contracting or subcontracting cleaning companies*, para. 9.

⁷ Re:Structure Lab (2021). [Forced Labour Evidence Brief: Due Diligence and Transparency Legislation](#); Ford and Nolan (2020). [“Regulating Transparency on Human Rights and Modern Slavery in Corporate Supply Chains: The Discrepancy between Human Rights Due Diligence and the Social Audit”](#) *Australian Journal of Human Rights* 26(1), pp. 27–45. See also: ETI (2004). [Putting Ethics to Work](#); ILO (2016). [Workplace Compliance in Global Supply Chains](#), pp.10 – 15; World Bank (2003). [Strengthening Implementation of Corporate Social Responsibility in Global Supply Chains](#).

Responsibility for compliance is shared between lead companies and their suppliers. Due diligence mechanisms that focus solely on suppliers, without attention to the procurement practices of lead companies (e.g. property owners) will fail to address the structural drivers of non-compliance.

The Cleaning Accountability Framework (CAF) is currently the only mechanism in the Australian cleaning sector that fulfils these principles. Of the seven property owners analysed in this report, only Vicinity Centres is a current member of CAF.

ACCR has assessed the effectiveness of property owners' due diligence approaches against six key themes:

1. Clear description of company, its structure and operations
2. Commitment and governance
3. Risk assessment
4. Responsible purchasing practices
5. Identifying and monitoring non-compliance
6. Corrective action plans and remedy

This report provides examples of **basic**, **improving** and **leading** performance against these themes. Only leading disclosures are deemed effective.

Key Findings

ACCR's review of reporting by the seven property owners finds that:

- All property owners are making commitments to eradicate modern slavery in their supply chains. However, these commitments are largely failing to translate into due diligence approaches that will successfully address modern slavery and labour exploitation.
- The only indicators where most property owners display "leading" disclosures and practices are those that: provide a description of the reporting entity and its operations (theme 1); refer to the establishment of policies and procedures (theme 2); and describe how companies identify and prioritise risks (theme 3). Property owners analysed performed poorly in identifying, mitigating and remedying modern slavery risks (themes 4, 5, 6).
- Investors are not being provided with the information that they need to assess the effectiveness of property owners' current and proposed due diligence mechanisms, with only 2/7 owners providing any quantitative information on the number of allegations of labour non-conformances raised via their various grievance mechanisms.
- With the exception of individual buildings that have been certified by CAF in the portfolios of Vicinity Centres and Charter Hall, all property owners are failing to meaningfully engage workers in their supply chains. Instead, they are relying on due diligence mechanisms, such as audits and whistleblower hotlines, that are far less likely to pick up instances of modern slavery and labour abuse.
- The worst performing section for all property owners was on corrective action plans and remedy (theme 6). Only one company, Scentre Group (SCG), provided a case study of a specific allegation that was raised and how it was investigated and dealt with by the company. Only two property owners, Charter Hall (CHG) and Scentre Group (SCG) provided specific examples (e.g. a case study) of remedy that they had provided. No property owners specified typical actions that could be taken in cases of non-compliance, ahead of terminating a contract.

More than “Cosmetic Compliance”: Principles of Effective Modern Slavery and Labour Rights Due Diligence

A recent analysis of company reporting from the first five years of the UK’s Modern Slavery Act found that the Act had “failed to drive systemic corporate action to expunge forced labour, even in high-risk sectors”.⁸ In embarking on an analysis of the first round of Australian Modern Slavery Statements it is crucial to learn lessons from the UK. To be effective, analysis of modern slavery reporting by Australian companies should not just catalogue the policies and practices disclosed, but should also *critically* review those policies and practices. Company investors must distinguish between those mechanisms that do little more than provide “cosmetic compliance” with modern slavery legislation, and those mechanisms that provide effective modern slavery and labour rights due diligence.

Audit Failures

Social audits are a key plank in many companies’ labour and human rights due diligence programs. Analysis of UK modern slavery reports found that audits were the second most prominent method used for identifying human rights risks and impacts.⁹ The audit industry is currently valued at \$50 billion a year, accounting for up to 80% of sourcing budgets.¹⁰

Decades of research into supply chain compliance mechanisms have found that audits are insufficient for identifying and understanding workplace issues such as bullying and harassment, wage theft, excessive overtime, and freedom of association violations.¹¹ They are particularly limited in identifying modern slavery.¹²

The Clean Clothes Campaign recently published a report on the often tragic consequences of audit failures, including:

- Over 250 workers died in the Ali Enterprises factory fire in Pakistan when they were unable to escape. The building had been deemed safe by auditors who had reportedly never visited the building.
- 1,134 workers died, and thousands more were injured, in the collapse of the Rana Plaza building. It had been assessed and declared safe by leading audit companies only months before.¹³

The extent and severity of audit failures has been so great that the Ethical Trading Initiatives (ETI) argues that “if audits are to be used as a tool to fulfil human rights due diligence responsibilities, they must be fundamentally reconceptualised and re-structured”.¹⁴

⁸ Business and Human Rights Resource Centre (2021). [Modern Slavery Act: Five Years of Reporting](#).

⁹ Ford and Nolan (2020). “[Regulating Transparency on Human Rights and Modern Slavery in Corporate Supply Chains: The Discrepancy between Human Rights Due Diligence and the Social Audit](#)” *Australian Journal of Human Rights* 26, no. 1, pp. 27–45, p 33.

¹⁰ Ibid.

¹¹ Re:Structure Lab (2021). [Forced Labour Evidence Brief: Due Diligence and Transparency Legislation](#); Ford and Nolan (2020). “[Regulating Transparency on Human Rights and Modern Slavery in Corporate Supply Chains: The Discrepancy between Human Rights Due Diligence and the Social Audit](#)” *Australian Journal of Human Rights* 26, no. 1, pp. 27–45. See also: ETI (2004). [Putting Ethics to Work](#); ETI (2016). [Human Rights Due Diligence Framework](#); ILO (2016). [Workplace Compliance in Global Supply Chains](#), pp.10 – 15; World Bank (2003). [Strengthening Implementation of Corporate Social Responsibility in Global Supply Chains](#).

¹² Nolan and Boersma (2019). [Addressing Modern Slavery](#). See also: ETI (2016); Bermingham and Zhou (2021). [Bribes, Fake Factories and Forged Documents: the Buccaneering Consultants pervading China’s Factory Audits](#), South China Post.

¹³ Clean Clothes (2019). [Fig Leaf for Fashion. How Social Auditing Protects Brands and Fails Workers](#).

¹⁴ Terwindt and Saage-Maaß (2016). [Liability of Social Auditors in the Textile Industry](#).

Worker-Driven Social Responsibility

A robust human rights due diligence framework requires companies to directly engage workers and their representatives, and encourages “suppliers to recognise and engage positively with trade unions”.¹⁵ The formal involvement of trade unions in compliance allows workers to raise workplace issues early, allowing businesses to resolve them “before they escalate into more lengthy and complex disputes that may come at a high cost”.¹⁶

Worker-driven social responsibility (WSR) initiatives recognise that workers are the best auditors, as they provide “critical sources of real-time information and intelligence on working conditions”.¹⁷ WSR initiatives recognise that workers must be educated and empowered to raise issues through the support of independent, representative organisations, typically trade unions. As such, WSR initiatives include a formal role for workers and their representatives in the “creation, monitoring, and enforcement of programs designed to improve their wages and working conditions”.¹⁸

WSR initiatives recognise that a due diligence approach that focuses solely or predominantly on suppliers will fail to address the structural drivers of labour exploitation.¹⁹

WSR was pioneered by the Committee for Immokalee Workers, through their Fair Foods Program (FFP). The UN Rapporteur on Human Trafficking described the FFP as the “international benchmark” in the fight against modern slavery.²⁰

ACCR has been engaging lead companies (and their investors) in high risk sectors regarding the adoption of a WSR approach that includes, at a minimum, the following principles:

- Supplier accreditation and compliance is determined through a multi-stakeholder approach, involving workers and the representative organisation(s) (e.g. trade unions) of their own choosing.
- Workers receive peer-led labour rights education with the involvement of representative organisation(s) of their own choosing.
- Grievance procedures are led by workers, and involve the representative organisation(s) of workers’ own choosing in the resolution of complaints.
- Responsibility for compliance is shared between lead companies and their suppliers.

The Cleaning Accountability Framework (CAF) is currently the only mechanism in the Australian market that displays these principles. Through CAF membership and certification, property owners can independently certify their building’s cleaning supply chain against rigorous standards. Where property owners are not members of CAF, and have not certified their buildings through the CAF framework, ACCR expects property owners to provide additional disclosures on the due diligence that these owners perform in their cleaning supply chains.

¹⁵ ETI (2018). [Audits and Beyond](#).

¹⁶ Curtze and Gibbons (2017). [Access to remedy - operational grievance mechanisms. An issues paper for ETI](#).

¹⁷ ETI (2016). [Human Rights Due Diligence Framework](#), p. 9.

¹⁸ WSR Network (2021). <https://wsr-network.org/what-is-wsr/>.

¹⁹ MSI Integrity (2020). [Not Fit-for-Purpose: The Grand Experiment of Multi-Stakeholder Initiatives in Corporate Accountability](#).

²⁰ Fair Food Program (n.d.). <https://www.fairfoodprogram.org/recognition/>.

The Cleaning Accountability Framework (CAF)

CAF is a multi-stakeholder certification scheme developed to address supply chain risks in the cleaning sector. It is the only initiative in the cleaning industry that involves lead/host companies (e.g. property owners), investors and asset managers; cleaning companies; employee representatives, industry associations, and the workplace regulator (Fair Work Ombudsman).

ACSI argues that the high risk of slavery-like practices flourishing in services procurement sectors, including cleaning, “increasingly require... collaborative cross-sector approaches between business, property owners and managers, unions and statutory agencies”.²¹ In addition to CAF member companies (including VCX), CAF partner members include: AustralianSuper, the Fair Work Ombudsman (FWO), QIC, ISPT, the Australian Human Rights Commission (AHRC), and the United Workers Union.²²

The Fair Work Ombudsman has encouraged 'all public and private businesses to review their cleaning contracts and apply for certification of employment sites through the Cleaning Accountability Framework', as it is this framework which promotes 'best practice' in the cleaning sector.²³ Founding CAF partner member, AustralianSuper states:

Our continued involvement with CAF helps ensure members in the high-risk cleaning industry are paid their due compensation, including their superannuation guarantee and are treated in an ethical manner. Additionally, as a large investor in the Australian property market, CAF certification also indicates that the property in question is operating sustainably when it comes to its labour practices, helping mitigate modern slavery risks and protecting investment value and members' outcomes in the long term.²⁴

Elements which distinguish CAF from other compliance initiatives in the cleaning sector are:

- It takes a “preventative approach” to modern slavery, which by focusing on fair pay and safe work establishes the conditions that give workers the security to speak up.
- Cleaners are given a formal role in the certification of buildings, and in the ongoing compliance with labour standards, through the appointment of a CAF representative at each building.
- Responsibility for compliance is shared between property owners and suppliers, with certified buildings required to use the CAF pricing schedule in their tender process. The CAF pricing benchmarks are designed to enable cleaners (including employees of any subcontractors) to work within safe productivity levels and be paid at least legal minimum wages and entitlements. Cleaners provide ongoing feedback on the benchmarks to ensure they remain current.²⁵

Of the companies reviewed for this report, only two property owners have certified buildings via CAF: Vicinity Centres (1 building) and Charter Hall (4 buildings). ISPT has committed to CAF Certification across its commercial office and shopping centre portfolio, and is the first company to have partnered with CAF to develop a portfolio certification model. Cbus Property has agreed to obtain 3-Star for its entire portfolio through CAF by 2022.²⁶

²¹ ACSI (2019) [Modern Slavery, risks, rights and responsibilities](#).

²² Cleaning Accountability Framework (2021). <https://www.cleaningaccountability.org.au/member-directory/>.

²³ Fair Work Ombudsman (2020). [Cleaning Company in Court](#).

²⁴ AustralianSuper (2020). [Modern Slavery Statement 2020](#), p. 11.

²⁵ CAF (2021). [Modern Slavery Guidance](#).

²⁶ Cbus (2020) [Cbus and Cbus Property Modern Slavery Statement](#), p. 14.

Methodology

ACCR analysed company reporting against six themes:

1. Clear description of company, its structure and operations
2. Commitment and governance
3. Risk assessment
4. Responsible purchasing practices
5. Identifying and monitoring non-compliance
6. Corrective action plans and remedy

ACCR has outlined criteria for **basic**, **improving** and **leading** performance against each of these themes.

The full list of indicators used to review company reporting against these themes can be found at [Appendix 1](#). All indicators were drawn from existing benchmarking initiatives, reporting standards and best practice supply chain initiatives, including: Commonwealth Modern Slavery Act reporting requirements, UN Guiding Principles Reporting Framework, Know the Chain, the Global Reporting Initiative (GRI) and the Worker-Driven Social Responsibility Network's principles for effective due diligence.

Our analysis of best practice against each indicator draws on advisory reports produced on each of the above initiatives,²⁷ modern slavery guidance from the federal government, as well as guidance produced by and for the Australian investment sector.²⁸ ACCR consulted with academics, investors and key stakeholders (suppliers, unions, the FWO) to adapt this advice to the Australian commercial cleaning sector.

The classification of company performance was based solely on publicly available information. Company documents reviewed included (at a minimum): Annual Reports, Sustainability Reports, Supplier Codes of Conduct (or similar), Modern Slavery Statements, Human Rights Policies, and Whistleblower Policies. The cutoff date for information to be included in our analysis was March 31, 2021. All companies reviewed had published their first Modern Slavery Statement by the cut off date.

²⁷ For example, Shift (2017). [Human Rights Reporting: Are Companies Telling Investors What They Need to Know](#).

²⁸ ABF (2019). [Commonwealth Modern Slavery Act 2018 Guidance for Reporting Entities](#); ACSI (2018). [Modern Slavery, risks, rights and responsibilities](#); CAF (2020). [Modern slavery Guidance](#); KPMG and Australian Human Rights Commission (2020). [Property, Construction and Modern Slavery: Practical Responses for Managing Risks to People](#).

Analysis of Company Reporting

1. Clear Description of Company, its Structure and Operations

The *Commonwealth Modern Slavery Act 2018 (MSA)* requires reporting entities (i.e. companies) to be clearly identified in the report, including through a description of the entity's structure, operations and supply chains. Government guidance suggests that companies: identify any subsidiaries, brands and trading names associated with the entity; specify the nature and types of activities that it undertakes, and the countries and regions where it operates; provide factual information about operations (including total employee numbers); and identify the source countries for goods and services. It also suggests linking to public supplier lists.

All companies:

- Identified themselves in their Modern Slavery Statement, and described their structure (including subsidiaries and parent entity);
- Described their own operations and the types of activities they undertake; and
- Provided the locations of their operations by country.

There was significant variation in the remaining indicators.

A. Supplier Identification

Basic disclosures provide only limited information on supplier locations. **Improving** disclosures detail the locations of suppliers by sector. **Leading** disclosures also include supplier lists for all Tier 1 suppliers in high risk sectors (at a minimum).

- **Basic:** 3/7 property owners disclosed that the majority of their suppliers were Australian, with some international suppliers (DXS, MGR, VCX).
- **Improving:** 2/7 property owners provided detail on the locations of their Tier 1 suppliers (GPT, SCG).
- **Leading:** No companies published supplier lists for any part of their business. Disclosure of supplier lists is becoming commonplace in some high risk industries (e.g. garment manufacturing, ICT). Evidence indicates that transparency can facilitate the identification of unauthorised subcontracting and allow stakeholders to raise issues with lead companies when supply chain issues arise.²⁹

B. Workforce Composition

Basic disclosures provide the total number of employees. **Improving** disclosures also include breakdowns by employment contract. **Leading** disclosures also provide quantitative information on “workers who are not employees and whose work and/or workplace are controlled by the organisation [the property owner]”.³⁰ Given the GRI's definition of “control”, ACCR argues that leading disclosures should include information on the number of cleaners.

- **Improving:** All companies reported on the total number of employees, with a breakdown by contract type.
- **Leading:** 2/7 provided information on their indirect workforce, including cleaners (DXS, SCG)

²⁹ Know the Chain (2021). [2020 Food and Beverage Benchmarking Report](#), p. 41

³⁰ GRI (2020) *GRI Universal Standards: GRI 101, GRI 102, and GRI 103 – Exposure Draft*, p. 46. Control can refer both to complete control or shared control between lead companies, suppliers, business partners, etc. Control of work: the organisation has control over the means or methods, or directs the work performed. Control of workplace: the organisation has control over the physical aspects of the workplace (e.g., access to the workplace), and/or the type of activities that can be performed in the workplace.

2. Commitment and Governance

This theme evaluated each company's commitment to addressing modern slavery, and the extent to which public commitments were embedded into group level policies and practices. As ACSI notes:

Company policy commitments require a suite of cascading documents which publicly articulate the business' position with respect to modern slavery and recognise the intersection between modern slavery, risks, human rights and other social impacts. Commitments must be supported by boards and executives to guide managerial action plans and strategies. Modern slavery statements should clearly explain this policy framework.³¹

A. Commitment and Supplier Code of Conduct (SCoC)

Basic disclosures will have a policy commitment to protect human rights, but will not have clearly integrated that commitment into specific policies. **Improving** companies will include an explicit commitment to protecting human rights, and explicitly specify labour abuses (at a minimum). This commitment will be included in their SCoC, which will specifically include adherence with national labour laws at a minimum. Limits will be placed on subcontracting in high risk supply chains. At a minimum, the company will "encourage" or "require" suppliers to apply the SCoC requirements to Tier 2 suppliers and below. **Leading** companies will engage potentially impacted stakeholders and their representatives on the development of their commitments and accompanying policies.³²

- **Improving:** All companies have a human rights policy. 5/7 property owners explicitly include a commitment regarding modern slavery and/or forced labour in their human rights policy (CHC, DXS, GPT, MGR, SGP), the remaining two mention it in their Modern Slavery Statement. All property owners have a SCoC or supplier documents that explicitly mention modern slavery and/or forced labour. ACCR recommends that modern slavery and/or forced labour is explicitly mentioned in company human rights policies going forward.

All property owners have a SCoC that explicitly mentions compliance with national labour standards. 3/7 companies require their suppliers to cascade the SCoC to their own suppliers (CHC, DXS, SCG, DXS,), while the remaining 4/7 property owners "encourage", "recommend" or "expect" their suppliers to comply with the requirements of the property owners' SCoC (GPT, MGR, SGP, VCX).

6/7 disclose that they place limits of some sort on subcontracting in their cleaning supply chains (CHC, DXS, GPT, SCG, SGP, VCX). For example, some owners permit subcontracting only: in specific portfolios; if it is disclosed in the tendering process; where subcontractors complete training; and/or where primary contractors provide additional, regular reporting regarding their subcontractors.

³¹ ACSI (2019). [Modern Slavery, Risks, Rights and Responsibilities](#).

³² Shift (2017). [Human Rights Reporting: Are Companies Telling Investors What They Need to Know](#).

B. Management and Accountability:

Improving companies indicate who is responsible for the day-to-day management of modern slavery and human rights issues, and the relationship between them various parts of the business who have a responsibility for these issues.³³ **Leading** companies will involve top leadership, along with all areas of the business that have an impact on purchasing practices that may exacerbate modern slavery risks (e.g. procurement).

All companies reviewed have **leading** disclosures.

C. Training

Basic companies only provide generalised training to all employees. **Improving** companies provide generalised training to all employees on modern slavery risks, specific training to key decision makers that has been tailored to their roles (e.g. staff with a procurement role, senior managers, board members), and access to training for their suppliers. **Leading** companies will also facilitate peer-led labour rights education for their cleaning suppliers' workforces (e.g. by providing access to CAF or the relevant union, with workers paid for any time spent in meetings). This recognises that before workers can adequately participate in monitoring their own workplaces, they must be provided with in-depth education on their rights by their representative organisations.³⁴

- **Basic:** 2/7 property owners provide training to all staff but no specialist training (SCG, SGP). 1/7 property owners state that training is under development for all staff (VCX).
- **Improving:** 1/7 property owners currently provide specialist training to key staff members, in addition to generalised training for all employees (DXS). 3/7 property owners provide training to specialist staff only (MGR, CHC, GPT).

All property owners identify cleaning as high risk, and encourage or require high risk suppliers to register with the PCA's modern slavery supplier platform (see below for details). All suppliers who register with the platform, receive some modern slavery training. No property owners have compulsory supplier training in addition to the training provided by the PCA. However, three property owners state that they have worked with the Supply Chain Sustainability School to develop modern slavery resources that suppliers can access for free (GPT, MGR, SGP).

- **Leading:** only CAF certified buildings are classified as leading (VCX - 1 building, CHC - 5 buildings). No property owners facilitate access for the relevant trade union to conduct training outside of CAF and only 1/7 property owners (SCG) report on how they communicate modern slavery risks to their suppliers' workforce at the commencement of and throughout their employment.

³³ Shift (2017). [Human Rights Reporting: Are Companies Telling Investors What They Need to Know](#).

³⁴ For example, see ACCR's previous investor briefings on the importance of worker education in horticultural supply chains: <https://www.accr.org.au/downloads/Woolworths-Investor-Brief.pdf>.

3. Risk Assessment

The *Commonwealth Modern Slavery Act 2018 (MSA)* requires companies to report on the risks of modern slavery in their operations and supply chains. This includes identifying the types of risks that are present, as well as the likelihood of these risks occurring.³⁵

Basic companies will only identify risk factors and nominate key focus areas. **Improving** companies will provide detailed reporting on how high-risk suppliers were identified, including risk ratings and relative weightings that are applied to different factors. They will disclose how suppliers are prioritised based on these risk ratings (e.g. a combination of potential severity of outcomes, the likelihood of risk, and the ability of the property owner to affect change). They will indicate which tailored assurance actions have been undertaken. **Leading** companies will provide specific detail on tailoring assurance actions.

- **Basic:** 3/7 property owners provided basic disclosures on risk factors (DXS, SCG, VCX).
- **Improving:** 4/7 companies provided detailed reporting on risk factors (CHC, GPT, MGR, SGP).

All property owners identified some tailoring of assurance actions based on their risk rating and prioritisation of suppliers (e.g. requiring high risk suppliers to register with the PCA Supplier Engagement Platform).

- **Leading:** In addition, 1/7 companies detailed information on the specific assurance actions that were applied to each risk rating (MGR).

Case Study: Property Council of Australia (PCA) Supplier Engagement Platform

In 2019, the PCA launched their supplier platform. The platform was founded by 15 members of the PCA. Membership has since grown to over 20 companies. The platform “facilitates a consistent industry approach to understanding modern slavery risks across shared supply chains, streamlining the reporting process for businesses involved, reducing the reporting burden and facilitating suppliers to share information with property organisations”.³⁶

All companies reviewed for this report participate in the Supplier Engagement platform. All have invited their high-risk suppliers to register with the platform and complete the required self-assessment questionnaire. The PCA has appointed Bureau Veritas to conduct desktop audits of these questionnaires. Site audits and ongoing monitoring are the responsibility of each property owner. There is currently no provision for property owners to share information about supplier non-conformances with each other.

The Property Council Supplier Platform is best understood as one possible element of a modern slavery due diligence framework. A supplier-focused mechanism alone will fail to properly address slavery risks for property owners (see below under *Responsible Contracting*). ACCR notes that Cbus Property and ISPT - both founding members of the platform - use the supplier platform, but also plan to certify their respective portfolios through the Cleaning Accountability Framework.³⁷

³⁵ ACSI (2019). [Modern Slavery, Risks, Rights and Responsibilities](#), p. 10.

³⁶ ISPT (2020). [Modern Slavery Statement](#), p. 16.

³⁷ Cbus (2020). [Modern Slavery Statement](#); ISPT (2020). [Modern Slavery Statement](#), p. 16.

4. Responsible Purchasing Practices

Responsible purchasing practices are crucial in ameliorating the risks of labour exploitation and even modern slavery in supply chains.³⁸ The 2016 Australian Senate *Inquiry into the Exploitation of General and Specialist Cleaners Working in Retail Chains for Contracting or Subcontracting Cleaning Companies* identified the purchasing practices of property owners as a key driver of wage theft and exploitation in the commercial cleaning industry.³⁹ Downward price pressure on contracts has also led to the intensification of cleaning workloads, with significant adverse WHS impacts.

CAF provides sector-wide, independent benchmarking of contract prices for offices and retail malls. CAF pricing schedules were developed with the input of cleaners, who also provide ongoing feedback to ensure that they remain current.⁴⁰ The PCA has developed industry benchmarks, which are used by some property owners. These benchmarks lack a process for impacted stakeholders to input into the development and ongoing review process.

Basic companies will have an internal review process to determine pricing benchmarks for cleaning tenders. They will have a policy that specifies that procurement teams will assess tenders on a range of qualitative factors, not just price. **Improving** companies will reference pricing benchmarks and assessment processes in their tender documentation and will have a policy to not accept tenders below the benchmark price. **Leading** companies will have independently verified benchmark rates that are used to assess suppliers and ongoing performance. Cleaners will have input into the development of these rates, and will have ongoing input into these rates to ensure that they remain current and reflect time taken using current cleaning methods and technologies.

- **Basic:** 1/7 companies disclose a policy for tenders that come in below an internally benchmark price (SCG). However, this company does not use externally verified benchmark prices, and accepts tenders that come in below its internal benchmarks following a review of staffing charts. The remaining companies do not publicly report on how they will respond if prices come in below the tender price.⁴¹
- **Leading:** CAF certified buildings are the only buildings that meet the “leading” standard. 2/7 property owners have at least one building currently certified through CAF (CHC, VCX). No property owners reviewed for this brief certify their whole portfolios via CAF. By comparison, Cbus Property and ISPT have both stated publicly that they will certify their whole portfolio to a CAF 3-Star rating. While the use of CAF pricing schedules in non-certified buildings provides useful guidance on the assessment of tenders, they are not absolute and must be used in conjunction with other due diligence mechanisms.

³⁸ Business and Human Rights Resource Centre (2021). *Modern Slavery Act: Five Years of Reporting*, p. 10.

³⁹ Parliament of Australia (2018). *Wage Theft? What Wage Theft?!: The Exploitation of General and Specialist Cleaners Working in Retail Chains for Contracting or Subcontracting Cleaning Companies*.

⁴⁰ CAF (2020). *CAF Pricing Schedule, Retail Buildings: Guidance for Completion*.

⁴¹ Note: other property owners did provide information regarding their use of pricing benchmarks during engagement meetings. However, as this information was not included in public reporting, it has not been verified, and is not reported here.

5. Identifying and Monitoring Non-Compliance

For compliance mechanisms to be effective, they must include a formal role for workers and their representatives in supplier certification and monitoring. In assessing the effectiveness of channels available to workers to raise concerns, ACCR has used the two forms of “worker voice” defined by the OECD:

- **Direct:** direct communication between management and workers (e.g. whistleblower hotlines, town hall meetings etc.)
- **Representative:** communication via representative institutions (e.g. trade unions).⁴²

The best mechanisms will ideally include both “representative” and “direct” forms of worker voice. Due diligence mechanisms which rely solely on direct communications between workers and suppliers and/or property owners will have limited efficacy in identifying and addressing modern slavery and other labour exploitation risks.

Representative forms of voice are critical as they provide greater legal protections and rights to workers. Often, vulnerable workers will only raise issues with independent organisations with which they have developed a relationship of trust (i.e. their union), and where that independent organisation is able to act on the workers' behalf. Vulnerable workers are less likely to use reporting mechanisms operated by an entity that has either the power to hire or fire them, or to cancel a contract under which they work.⁴³ They may also be reluctant to raise issues directly with the workplace regulator. For example, in their investigation of endemic non-compliance in Tasmanian retail cleaning contracts, the Fair Work Ombudsman (FWO) found that:

... none of the cleaners from the bottom of the supply chain were willing to ‘go on the record’ regarding their pay or entitlements, the identity of their employer or the agent who actually employed and paid them.⁴⁴

They noted a number of factors that influenced this reluctance, including “cultural reasons, immigration status, limited workplace rights knowledge, or concerns about employment security”.⁴⁵

The following analysis combines these definitions of worker voice with WSR principles outlined above.

⁴² OECD (2019). *Negotiating our way up*, p. 16.

⁴³ Ford and Nolan (2020). “[Regulating Transparency on Human Rights and Modern Slavery in Corporate Supply Chains: The Discrepancy between Human Rights Due Diligence and the Social Audit](#)” *Australian Journal of Human Rights* 26(1), pp. 27–45.

⁴⁴ *Ibid*, p. 17.

⁴⁵ FWO (2018). *An Inquiry into the Procurement of Cleaners in Tasmanian Supermarkets*, p. 7.

A. Freedom of Association

Basic companies include an explicit commitment to freedom of association in their Supplier Codes of Conduct. **Improving** companies communicate the importance of neutrality to their suppliers. Neutrality is characterised by an approach that ensures contractors do not deny their staff freedom of association, or prevent cleaners from joining their union (i.e. by hindering union access, bullying or intimidating cleaners not to join the union, or threatening cleaners' jobs if they join the union, etcetera.). **Leading** companies communicate the importance of neutrality and facilitate trade union access to worksites (either directly or via an entity such as CAF) with workers paid for any time spent in meetings.

- **Basic:** 5/7 property owners communicate the importance of freedom of association in their Supplier Codes of Conduct (CHC, DXS, MGR, SGP, VCX). The remaining companies required suppliers to comply with national labour laws (which includes Freedom of Association), but did not make salient labour rights issues explicit in the SCoC.
- **Leading:** With the exception of CAF certified buildings, no building owners facilitate trade union access to sites. In CAF certified buildings CAF organises two, paid worker engagement meetings in real time. While all supply chain stakeholders are invited to the first meeting, only CAF, cleaners and their union attend the second meeting “to ensure cleaners have the opportunity to speak up without fear of retribution”.⁴⁶

Only two companies have certified any buildings via CAF, Vicinity and Charter Hall.

B. Grievance Procedures

Basic companies will have a whistleblower hotline (or similar) that can be accessed by their suppliers' workers. This hotline will be accessible to representatives of those workers (including trade unions). **Improving** companies will have a formal process for trade unions to directly raise allegations with the property owner and have them investigated. **Leading** companies will have a worker-led grievance mechanism in operation at each site. This will include a nominated workforce representative who is able to raise workforce issues with the property owner directly or via an external, representative organisation. The management of this mechanism will be independent of both the supplier and the property owner, and is in addition to any “direct” mechanisms.

- **Basic:** All seven companies have a whistleblower hotline or similar that can be accessed by their suppliers' workers and their representatives. Only one property owner reports on how its grievance mechanisms are communicated to its suppliers' workforce (SCG).
- **Improving:** Outside CAF, no property owners have a formal relationship with the cleaners' union.
- **Leading:** With the exception of CAF certified buildings, there are no avenues that are independent of suppliers or property owners for workers to raise concerns and flag non-conformances. Furthermore, CAF involves cleaners and their representatives in the design, review and operation of grievance mechanisms). We note that, in developing grievance procedures, some property owners have engaged consultants that have done some interviews with workers, but workers were not involved in the co-design of the procedures.

⁴⁶ CAF (2020). [What is CAF Building Certification?](#), p. 11.

C. Audits

As discussed earlier in this report (Audit Failures), social audits are not fit-for-purpose and often fail to identify labour non-conformances. The Fair Foods Program (FFP) provides valuable lessons in how audits can be restructured to form part of an effective due diligence mechanism. In the FFP, audits:

- involve interviews with over 50% of a growers workforce, with the majority of interviews taking place away from the worksite (e.g. at homes, on public transport, etc.);
- are run by the same staff who operate the complaints mechanism, providing continuity between the audit and ongoing monitoring and grievance mechanisms;
- are designed with the input of current and former farmer workers, who advise on typical non-conformances and how they can be hidden by growers; and
- are not the primary tool used to identify non-compliance - they are used in conjunction with a comprehensive worker-driven compliance mechanism which empowers workers to monitor their own sites and raise issues on an ongoing basis.

Basic companies disclose a process for conducting unannounced audits of their suppliers. **Improving** companies specify that audits must include significant numbers of worker interviews, which must be conducted without supplier management being present. **Leading** companies may use audits, but they are only a minor element in a broader WSR due diligence mechanism.

- **Basic:** No companies meet basic disclosures. 4/7 companies disclose that they either have or are in the process of developing an audit program for high risk suppliers, however, they do not provide sufficient detail on the nature of these audits to allow investors to determine their effectiveness (e.g. if they are unannounced, if they include worker interviews or are just desktop audits, etcetera.) (MGR, VCX, SCG, SGP). The remaining companies either do not disclose or do not conduct audits.
- **Leading:** only CAF certified buildings are defined as leading.

D. Reporting on Non-Compliance

Investors should be given the necessary information to assess whether impacted stakeholders, including workers, feel able and empowered to raise complaints and/or concerns via a company's grievance mechanisms.⁴⁷ One way of doing so is to report on the number and types of non-conformances raised. Any company operating in high risk sectors should expect to identify some non-conformances in their supply chain, if that supply chain includes a substantial number of workers. If companies are reporting that no grievances have been raised in a reporting period, this may indicate that existing grievance mechanisms are not fit-for-purpose.

Basic companies will provide information on the number of grievances raised via the various channels. **Leading** companies will provide detail on the types of non-conformances raised and the outcomes of any investigations. This should be provided in a way that allows for easy year-on-year assessment of trends.

- **Basic:** Only 2/7 property owners reported on the numbers of grievances received (CHC, SCG). CHC only had two grievances raised through its portal.

⁴⁷ The UN Guiding Principles Reporting Framework C.6.2.

6. Corrective Action Plans and Remedy

Under the UN Guiding Principles, companies have a responsibility to address human rights impacts linked to their business operations, products or services, and to provide effective remedy in cases where workers have suffered adverse impacts.⁴⁸

A remedy process should include clear avenues for impacted stakeholders to raise grievances and allegations. It should also include clear lines of responsibility within the company for addressing, investigating and resolving any allegations, with specific timelines for each step. Remedies may take place through judicial or non-judicial processes, and may include actions such as: acknowledgement and apology; restitution and rehabilitation; management-level changes; financial compensation; and, the implementation of measures that prevent future occurrences.

Effective remedy should include a process for engaging impacted stakeholders on suitable remedy actions, and in the assessment of whether these actions were ultimately satisfactory.⁴⁹

Basic companies will provide at least one (but not all) of the following: detail on their corrective action processes for non-compliant suppliers, including who in the organisation is responsible for the investigation and implementation of remedies; examples of corrective action plans and consequences for suppliers of failing to comply with these plans, including the generic types of actions taken in cases of non-compliance, ahead of terminating a contract (e.g. general actions could include stop-work notices, warning letters, supplementary training, and policy revision); at least one specific example of a remedy process. This could be case studies of “individual outcomes or representative outcomes across a number of similar complaints”.⁵⁰ **Improving** companies will provide reporting on all metrics listed under 'basic'. **Leading** companies will also have an established process for consulting with impacted stakeholders and/or their representatives about suitable remedy, and will share in the cost of remediation.

Property owners performed the worst in this section, with the majority of property owners either not disclosing a remedy process or disclosing that their remediation frameworks are still under development.

Basic: No property owners specified generic types of actions taken in cases of non-compliance. However, three companies met at least one of the basic criteria (CHC, MGR, SCG). SCG provided a case study of a specific allegation that was raised and how it was investigated and dealt with by the company. CHC provided a case study of a remedy outcome. MGR provided a good example of high level disclosures regarding the responsibilities and processes for the investigation of allegations and the development of corrective action plans.⁵¹ It is significant to note that Mirvac have identified the need for ongoing development of their audit program, to clearly outline their expectations regarding “non-conformance close out, agreement of time-specific action plans, remediation and timeframes”.⁵²

⁴⁸ ETI (2019). [Access to Remedy: Guidance for Companies](#).

⁴⁹ Know the Chain (2021). [2020 Food and Beverage Benchmarking Report](#), p. 70.

⁵⁰ Shift (2015). [UN Guiding Principles Reporting Framework: Remediation](#).

⁵¹ Mirvac (2020). [Modern Slavery Statement](#), p. 12.

⁵² Mirvac (2020). p. 10.