

IMPLEMENTING EFFECTIVE MODERN SLAVERY GRIEVANCE MECHANISMS

A Guidance Note for Business

March 2021



Global Compact
Network Australia



Acknowledgement of Country

We acknowledge Aboriginal and Torres Strait Islander peoples as the First Peoples of Australia. We pay our respects to Elders past, present and emerging. Our vision for reconciliation is a future where all Australians are united by our shared past, present, future and humanity.

Acknowledgements

This publication draws on interviews with Australian and international businesses and organisations and we gratefully acknowledge the generous and valuable input from the following participants: ABN AMRO Bank, Allens, Country Road Group and David Jones businesses, Fair Labor Association, NXP Semiconductors, Responsible Business Alliance and Thai Union Group. The project team would also like to extend a special thanks to Pillar Two for their expert insights and valuable reviews throughout the development of the publication.

This publication was funded by the Australian Government through the National Community Crime Prevention Program: Modern Slavery Grant opportunity. The views expressed in this publication are not necessarily the views of the Australian Government.

Copy Editors

Ruth Dearnley and Elissa Hill, Influence Global

Designers

Elaine Allen, Renae Howard and Samantha Quigley, Gosh Creative™

Printed by

Southern Impact

Author

Leah Sjerp

Coordinator, Programmes
Global Compact Network Australia

Contributors

Vanessa Zimmerman

Board Director, and Chair, Business and Human Rights and Modern Slavery Community of Practice
Global Compact Network Australia

Kylie Porter

Executive Director
Global Compact Network Australia

Dr Nia Emmanouil

Manager, Programmes
Global Compact Network Australia

Aimee Luff

Executive Assistant to the Executive Director
Global Compact Network Australia

Contents

Acronyms and Abbreviations	3
About this Publication	5
Purpose	5
Approach	5
How to use this publication	5
Introduction	7
What is modern slavery?	7
What is a grievance mechanism?	7
What makes grievance mechanisms effective and how do they support other aspects of human rights risk management?	7
What are the benefits of effective grievance mechanisms?	8
Part One: Designing Effective Grievance Mechanisms	10
Part Two: Questions to Ask to Help Design and Implement a Grievance Mechanism	12
Questions	13
Part Three: Good Practice in Action	20
Part Four: Types of Grievance Mechanisms Business Can Implement	23
Key considerations for operational grievance mechanisms	23
Key considerations for working in partnership with suppliers to develop grievance mechanisms	24
Key considerations for for collective business-led grievance mechanisms	25
Implementing a generalised grievance mechanism capable of capturing modern slavery complaints	25
References	26

Acronyms and Abbreviations

Australian Act	Australia's <i>Modern Slavery Act 2018</i> (Cth)
Case study report	Global Compact Network Australia's <i>Effective Modern Slavery Grievance Mechanisms: A Case Study Publication for Business</i> (the companion report to this publication)
CEO	Chief Executive Officer
Corporations Act	Australia's <i>Corporations Act 2001</i> (Cth)
ESG	Environmental, Social and Governance
GCNA	Global Compact Network Australia
KPI	Key Performance Indicator
OHCHR	Office of the High Commissioner for Human Rights
SDG	Sustainable Development Goal
UN	United Nations
UNGPs	United Nations Guiding Principles on Business and Human Rights

Disclaimer

The material in this report is not legal advice and references to the Australian Modern Slavery Act and any other legislation are intended as guidance only. The Global Compact Network Australia does not accept any responsibility for situations that may arise from anyone relying upon the contents of this Guidance Note. The mention of any commercial entity or product in this publication is intended strictly for learning purposes and does not constitute an endorsement by the Global Compact Network Australia or authors of this publication. The material in this publication may be quoted and used provided there is proper attribution. The images in this publication are used for visual effect only. They are not intended to represent people experiencing modern slavery or modern slavery-like conditions.

Copyright

© 2021 Global Compact Network Australia. The material in this publication is copyrighted. The Global Compact Network Australia encourages the dissemination of the content for educational purposes. Content from this publication may be used freely without prior permission, provided that clear attribution is given to the Global Compact Network Australia and that content is not used for commercial purposes.



About this Publication

Purpose

This Guidance Note (the guide) aims to provide practical advice to support businesses at all stages of designing and implementing effective business-led grievance mechanisms to hear and address complaints about modern slavery in their operations and their supply chains.

The guide may be particularly useful for businesses reporting either voluntarily or compulsorily under Australia's **Modern Slavery Act 2018** (Cth) (Australian Act), as well as businesses implementing key voluntary standards.

The guide focuses on grievance mechanisms that identify and remediate modern slavery-related complaints. However, it can also be used in establishing grievance mechanisms to hear and address complaints about broader human rights harm.

The guide is written for practitioners working in risk, compliance, procurement, sustainability and human rights within Australian and international businesses. It may also be of use to organisations and individuals interested in grievance mechanisms and modern slavery.

Approach

This guide is informed by research undertaken by the Global Compact Network Australia (GCNA) in an associated publication — *Effective Modern Slavery Grievance Mechanisms: A Case Study Publication for Business* (the case study report). The guide also draws on interviews with Australian and international businesses and organisations, and qualitative and quantitative survey data collected in 2020.^a

How to use this publication

This guide flags key considerations and provides practical advice and good practice for designing and implementing grievance mechanisms based on the research presented in the accompanying case study report. The case study report offers businesses a basis for understanding the expectations set out in the *United Nations (UN) Guiding Principles on Business and Human Rights* (UNGPs) and the Australian Act in relation to grievance mechanisms. Incorporating case studies of Australian and international businesses and organisations, it illustrates good practice examples for designing and implementing grievance mechanisms that can address modern slavery.

^a The survey, which was managed by the GCNA, was sent to 227 businesses from a range of industries, including retail, food and beverage, property and construction, and security and investigations.

Introduction

The need for effective grievance mechanisms that identify and remediate business involvement in modern slavery harms (and more broadly, support responsible business practices) is increasingly recognised by key stakeholders including businesses, worker organisations, civil society, investors and Government regulators.¹ Yet one of the biggest challenges for business remains how to do so in a trusted and meaningful way. This guide supports businesses to understand the actions required to design and implement effective grievance mechanisms to hear and address modern slavery complaints.

What is modern slavery?

Modern slavery is an umbrella term that refers to exploitative practices including forced labour, slavery, servitude, debt bondage, human trafficking, deceptive recruiting for labour services, the worst forms of child labour and forced marriage.^b

An estimated 40 million people live in modern slavery conditions globally², including 16 million in private sector supply chains³. In 2019, Government estimates found that up to 1900 people in Australia experienced modern slavery over a two-year period (2015–2016 and 2016–2017).⁴

Businesses face a growing number of external expectations to develop effective grievance mechanisms to hear complaints relating to business involvement in modern slavery. They are also expected to provide for or cooperate in remediation through legitimate processes where they identify that they have caused or contributed to adverse impacts, and may take a role in doing so if they are directly linked to these impacts through their operations, products or services. As highlighted in the companion report, *Effective Modern Slavery Grievance Mechanisms: A Case Study Publication for Business* (the case study report), these expectations stem from the authoritative international framework for responsible business practices, the *United Nations (UN) Guiding Principles on Business and Human Rights* (UNGPs). The UNGPs say that businesses should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted by the business.⁵ The responsible business standards set by the UNGPs are also increasingly being enshrined in domestic legislation, such as Australia's *Modern Slavery Act 2018* (Cth) (Australian Act). The Australian Act requires entities that meet a specified revenue threshold to publicly report on how they

identify and address their modern slavery risks, including their remediation processes.^c

What is a grievance mechanism?

A grievance mechanism is a consistent process that allows all people that could be impacted by a business's activities (including in the supply chain) to raise grievances concerning business-related human rights harm and to seek remedy.

Grievance mechanisms can be State-based or non-State-based, judicial or non-judicial. This guide focuses on non-State-based non-judicial mechanisms – specifically, mechanisms that are established and administered in-part or entirely by one or more businesses.

What makes grievance mechanisms effective and how do they support other aspects of human rights risk management?

Effective grievance mechanisms enable rights-holders^d (e.g. people in the workforce, supply chain or impacted community) to connect with businesses and seek remedy where harms have occurred. Grievance mechanisms can only be effective if the intended users know about their existence, understand how and when to use them, and trust them enough to do so. Businesses can use the UNGPs' effectiveness criteria (outlined in Parts One and Three) when designing and implementing grievance mechanisms to ensure that they meet the strategic and operational needs of the business and the expectations of its stakeholders.^e

Business-led grievance mechanisms are a critical and expected component of the human rights risk management ecosystem (Figure 1). They support human rights due diligence by providing an avenue for businesses to identify modern slavery and broader human rights risks, monitor trends in complaints, incorporate this information into their strategies and improve policies and procedures. However, grievance mechanisms are not the only avenue through which businesses should seek to identify modern slavery and broader human rights risks. They complement other risk management practices undertaken as part of a business's human rights due diligence, such as risk assessments and audits. Grievance mechanisms also enable businesses to remediate any human rights harms. The UNGPs expect businesses to provide for or cooperate in remediation of human rights harms they identify that they have caused or contributed to through their business activities (including in their supply chain).⁶ They may also take a role in remediating

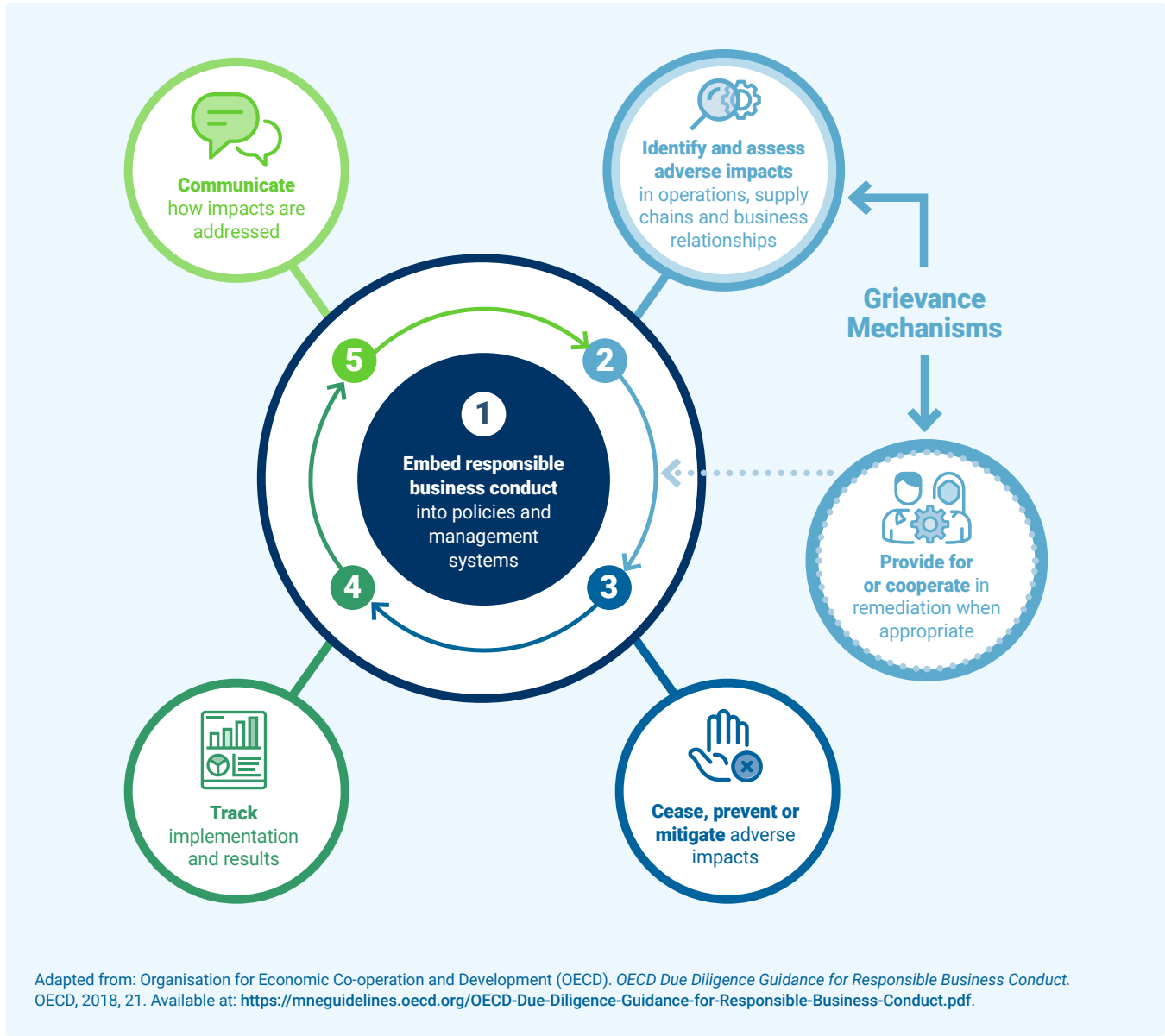
^b See Figure 5 in the case study report for definitions of modern slavery practices.

^c Businesses and non-corporate Government (Commonwealth) entities based or operating in Australia, with an annual consolidated revenue of over \$100 million, are required to report annually on modern slavery risks within their own operations and supply chains, and on measures taken to deal with those risks. Entities that do not fall into either category can choose to report voluntarily.

^d In this context, 'rights-holder' is used to refer to anyone whose fundamental and universal human rights and freedoms could be negatively impacted by business activities (including in the supply chain). These universal human rights are enshrined in the *Universal Declaration of Human Rights* and include civil and political rights (e.g. right to life, liberty, free speech) and economic, social and cultural rights (e.g. right to social security, health and education).

^e Numerous other key international standards (such as the *Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises* and the *Ten Principles of the UN Global Compact*) place similar expectations on businesses to engage in responsible business conduct. However the UNGPs are the authoritative global standard for respecting human rights; they also create expectations over and above compliance with national laws and regulations. This guide thus refers to the expectations set by UNGPs as the international and best practice standard for respecting human rights. Meeting these expectations will enable businesses to meet other relevant international standards, national laws, and in many cases, their own voluntary commitments and core values in relation to modern slavery and broader human rights issues.

Figure 1: Grievance Mechanisms in an Ecosystem of Human Rights Risk Management



other harms in which they are involved.⁷ Remedy can take a range of forms, but should counteract or make good any harms that have occurred.⁸ Additionally, it can include the future prevention of harms by ensuring lessons learned are adequately incorporated into a business's strategy and operations.⁹ The UNGPs provide a framework for appropriate action when a business identifies it has caused, contributed to, or is directly linked to a human rights harm (Figure 2).

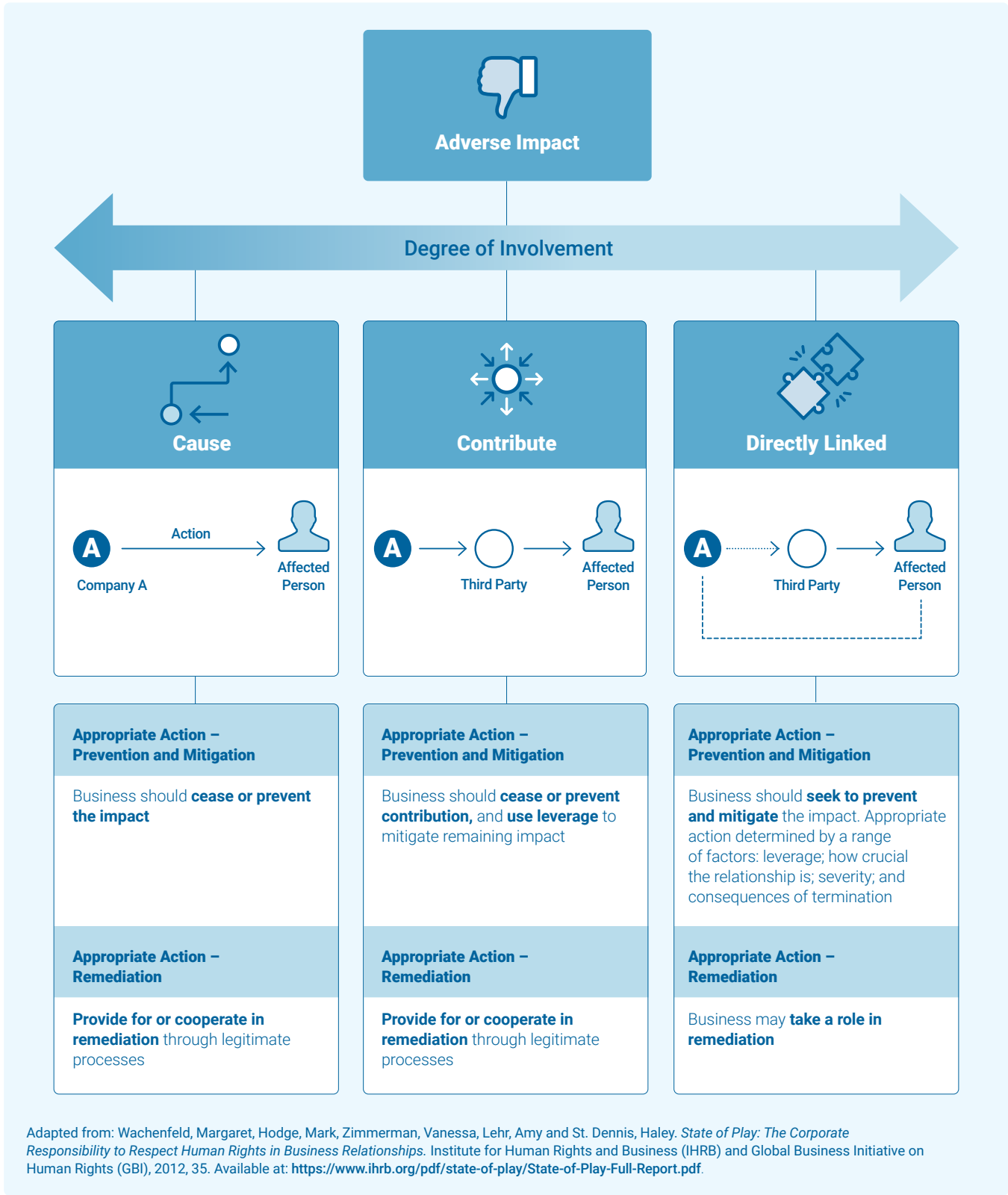
What are the benefits of effective grievance mechanisms?

Effective grievance mechanisms make good business sense. They play an important role in establishing responsible business activities and help integrate resilience into business strategies and operations. They are a proactive approach to risk management and support businesses to meet growing expectations from a range of stakeholders (e.g. governments, investors, consumers and civil society organisations) around

responsible business conduct. Businesses that recognise the interlinkages between each stage of human rights risk management (and the synergies with responsible business conduct more broadly) will be well positioned to implement grievance mechanisms that can identify and remediate modern slavery in line with the expectations of the UNGPs and the Australian Act.

Effective grievance mechanisms also help businesses act on **Sustainable Development Goal (SDG) 8 – Decent Work and Economic Growth**. Target 8.7 of SDG 8 is to 'take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms'.¹⁰ This guide does not focus on the actions to achieve SDG 8 in its entirety. However, there are clear opportunities for business to contribute to the realisation of Target 8.7 by meeting the expectations set by the UNGPs and the Australian Act.

Figure 2: The UNGPs' Cause, Contribute and Directly Linked Continuum and Appropriate Actions



To implement effective grievance mechanisms businesses need an ongoing commitment to human rights risk management. Businesses will also require agile corporate strategies and operations that can adapt to new operating landscapes and overcome challenges as they arise. There is no 'one-size-fits-all' approach. Businesses are encouraged to take the lessons and considerations identified throughout this

guide (and the accompanying case study report) and apply them to their own operating contexts. Through commitment and ambitious action, businesses can embed respect for human rights throughout their activities and supply chains and contribute to the global goal of eradicating modern slavery by 2030.

Part One:
Designing Effective Grievance Mechanisms

This section identifies and summarises actions businesses can take when designing effective grievance mechanisms. Taking the three actions identified below can help businesses understand and articulate the purpose and function of the grievance mechanism and ultimately implement a system that meets business needs and the expectations of stakeholders. The practical implications of this high-level guidance are discussed in Parts Three and Four.

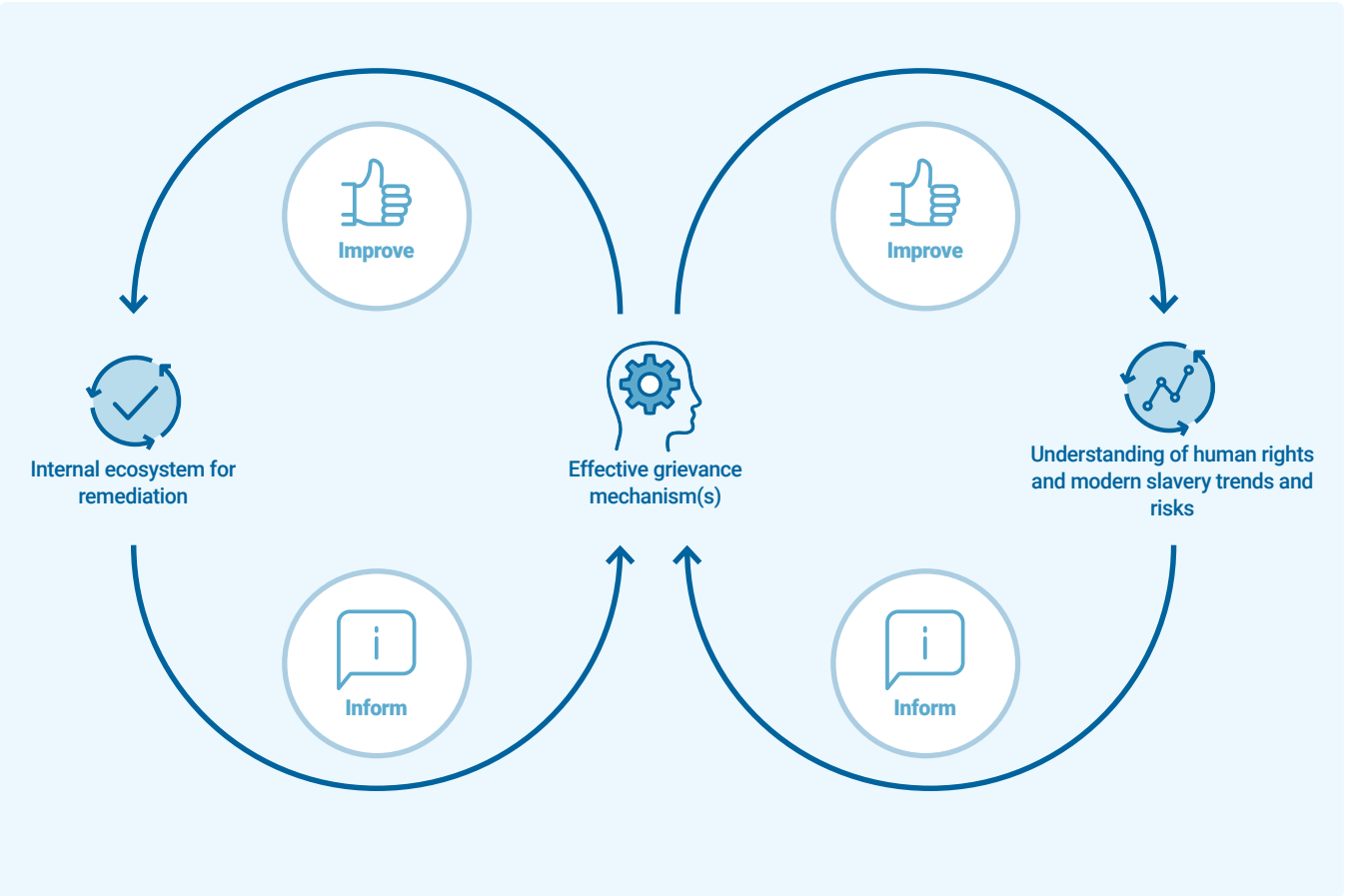
1. Understand external expectations for managing modern slavery risks	UN Guiding Principles on Business and Human Rights (UNGPs)	Effective grievance mechanisms support business to undertake human rights due diligence and remediate any human rights harm a business identifies it causes or contributes to. Grievance mechanisms' role in human rights due diligence: <ul style="list-style-type: none">> Provide a communication channel for rights-holders (such as subcontractors, suppliers' employees and community members) to raise concerns and highlight potential human rights harms;> Offer an important early warning system for business to help identify modern slavery and broader human rights risks in operations and supply chains, supporting business to take preventative action before the issue escalates; and> Provide an avenue for systemic learning by enabling businesses to monitor trends in complaints, understand key risk areas in modern slavery and broader human rights risk management and identify opportunities for improvement. Grievance mechanisms' role in remediation: <ul style="list-style-type: none">> Connect rights-holders directly to businesses;> Provide an avenue for businesses to identify where they have caused or contributed to human rights harms and address grievances early by providing for, or cooperating in, remediation through legitimate processes; and> Offer an avenue for businesses to take a role in remediating any harm that they identify is directly linked to their activities, products and services (including in their supply chain).
	Australia's Modern Slavery Act 2018 (Cth) (Australian Act)	The Australian Act requires reporting entities to publicly disclose how they identify and address modern slavery risks including due diligence and remediation processes. Grievance mechanisms may be seen as a type of remediation process.

2. Align grievance mechanisms with the universal standard set by the UNGPs' effectiveness criteria	The UNGPs' eight effectiveness criteria provide business with a global best practice framework for effective grievance mechanisms. They are directly referenced in the <i>Commonwealth Modern Slavery Act 2018: Guidance for Reporting Entities</i> . ¹¹ To meet the expectations set out by the UNGPs, grievance mechanisms should be legitimate, accessible, predictable, equitable, transparent, rights-compatible, promote continuous learning, and be based on engagement and dialogue . ¹² The final criterion relates to operational-level grievance mechanisms only. The practical implications of these criteria are outlined in detail in Part Three.	
--	---	--

3. Position grievance mechanisms within an ecosystem of human rights risk management	<ul style="list-style-type: none">> Effective grievance mechanisms can inform and improve broader human rights risk management policies and procedures. Businesses can use trends in modern slavery / broader human rights risks identified using grievance mechanisms to improve human rights risk management and help avoid future harm. For example, if a grievance mechanism identifies underpayments of workers in the supply chain, the business could strengthen contractual clauses on minimum wages for suppliers. Targeted audits could assess the effectiveness of this approach.> Effective grievance mechanisms should also be designed and implemented with an understanding of the current modern slavery risk landscape in the business's operating environment. This could be identified through for example risk assessments or peer-based learning. For example, migrant workers are at a greater risk of experiencing modern slavery and may face language barriers to accessing grievance mechanisms. As such, the business could provide information about grievance mechanisms in every language spoken by its intended users.> Effective grievance mechanisms may also be influenced by the existing internal ecosystem for remediation within a business. For example, businesses may already have some components of a grievance mechanism in place, such as a whistleblowing hotline. These can be adapted to respond to instances of modern slavery, provided that all of the UNGPs' effectiveness criteria are met.> Businesses can think about these relationships as cyclical feedback loops (Figure 3).	
--	--	--



Figure 3: Effective Grievance Mechanisms in a Cyclical Feedback Loop



Part Two:

Questions to Ask to Help Design and Implement a Grievance Mechanism



This section aims to help businesses consider key issues that impact the design, implementation and modification of modern slavery-related grievance mechanisms. It addresses common questions that provide a useful framework for initial internal and external conversations about grievance mechanisms. In asking these questions, businesses can begin to identify and overcome common challenges to building effective grievance mechanisms that can address modern slavery. As there is no ‘one-size-fits-all’ approach businesses will invariably encounter unique or unusual circumstances and challenges. In these cases, business will need to ask new questions and find innovative solutions to suit their specific context.

A note about using questions for external conversations

Businesses can also use the questions and accompanying commentary to guide conversations with suppliers or other business partners.

Many businesses, particularly those in the early stages of modern slavery risk management, may rely on suppliers and partners to have their own grievance mechanisms. Supplier and business partner mechanisms can provide an additional avenue for rights-holders throughout supply chains to access remedy. However, these mechanisms do not replace the expectation for businesses to implement their own grievance mechanisms.

These questions can help businesses to assess the efficacy of supplier and partner grievance mechanisms, as well as their capacity to address modern slavery complaints.

It is important for businesses to communicate and collaborate with business partners and suppliers about grievance mechanisms, their effectiveness and what this looks like in practice. This will strengthen the ability of businesses (and their partners and suppliers) to effectively manage modern slavery risks. Doing so can also enable businesses reporting under the Australian Act to fulfil the recommendation from the Government that reporting entities work with suppliers to strengthen the effectiveness of supplier actions to address modern slavery risks.¹³ (See Part Four for further discussion about how to support suppliers to develop their own grievance mechanisms.)

External conversations about grievance mechanisms may also extend to other stakeholders such as investors or civil society.

Questions

Who are the intended users of the grievance mechanism?

Asking this question at the start of the design phase (or early on when modifying an existing mechanism) helps set the scope of the mechanism. It defines who throughout the business’s operations and supply chain should be able to access it. This process can, in turn, inform businesses of where to focus efforts to ensure that the intended users can access, trust and use the mechanism to report grievances and seek remedy.

In the narrowest sense, the intended users of the grievance mechanism may be the business’s own employees. However, a mechanism limited to direct employees would not support the business to hear complaints from other rights-holders through its business relationships, including in its supply chain.

Principle 29 of the UNGPs highlights that operational-level (company) grievance mechanisms should be accessible to all individuals and communities who could be negatively impacted by the business enterprise. Additionally, Australian businesses surveyed highlighted that a large proportion of human rights risks, including modern slavery-related risks, occurred deep within the layers of global supply chains.¹⁴ Businesses that design and implement grievance mechanisms that are accessible to anyone who could be impacted by the business’s activities will be best positioned to meet the expectations of the UNGPs and the Australian Act.

Opening the grievance mechanism to a broader audience of intended users presents some challenges, such as accessibility and business capacity to appropriately resource the mechanism. These issues are discussed in the following questions.

How should intended users and other stakeholders be involved in designing the grievance mechanism?

Intended users and other stakeholders should be consulted on the grievance mechanism’s intended design and performance. This is an important step in meeting the UNGPs’ effectiveness criterion ‘based on engagement and dialogue’.

Consultation and dialogue with key stakeholders can help businesses to understand and overcome barriers to effectiveness, such as accessibility and lack of trust in the mechanism. It is also critical to consider how to design the consultation and dialogue in a way that is meaningful and respectful of the rights of consultation participants. For example, it is important to identify and accommodate language, culture, gender and other barriers, as well as perceived power imbalances between the company and intended users including workers.¹⁵ This can support a more robust and accessible grievance mechanism from inception. Civil society organisations, unions and worker groups can also be useful partners throughout this process. They can convene workers and their representatives to build legitimacy for both the consultation process and the grievance mechanism itself. Suppliers are also an important stakeholder to consult. Failing to do so may lead to supplier opposition to the grievance mechanism, which can limit intended users’ capacity to engage with the company. This is emphasised by the survey finding that suppliers can be ‘gatekeepers’ and pose a key challenge to the accessibility of a grievance mechanism for workers in the supply chain.¹⁶

How will the intended users know about the grievance mechanism?

Grievance mechanisms can only be effective if the intended users know about their existence, understand how and when to use them, and trust them enough to do so. Communicating this information effectively and widely is critical to creating an ‘accessible’ grievance mechanism (UNGPs’ first effectiveness criterion). Australian businesses surveyed indicated that they continue to struggle to raise awareness among supply chain workers of available grievance mechanisms and provide effective education and training in accessing them.¹⁷ This can result in an inundation of complaints that fall outside the scope of the mechanism, or alternatively, not receiving any grievances at all. The absence of complaints does not necessarily indicate an absence of harm. Rather, research shows that this is often a sign of an ineffective grievance mechanism.¹⁸

To reach a broad and diverse audience, businesses can employ multiple communication methods. Examples include posters in tea rooms and bathrooms, human resources clinics, training workshops, worker voice apps, audit interviews with workers, and leveraging unions and civil society organisations. Relying on a single mode of communication can create awareness and accessibility barriers. This can particularly impact vulnerable and isolated groups, including those most likely to be at risk of modern slavery.¹⁹ Leveraging relationships with factories can also create avenues for providing access to grievance mechanisms for supply chain workers.²⁰ Effective working relationships with civil society organisations, including through the staffing of grievance hotlines and in carrying out grassroots socialisation of a mechanism, can help to build worker understanding and trust in the grievance mechanism.

What accessibility barriers might intended users may face?

Asking this question during the design phase can support businesses to recognise if there are gaps in their knowledge base and implement a more robust grievance mechanism from inception. It also provides an opportunity to seek external expertise and input. Considering the lived experience of those who have faced modern slavery or other human rights harm can help businesses to overcome accessibility barriers.

People most at risk of modern slavery are likely to be vulnerable and isolated. They are often migrant and refugee workers, a trend that is reflected both globally²¹ and in Australia.²² Child migrants, undocumented migrants or migrants whose visas are tied to a specific employer are also at higher risk of exploitation. They may fear reporting human rights harm due to immigratory consequences, such as detention or deportation.²³ They may also experience language and technology barriers, and be isolated from support networks including community, family, friends and government agencies.²⁴

What issues should be addressed by the grievance mechanism?

Neither the UNGPs nor the Australian Act require businesses to have a modern slavery-specific grievance mechanism. This means that businesses can tackle modern slavery using mechanisms that address a broader range of environmental, social and governance (ESG) issues (explored further in Part Four).

For grievance mechanisms to meet the UNGPs’ ‘predictable’ effectiveness criterion, businesses should define and communicate internally and externally the scope of the complaints covered by the mechanism and the outcomes that are available. Failing to do this in a manner, language and format that intended users can understand can result in further accessibility and usability challenges. The scope of the mechanism and the issues addressed by it will also help determine the relevant parts of the business that should be involved in managing and resolving grievances, and the expertise and training required to do so.

Can I adapt an existing grievance mechanism to capture modern slavery issues?

Adapting existing grievance mechanisms or communication channels (e.g. a whistleblower hotline, helpline) to capture modern slavery issues is an important consideration that was identified by Australian businesses surveyed.²⁵ Adapting existing mechanisms that stakeholders already trust and understand helps to avoid confusion, where multiple mechanisms exist. This approach can also support businesses to streamline human rights risk with compliance processes and reduce duplicative efforts to address a range of ESG issues. Importantly, any adaptations of existing grievance mechanisms should consider all the UNGPs’ effectiveness criteria.

Adapting existing mechanisms may require further steps to ensure that they can meaningfully hear and address modern slavery-related complaints. The case study report highlights that where existing grievance mechanisms are adapted to capture modern slavery issues, it is critical that there are clear lines of responsibility in relation to the receipt, classification and management of grievances lodged.²⁶ Businesses should also consider whether adapting a mechanism or broadening its scope will change the resourcing requirements, such as requiring different business units to be involved to process and resolve complaints. This includes considering what training will be needed to ensure that workers processing grievances are adequately equipped to identify modern slavery or broader human rights risks and follow escalation protocols.

Businesses should also describe their actions in adapting mechanisms to address modern slavery-related complaints when reporting on due diligence and remediation. This is one of the mandatory reporting criteria under the Australian Act.

Key actions for modifying whistleblowing hotlines to capture modern slavery grievances

Table 1 provides an example of how an existing grievance mechanism — a whistleblowing hotline — can be adapted to capture modern slavery complaints. Whistleblowing hotlines can qualify as an operational-level (company) grievance mechanism, under the UNGPs’ definition. However they may require modifications to ensure that they meet the UNGPs’ effectiveness criteria.

Australia’s whistleblower regime detailed in the *Corporations Act 2001 (Cth)* (Corporations Act) requires large propriety and public companies to have and maintain whistleblower policies that meet legislative requirements.²⁷ The revised ASX *Corporate Governance Principles and Recommendations* place a similar requirement on listed entities to have and disclose a whistleblower policy.²⁸ In this context, there is an opportunity to expand the scope of whistleblowing mechanisms to capture broader human rights issues such as modern slavery. In doing so, companies can align human rights and compliance policies and procedures, and mitigate siloed approaches to a range of ESG issues.

Table 1: Key Actions for Modifying Whistleblowing Hotlines to Capture Modern Slavery Grievances

Action	Explanation
Expand the whistleblower policy to be accessible to anyone impacted by the business’s activities (e.g. employees, workers in the supply chain and local communities), to capture the scope of people who may seek to make a modern slavery complaint.	Existing whistleblower policies developed in response to the <i>Corporations Act 2001</i> (Cth) (Corporations Act) may have been designed to meet, but not surpass, legislative requirements. This means the policy as it stands may only be accessible to present and past employees and officers, suppliers and contractors (and their employees), associates, and spouses, relatives and dependants of these people.
Expand the scope of the whistleblower policy to ensure that modern slavery complaints and / or other human rights complaints that may be red flags of modern slavery, can be made.	Existing whistleblower policies developed in response to the Corporations Act may not include modern slavery or other human rights issues as a ‘disclosable matter’.
If the whistleblowing mechanism allows reports to be made by a third party representing the person allegedly experiencing human rights harms, ensure that these grievances are assessed, investigated and responded to in the same manner than if they had been raised directly by the person impacted.	This would include ensuring the rights of the ‘whistleblower’ and the rights of the alleged victim are respected.
Consider if all users accessing the whistleblower mechanism will be afforded the whistleblower protections required under the Corporations Act, irrespective of whether they meet the legislative criteria.	The Corporations Act provides certain people who meet the criteria for protection — ‘eligible whistleblowers’ — with specific legal rights and protections. ^f If a whistleblower mechanism is used to hear and address modern slavery complaints it may mean that people making a modern slavery complaint (or other human rights complaint) make a report that meets the legislative criteria for whistleblower protection. Businesses that provide all users with whistleblower protections, irrespective of if they meet the criteria, will be better placed to manage the risk of excluding users who may meet the criteria. If businesses choose not to extend the whistleblower protections to complainants who do not meet the legislative criteria, they are encouraged to find alternative ways to protect the rights of users (e.g. through non-retaliation / reprisal policies).
Ensure that those receiving and processing complaints are adequately trained and equipped to identify red flags of modern slavery (in addition to red flags for other human rights issues) and understand escalation protocols when these arise.	Widening the scope of whistleblowing mechanisms may increase the number of reports being made and the diversity of topics covered. Businesses may need to involve different business units and subject matter experts to process, investigate and resolve modern slavery and other human rights-related reports.
Consider who will be accountable for modern slavery complaints that come through the whistleblower hotline and what business unit they might need to come from.	Businesses can consider appointing an additional ‘authorised person’ ²⁹ from a business unit that deals with human rights, procurement or sustainability to manage and be accountable for modern slavery complaints. This can support the business to assign responsibility to the person most suited and well-equipped to manage modern slavery risks.
Assess the current investigation process for whistleblower incidents and consider what additional procedures may be necessary to investigate a modern slavery allegation.	The investigation process of a modern slavery complaint may look different to that of a traditional whistleblower investigation (e.g. bribery). Businesses may need to adapt investigation processes to ensure that they can engage with the necessary experts and stakeholders (whether these be internal or external) to inform the investigation and its outcomes.
Ensure that the whistleblowing mechanism has a clear and effective process for providing for, or cooperating in, remediation when necessary.	Whistleblowing processes may have initially been from a complaint-handling perspective and may not be equipped to provide for, or enable cooperation in, remediation. If the business does not have any other mechanism capable of doing this, it is likely to be expected to equip its whistleblowing process to do so.
Assess the whistleblowing mechanism against the UNGPs’ effectiveness criteria and take action to ensure that the mechanism meets them.	Businesses are expected to ensure that the grievance mechanisms they use to hear and address modern slavery complaints, regardless of the type of mechanism, meet the UNGPs’ effectiveness criteria.
Consider and balance the need for transparency and public disclosures with respect for whistleblowing confidentiality.	Businesses are expected to maintain or participate in transparent grievance mechanisms that are a source of continuous learning. However when using a whistleblower mechanism to capture modern slavery complaints, they will also need to consider the protections that attach to whistleblowers, such as anonymity. It is important to recognise that although the UNGPs call for transparency, they do not do so at the expense of protecting complainants’ identities and rights.

^f The criteria for protection under the Corporations Act broadly account for the role of the person accessing the mechanism, the type of organisation the disclosure is about, who the disclosure is made to and the topic of the disclosure. More information can be found at: <https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/whistleblower-rights-and-protections/#who>

How should the mechanism be resourced?

It is important to understand how many people and what expertise will be needed to identify, process and resolve modern slavery complaints. These requirements are often determined by the scope of the mechanism. Specific modern slavery or broader human rights grievance mechanisms may be directly managed by those with human rights expertise, whereas more general mechanisms may include a 'triaging' team from a different business unit. To effectively manage modern slavery risks and meet the expectations of the UNGPs, it is critical that those receiving and classifying the complaints are appropriately trained and equipped to identify indicators of modern slavery (in addition to indicators for other human rights issues) and follow escalation protocols where necessary.

The accompanying case study report identifies the need for ongoing management of grievance mechanisms and recognises that often, the on-the-ground resourcing required can limit their overall effectiveness. Businesses should consider if they are equipped to provide these resources internally, or if an external operator or partner could manage the grievance mechanism. Businesses could also consider participating in a collective business-led grievance mechanism. This enables a 'business-agnostic' approach that combines resources and works collaboratively to identify modern slavery risks.

Who will be responsible and accountable for the grievance mechanism?

A structure of formal accountability, including clear lines of responsibility, is essential for building internal and external legitimacy for a grievance mechanism. Formal governance and reporting structures for grievance mechanisms that identify and remediate modern slavery complaints may involve oversight from senior or executive leadership. Governance structures that are sufficiently independent can ensure that no party to a particular grievance process can interfere with, or appear to influence, the fair conduct of that process.³⁰ For example, if the overall accountability of a grievance mechanism rests with an operational team, it may create real or perceived conflicts of interests. This may undermine the legitimacy of the mechanism and rights-holders' willingness to use it.

An ongoing challenge for Australian businesses surveyed is a lack of corporate understanding around the need for effective grievance mechanisms to identify and remediate modern slavery complaints.³¹ This can lead to reduced internal adoption, ultimately undermining the mechanism's effectiveness. Creating awareness and ownership of the mechanism, its outcomes and its effectiveness at the executive level can help overcome these challenges. This can be achieved by establishing formal accountability and ensuring clear lines of communication between those managing grievance mechanisms and senior executives. An important component of accountability is having a clear set of targets and measurable outcomes, such as Key Performance Indicators (KPIs), to report against and measure effectiveness. (See, *How will the grievance mechanism's effectiveness be measured and how will this information be used?*)

How will intended users be protected from reprisal or retaliation and how will this be communicated to them?

All grievance mechanism users should be protected from reprisal and retaliation. Failing to do so undermines the legitimacy and accessibility of a mechanism by discouraging use. It also means that the mechanism may be incompatible with human rights. The case study report highlights that meeting this responsibility requires clear policies and communications for internal teams managing grievances. Businesses should do the same with suppliers to ensure that this commitment is reflected throughout the supply chain. Effective non-retaliation policies and practices help build trust in the mechanism and ensure that reporting grievances does not result in users facing further risk of human rights harm.

Grievances that are reported by a third party on behalf of an alleged victim may not be covered in existing non-retaliation policies. Companies should therefore consider how to protect third parties reporting on behalf of someone else. This could be relevant if, for example, a civil society organisation makes a complaint via a business-led grievance mechanism on behalf of a worker in the business's supply chain.

How can pilot grievance mechanisms be expanded?

Australian businesses surveyed identified that the scalability of pilot grievance mechanisms, particularly across complex and diverse contexts, is an ongoing challenge.³² One of the primary obstacles to expanding grievance mechanisms can be the resources required to implement them at scale, as well as the internal commitment and support required.³³ For example, businesses with conservative legal cultures might be hesitant to expose the business to liability risks or situations where the business may be asked to remediate harm. However, pilot grievance mechanisms can also be a positive demonstration of the mechanism in action to encourage other stakeholders (like suppliers and business partners) to implement the grievance mechanism. This approach can support businesses where their suppliers may be hesitant to implement grievance mechanisms, particularly when a strong relationship or leverage is lacking.

The case study report highlights that technology such as mobile applications can be scalable options for businesses with global supply chains. However it is also important to consider the possible unintended harms of these tools on workers.³⁴ There is a risk when expanding grievance mechanisms throughout the supply chain, that the mechanism may be perceived by workers or used by supplier management teams to undermine or replace legitimate worker associations.³⁵ Relevant rights-holders should be consulted when scaling grievance mechanisms throughout supply chains to ensure that alternative means for workers to organise and raise grievances (e.g. worker groups and unions) are not undermined or displaced.

Without appropriate planning and implementation, application-based technologies used to scale grievance mechanisms also have the potential to violate user privacy rights. For example, information sharing with supplier management teams or third parties without the consent of the user.³⁶ Where businesses consider engaging third party technology providers to scale grievance mechanisms, it is



important to understand and mitigate data risks by setting clear expectations around the case management systems and escalation protocols required to deal with instances of serious labour exploitation.

Businesses may also need to consider further investment and action to ensure that the mechanism is accessible to isolated intended users, for example, remote workers (e.g. seafarers) and rural communities.³⁷ For these users, poor infrastructure and unreliable access to electricity or cellular signals may render mobile-based technology less effective.

How will the grievance mechanism's effectiveness be measured and how will this information be used?

Measuring the effectiveness of grievance mechanisms to address modern slavery risks is crucial to improving risk management. The UNGPs expect businesses to broadly track the effectiveness of measures to address human rights harms to know if they are working and to ensure that grievance mechanisms promote continuous learning.³⁸ While the UNGPs' effectiveness criteria establish a guiding framework for measuring effectiveness, it is important to consider what metrics will underpin the eight criteria (for examples see Figure 4).

The case study report highlights that employees or workers throughout the supply chain can provide useful feedback on the effectiveness of mechanisms. They can be asked about the mechanism during audits, for example. Using KPIs for

the grievance mechanism can be another practical way to monitor performance and establish benchmarks.³⁹ When assessing KPI success, businesses should consider not only the number of grievances received and the processing procedures but also the outcomes (e.g. remedy) provided to users of the grievance mechanism.⁴⁰ Importantly, as previously discussed, the absence of complaints via a grievance mechanism does not necessarily indicate an absence of harm. Businesses should also consider how to combine quantitative and qualitative measurements to ensure that they have a good understanding of a grievance mechanism's effectiveness. Example questions are outlined in Figure 4 to help businesses assess if the grievance mechanism meets the UNGPs' effectiveness criteria.

The overall effectiveness of grievance mechanisms should be regularly communicated to those accountable, including senior executives. Incorporating the lessons identified supports the mechanism to improve and adapt to the changing business landscape and associated modern slavery and broader human rights risks. Businesses that measure the effectiveness of their grievance mechanisms and transparently disclose this to key stakeholders will also be well placed to 'describe how the reporting entity assesses the effectiveness of actions being taken to assess and address modern slavery risks', as required by the Australian Act.⁴¹

Figure 4: Metrics and Questions to Measure Effectiveness of Grievance Mechanisms and Inform Continuous Learning



⁹ Practices that constitute modern slavery include forced labour, slavery, servitude, debt bondage, human trafficking, deceptive recruiting for labour services, the worst forms of child labour and forced marriage. For definitions of these practices see Figure 5 in the case study report.

How will outcomes be publicly communicated?

Publicly communicating the outcomes of complaints made via a grievance mechanism improves transparency. It ensures that mechanisms are not used, or perceived to be used, to cover up human rights violations such as modern slavery. To effectively build trust in a mechanism, public disclosure needs to go beyond statistics. It should provide insight into the process, potential outcomes, trends and underlying systemic issues addressed, while respecting complainants' rights, including anonymity.⁴³ Most companies do not publicly disclose information about their grievance mechanisms' processes or outcomes; in particular, companies rarely disclose information about providing the remedy agreed upon.⁴⁴ To improve public disclosure and build legitimacy and trust, businesses can consider how meaningful outcomes of grievance mechanisms will be communicated publicly, including in their modern slavery statements and human rights reporting.

How might different business structures and relationships influence the design and implementation of an effective grievance mechanism?

Business structures and relationships (for instance, parent-subsidiary, franchisor-franchisee, customer-supplier and joint ventures) can influence the design and implementation an effective grievance mechanism. Businesses can use the foundational stages of relationships to clearly articulate and harmonise expectations around managing modern slavery risks. Businesses can employ contractual clauses stipulating effective grievance mechanisms (whether separate or shared) and the provision of remedy where necessary. This can help businesses meet internal and external expectations around modern slavery risk management. The initial stages of the relationship can provide an opportunity to define the roles and responsibilities of parties in relation to grievance mechanisms and remediation. If beginning these conversations later in the relationship, one way of doing this is by assessing legal exposures arising from modern slavery (e.g. potential legal liability). If they exist, they could be used as leverage to align policies and practices across the business structure to meet the expectations set by the UNGPs.

Across all business structures and relationships, it can be worthwhile exploring what escalation pathways or levers might exist if a business subsidiary, franchisee, supplier or joint venture partner does not effectively address modern slavery risks. This can help avoid situations where, for example, parent companies or franchisors are left exposed to increased modern slavery risks because of inaction from their subsidiaries or franchisees. It also helps overcome situations where there are different soft law commitments (e.g. to the UNGPs) across the business structure. Recent global trends highlight the relevance of this risk. Emerging case law indicates that a parent company could be held liable for harm caused by a subsidiary, even when the subsidiary is based in a different country.^h

Business structures and relationships may also have implications for reporting on remediation processes under the Australian Act. The Act requires reporting entities to describe their actions and the actions of their subsidiaries to address modern slavery risks, including remediation processes. This means businesses reporting under the Australian Act should outline how grievance mechanisms apply across their corporate structure.

^h See for example the English Supreme Court's 12 February 2021 judgement in *Okpabi and others v Royal Dutch Shell Plc and another* (2021). UKSC 3.

Part Three:
Good Practice in Action

























This section provides guidance on good practice actions when designing and implementing effective grievance mechanisms to manage modern slavery risks. Actions are mapped to the UNGPs’ effectiveness criteria to support businesses to better understand and communicate how each action assists the grievance mechanism to meet the global standard set by the UNGPs.⁴⁵

 Legitimate: Intended users and stakeholder groups trust the mechanism. The entity implementing and managing the mechanism is accountable for how they conduct grievance processes.	 Accessible: The mechanism is known to intended users and stakeholders. People receive adequate assistance if they face a barrier to access.	 Predictable: Users are given clear information on the procedure and likely timeframes for each stage in the process. Potential outcomes are clearly stated and the process is monitored.	 Equitable: Aggrieved parties can participate in the grievance process on fair, informed and respectful terms by having reasonable access to information, advice and expertise.
Formally articulate a structure of accountability and disclose this internally and externally. Ensure this structure considers and addresses any real or potential conflicts of interest.	Make the mechanism accessible to anyone who could be impacted by the business’s activities, including employees, contractors, subcontractors, supply chain workers and local communities.	Articulate and follow a clear procedure for processing and addressing grievances, with indicative timeframes for each stage (see Figure 5 for an example).	Provide all necessary information to intended users in a way that is understood. This may require using interpreters or translators, or developing visual aids such as animations and diagrams.
Ensure that business executives are aware of, and informed about, the grievance mechanism and its effectiveness. This establishes legitimacy and accountability at the highest levels of the business.	Maintain and publicise multiple access points such as email, phone hotline, mailing address, suggestion boxes, mobile apps and verbal reports at meetings. Include options that are accessible outside of working hours.	Provide intended users with this procedure and its timeframes in a way that is understandable to them. This may require using interpreters and translators or developing visual aids such as animations and diagrams.	Consider providing independent support to users to strengthen their capacity to report grievances and seek remedy (e.g. by linking users with appropriate independent representation via a third party).
Ensure that those responsible for managing grievances understand modern slavery risks and related but less serious exploitation risks, and how to recognise indicators in grievances of modern slavery and modern slavery-related risks.	Employ a combination of visual and written communications to reach intended users.	Ensure processing protocols include clear steps such as notifying relevant internal business units of complaints, investigation steps and potential outcomes (e.g. provision of remedy or no further action).	Consider engaging an independent third party moderator to mitigate imbalances of power between the business and complainant.
Involve intended users and other key stakeholders in the design and implementation of the grievance mechanism (see column ‘Based on engagement and dialogue’ for practical actions).	Adapt access channels to local cultures, languages and workplaces.	Identify and communicate escalation protocols for modern slavery-related grievances to all key stakeholders. This includes notifying relevant senior executives and board members of the grievance and course of action taken.	Consider engaging an independent third party moderator if a resolution cannot be agreed on by all parties.
Leverage existing worker groups, trade unions and other relevant community and civil society groups to build worker trust in the grievance mechanism.	If interviewing employees or workers for compliance and audit purposes, consider providing a business card with details of the grievance mechanism.	For each step, identify who is responsible and accountable for its action.	
Allow users to submit complaints anonymously.	Determine what issues can be reported and the information required to report a complaint. Communicate these internally and to intended users. Information thresholds should not be so specific or onerous that it prevents intended users from making a complaint.	Consider how to balance internal processing requirements with efficiency to ensure that complainants are not unreasonably hindered by procedural hurdles.	
Where grievances expose potential criminal conduct, report to relevant law enforcement agencies.	Allow users to submit complaints anonymously.	Maintain flexibility to adapt processes for different complaints, to respect the rights of complainants.	
	If complaints do not meet required information thresholds, consider providing additional support to enable users to successfully lodge grievances.		
	Use health and safety committees as alternative ‘entry points’ in jurisdictions where trade unions are restricted.		

 Transparent: Stakeholders are informed about the grievance progress and the mechanism’s performance.	 Rights-compatible: Outcomes and remedies align with international human rights norms and standards.	 Promoting continuous learning: Future grievances and harms are prevented by applying lessons that improve the mechanism’s performance.	 Based on engagement and dialogue: From the design phase to implementation and review, ongoing dialogue is used to engage intended users and stakeholder groups. Dialogue is also used to facilitate redress and access to remedy.
Communicate with intended users and other external stakeholders about the process, timelines and possible outcomes, including specific reference to the possible types of remediation.	Design and implement grievance mechanisms using the foundational framework provided by the UNGPs’ effectiveness criteria.	Keep a grievance register to track grievances, processing procedures and outcomes.	Undertake a pre-engagement analysis to identify intended users and relevant stakeholders, taking into consideration geographic and demographic modern slavery risk factors.
Maintain a public record of grievances received and outcomes of procedures.	Involve human rights experts in the design of the mechanism. Where the business identifies a gap internally in human rights expertise, including modern slavery expertise, consult with external experts.	Set measurable parameters to help inform mechanism improvements (see Figure 4).	Consult with intended users about existing or local methods for resolving grievances and where possible, integrate these into the grievance mechanism.
Publicly disclose trends in complaints and underlying systemic issues.	Respect the rights of both complainants and victims of modern slavery, where these differ (e.g. a complaint made on behalf of a third party).	Use grievance data to regularly analyse internal processes and modern slavery trends.	Consider and be sensitive to potential barriers to consultation including time, language, cultural norms, visual preference, power imbalances and fear of retribution.
Set clear policies and expectations for public disclosures that balance the need for transparency with respect for complainant confidentiality.	Establish safeguards to protect complainants and victims of harm against retaliation (e.g. a non-retaliation policy and call back services for post-audit or investigation interviews).	Regularly seek feedback on the effectiveness of the mechanism from users and intended users (e.g. when engaging with workers through audits).	Engage with diverse perspectives within vulnerable or at-risk stakeholder groups who may experience additional accessibility barriers. These include women, persons with accessibility or disability challenges, indigenous peoples, children and migrant workers.
	Where remediation is necessary, act according to the highest remediation standards, whether they be local, national or international.	Incorporate lessons from feedback, internal reviews and identified modern slavery trends to improve the mechanism.	Consult with intended users on both the grievance process and the available outcomes (e.g. remediation).
	Engage with rights-holders on the provision of remedy in good faith and with a rights-based approach.	Integrate lessons from feedback, internal reviews and identified modern slavery trends into modern slavery prevention and mitigation strategies.	Where possible, build relationships with workers’ organisations and trade unions in host countries to stay informed about workers’ issues and concerns.
	Monitor the implementation of the agreed remedy and measure the effectiveness of remedy provided.		Ensure engagement and dialogue is ongoing (even once the grievance mechanism is implemented).

Figure 5: Sample Procedure for Processing and Addressing a Modern Slavery Grievance

Note: This sample process provides a procedure for deciding a business’s involvement in (rather than a supplier’s involvement) a modern slavery-related grievance and potential outcomes. Where businesses identify that a supplier is involved in a modern slavery grievance they may still use this sample procedure to support their investigations (or those of their supplier). However, some steps may not apply or may be more challenging to implement.

 Grievance Officer / Intake Staff	 Complainant	 Subject Expert, Other Business Units, Suppliers	 Senior Management	 Third Party
1. Receive the grievance.				
2. Acknowledge receipt to the complainant. The complainant should have continual communication with the business throughout the procedure.				
3. Confirm grievance meets the scope of the mechanism and the required information thresholds.  a. If yes, inform the complainant of the next steps.  b. If no, inform the complainant of the outcome and reason for rejection.  Consider providing additional support to help the complainant meet information requirements, or refer to another appropriate mechanism for raising this grievance, if applicable.	  			
4. Follow escalation protocols by notifying necessary senior business personnel (e.g. business unit heads, executives and Chief Executive Officer [CEO]) of the allegation and next steps.				
5. Evaluate and investigate allegations. Engage with the human rights team or experts, procurement teams, human resources, legal, risk, compliance and governance departments, as well as suppliers and business partners, to inform the investigation.				
6. Develop resolution in collaboration with the complainant.				
7. Complainant and business formally agree upon resolution (if the complainant does not accept resolution go to recourse or appeal using management and / or a third party).				
8. Implement resolution (e.g. remediate harm where necessary).				
9. Monitor implementation of agreed remedy and measure the effectiveness of the remedy.				
10. Close grievance and notify necessary senior business personnel (e.g. business unit heads, executives and CEO) of the outcome.				
11. Integrate feedback and learnings from the process into the grievance mechanism and human rights risk management practices. Consider how to engage with procurement teams, human resources, legal, risk, compliance and governance departments to ensure that lessons learned are implemented across business activities.				

 Indicates engagement  Indicates possible engagement

Part Four:
Types of Grievance Mechanisms Business Can Implement

This section presents key issues for businesses to consider when choosing what type of grievance mechanism to employ. It outlines three different approaches to developing grievance mechanisms to tackle modern slavery:

- > Operational-level grievance mechanisms;
- > Working in partnership with suppliers; and
- > Collective business-led mechanisms.

Further, it explores key considerations if using generalised mechanisms to identify and remediate modern slavery complaints. For examples of organisations implementing grievance mechanisms, see Part Four of the companion case study report.⁴⁶



Businesses are not limited to choosing one type of grievance mechanism to hear and address modern slavery complaints. Depending on the context, a combination of company-level mechanisms, supplier partnerships and collective business-led grievance mechanisms may be most effective. The choice of mechanism(s) may also need to evolve over time. This progression can be informed by assessing the effectiveness of grievance mechanisms and identifying gaps or barriers that need to be overcome to improve human rights risk management practices.



Key considerations for operational grievance mechanisms

Operational grievance mechanisms are typically administered by the business enterprise, either alone or in collaboration with another (e.g. suppliers). Operational grievance mechanisms provide stakeholders (such as employees, supply chain workers and community members) with a way of contacting the business. Examples include designated hotlines, worker voice apps or email addresses (or a combination of these).

Suitability:

- > Offer a testing ground to trial a mechanism before implementing it more broadly throughout the supply chain or to a wider range of stakeholders;
- > Enable customisation and control over all aspects of the design and implementation of the grievance mechanism;
- > Provide a complementary process for existing human rights due diligence approaches, particularly during crises when visibility over supply chains is limited;
- > Provide a mechanism to hear and address modern slavery complaints independent of business leverage over suppliers and business partners, including their willingness to cooperate in the process; and
- > Offer a ‘one-stop-shop’ mechanism where employees and workers can seek support and make complaints about a broad range of ESG issues.

Common challenges:

- > Going beyond tier one of the supply chain to reach a broad range of stakeholders, often extending across country borders, cultures, languages and other accessibility factors;
- > Building trust in employees, workers and site managers for the mechanism;
- > Overcoming the resource intensity of designing, implementing, maintaining and measuring the effectiveness of the mechanism;
- > Ensuring those receiving and processing complaints are adequately trained and equipped to identify indicators of modern slavery (and other human rights issues) and understand escalation protocols when these indicators arise;
- > Ensuring clear lines of responsibility, including for the receipt, classification and management of grievances lodged;
- > Vulnerability to disruptive crises (e.g. the COVID-19 pandemic) if reliant on business capacity to investigate grievances that occur in their supply chain in person; and

- > Understanding the practical implications when suppliers are not receptive to modern slavery (or broader human rights) complaints, nor open to remedying harm that they identify that they have caused or contributed to. Businesses that find themselves directly linked to these situations will need to consider if they will provide for, or cooperate in, remediation themselves — even when they are not expected to.



Key considerations for working in partnership with suppliers to develop grievance mechanisms

Businesses can work with suppliers to collaboratively develop and implement effective operational-level grievance mechanisms. This approach builds on the key considerations outlined above. It also highlights when working in partnership with a supplier may be more suitable than working alone and the key challenges associated with this approach.

Suitability:

- > Provides opportunities to leverage existing workers' groups and initiatives within supplier factories to support co-design, build trust and credibility, and increase accessibility;
- > Offers a faster and less daunting avenue for workers to lodge complaints locally;
- > Offers a local solution that can be attuned to the context and culture of the intended users;
- > Provides a local solution that, when supplier-led, can be resilient to disruptive crises (e.g. COVID-19, environmental disasters), that limit the business's capacity to undertake audits and operationalise grievance mechanisms across country borders itself;
- > Offers opportunities to build and leverage long-term relationships through a collaborative approach to increase awareness, capacity and supplier ownership of modern slavery risk management to support systemic change; and
- > Enables a progressive approach to partnering with suppliers to manage modern slavery risks via grievance mechanisms. It can start with a conversation about expectations of grievance mechanisms and evolve into capacity building activities or partnerships once a strong relationship exists.

Common challenges:

- > Overcoming supplier hesitancy to participate in partnerships that tackle modern slavery risks via grievance mechanisms and the possibility of supplier support waning over time;
- > Building trust and support for the mechanism from workers and site management at the supplier level;
- > Overcoming cultural, linguistic and geographic barriers that exist throughout supply chains;

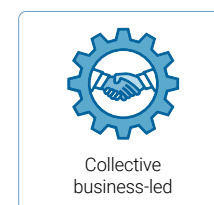
- > Scalability — businesses may initially partner with supportive suppliers where they have strong relationships but later struggle to expand the mechanism to less accommodating or advanced suppliers;
- > Global crises such as COVID-19 can challenge the design and implementation of mechanisms developed in partnership with suppliers by disrupting opportunities to collaborate in person; and
- > Where the expectation falls on suppliers to provide effective remedy for harm that identify they have caused or contributed to, businesses directly linked to the supplier can face challenges if the supplier does not do so. This is especially the case if the business is seen as connected to the mechanism that was used to determine the level of involvement.

How can businesses support suppliers to develop their own grievance mechanisms?

In some instances it may not be suitable, or businesses may not be ready to develop and implement a grievance mechanism in partnership with suppliers. Instead, businesses may want to support their suppliers through other means to ensure that they have effective grievance mechanisms.

Businesses can use the following measures to support suppliers to develop their own mechanisms:

- > **Supplier codes of conduct:** Businesses can use supplier codes of conduct to set expectations on human rights (including modern slavery) risk management. This includes implementing effective grievance mechanisms. Supplier performance can be measured against these codes, creating leverage for businesses to increase, reduce and terminate business allocations.
- > **Contractual clauses:** Modern slavery clauses can be used to legally bind suppliers to implement safeguards, training, grievance mechanisms and monitoring processes to manage modern slavery risks.⁴⁷
- > **Supplier self-assessment surveys:** Self-assessment surveys can ask suppliers to indicate if they have, or participate in, grievance mechanisms capable of hearing and addressing modern slavery complaints. Where suppliers indicate that this is not the case, businesses can suggest that suppliers do so, to help mitigate modern slavery risks.
- > **Toolkits and other capacity building:** Toolkits can be used as a supplier engagement tool to offer training on human rights (including modern slavery) risk management, enhance supplier capacity and build relationships and good practice among peers.



Key considerations for collective business-led grievance mechanisms

Collective business-led grievance mechanisms are used by numerous businesses and enable stakeholders that could be impacted by any of those businesses' activities to report a grievance. Where these mechanisms involve other non-business actors or are administered by an independent initiative, they may also be called multi-stakeholder initiatives. Examples of this type of grievance mechanism include the Fair Labor Association's Third Party Complaint Procedure⁴⁸ and the Responsible Business Alliance's grievance channels.¹

Suitability:

- > Offer a generalised approach to tackling modern slavery in supply chains that avoids duplication and confusion for workers;
- > Provide a consolidated mechanism with a consistent process for businesses and suppliers, particularly where suppliers may stock a large number of businesses globally;
- > Enable a multi-stakeholder approach that can build legitimacy and worker trust in the mechanism, including by partnering with civil society organisations and unions; and
- > Have the capacity to leverage collective reach and influence of multiple businesses.

Common challenges:

- > Resourcing constraints may undermine the effectiveness or scalability of the mechanism if not adequately resourced by participating businesses and other stakeholders;
- > Restrictions of scope and scale in the mechanism may exclude other issues or complaints that a participating business might be interested in identifying;
- > Lack of regional or country-level networks within global collective business-led mechanisms can lead to barriers in user trust and accessibility;
- > Implementation and effectiveness of global initiatives that transcend businesses and countries can be undermined in a number of ways. For example, by countries with a weak rule of law, areas with governance challenges or political unrest, and crises such as labour strikes, environmental disasters and health pandemics or epidemics. These challenges can reduce supply chain transparency, prevent audits and investigations and undermine mechanism accessibility; and
- > Where participating businesses already maintain grievance mechanisms, ensuring that multiple mechanisms can effectively co-exist and do not cause duplication in supply chains or confusion for supply chain workers.

¹For more information on collective business-led grievance mechanism examples, see Part Four of the case study report.

Implementing a generalised grievance mechanism capable of capturing modern slavery complaints

Generalised grievance mechanisms have a broad scope and can address a range of ESG issues, determined by the entities administering the mechanism. They can be run by one business as an operational-level grievance mechanism, designed in partnership with suppliers, or be a collective business-led mechanism. There are advantages to implementing generalised grievance mechanisms. However to be capable of identifying and remediating modern slavery (among other issues) generalised grievance mechanisms also require additional considerations.

Generalised grievance mechanisms can:

- Help businesses meet their responsibility to respect all human rights (not just those related to modern slavery).
- Act as an early warning system to identify human rights harms that might not immediately constitute modern slavery but could escalate over time.
- Help businesses hear from all workers (not just those at risk of modern slavery), which can uncover practices that may indicate modern slavery risks.
- Be useful for businesses with established and effective communication channels that can be adapted to a range of contexts.
- Help businesses manage ESG issues holistically and break down siloes between business units.
- Build worker trust by providing a 'one-stop-shop' that supports workers on diverse issues that range in risk level.

Generalised grievance mechanisms require:

- An appropriately resourced and capable triage system.
- Employees (or a third party) to manage complaints processing who are adequately trained and equipped to identify indicators of modern slavery (in addition to indicators of other human rights issues).
- A clear escalation process for complaints that may indicate serious human rights harm such as modern slavery (e.g. forced labour, debt bondage, human trafficking, deceptive recruiting for labour services, child labour). This should be known and understood by those responsible for processing complaints.
- Clear communications for all stakeholders about the purpose of the grievance mechanism and the scope of complaints covered.
- Strong collaboration across diverse business units to address complaints covering a range of issues.

References

1. Global Compact Network Australia (GCNA). *Effective Modern Slavery Grievance Mechanisms: A Case Study Publication for Business*. Melbourne, 2021.

2. International Labor Organization (ILO) and Walk Free. *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*. Geneva, 2017. Available at: https://www.ilo.org/global/publications/books/WCMS_575479/lang--en/index.htm.

3. Ibid, 10.

4. Lyneham, Samantha, Dowling, Christopher and Bricknell, Samantha. 'Estimating the dark figure of human trafficking and slavery victimisation in Australia.' *Statistical Bulletin* 16 (2019). Available at: <https://www.aic.gov.au/publications/sb/sb16>.

5. Office of the High Commissioner for Human Rights (OHCHR). *United Nations Guiding Principles on Business and Human Rights*. New York and Geneva: United Nations (UN), 2011, 31. Available at: https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.

6. Ibid, 24.

7. Ibid, 24.

8. Ibid, 27.

9. Ibid, 27.

10. UN Department of Economic and Social Affairs. 'Sustainable Development: Goal 8.' Available at: <https://sdgs.un.org/goals/goal8>.

11. Australian Government. *Commonwealth Modern Slavery Act: Guidance for Reporting Entities*. 2019, 48. Available at: <https://www.homeaffairs.gov.au/criminal-justice/files/modern-slavery-reporting-entities.pdf>.

12. OHCHR, *United Nations Guiding Principles on Business and Human Rights*, 33.

13. Australian Government. *Commonwealth Modern Slavery Act 2018 Guidance for Reporting Entities*, 83.

14. GCNA. *Effective Modern Slavery Grievance Mechanisms: A Case Study Publication for Business*. Based on survey results collated from Australian businesses in 2020.

15. Based on survey results collated from Australian businesses in 2020.

16. Ibid.

17. Ibid.

18. Shift, Oxfam and Global Compact Network Netherlands. *Doing Business with Respect for Human Rights: A Guidance Tool for Companies*. 2016, 349. Available at: <https://www.businessrespecthumanrights.org/en/page/349/remediation-and-grievance-mechanisms>.

19. Berman, Cindy, Rutledge, Ben and Goswani, Samir. *Access to Remedy: Practical Guidance for Companies*. London: Ethical Trading Initiative, 2019, 23. Available at: https://www.ethicaltrade.org/sites/default/files/shared_resources/Access%20to%20remedy_0.pdf.

20. GCNA. *Effective Modern Slavery Grievance Mechanisms: A Case Study Publication for Business*.

21. David, Fiona, Bryant, Katharine and Larsen, Jacqueline Joudo. *Migrants and their Vulnerability to Human Trafficking, Modern Slavery and Forced Labour*. International Organization for Migration (IOM): Geneva, 2019, 10. Available at: https://publications.iom.int/system/files/pdf/migrants_and_their_vulnerability.pdf.

22. Walk Free. 'Australia.' *Global Slavery Index*. Available at: <https://www.globallslaveryindex.org/2018/findings/country-studies/australia/>.

23. David, F et al. *Migrants and their Vulnerability to Human Trafficking, Modern Slavery and Forced Labour*, 10.

24. Ibid, 50.

25. GCNA. *Effective Modern Slavery Grievance Mechanisms: A Case Study Publication for Business*. Based on survey results collated from Australian businesses in 2020.

26. Ibid.

27. *Corporations Act 2001* (Cth), Section 1317AI.

28. ASX Corporate Governance Council. *Corporate Governance Principles and Recommendations, 4th Edition*. 2019, 17. Available at: <https://www.asx.com.au/documents/regulation/cgc-principles-and-recommendations-fourth-edn.pdf>.

29. *Corporations Act 2001* (Cth), Section 1317AAC.

30. Rees, Caroline. *Piloting Principles for Effective Company-Stakeholder Grievance Mechanisms: A Report of Lessons Learned*. Cambridge: Corporate Social Responsibility Initiative, Harvard Kennedy School, 2011, 55. Available at: <https://media.business-humanrights.org/media/documents/files/media/documents/ruggie/grievance-mechanism-pilots-report-harvard-csri-jun-2011.pdf>.

31. GCNA. *Effective Modern Slavery Grievance Mechanisms: A Case Study Publication for Business*.

32. Ibid.

33. Ibid.

34. Organisation for Economic Co-operation and Development (OECD). *Monitoring Labour Risks Through Technology*. 2020, 9. Available at: <https://mneguidelines.oecd.org/OECD-Garment-Forum-2020-Session-Note-Monitoring-Labour-Risks-Through-Technology.pdf>.

35. Ibid.

36. Ibid.

37. Ibid, 14.

38. OHCHR, *United Nations Guiding Principles on Business and Human Rights*, 22-23.

39. Rees, C. *Piloting Principles for Effective Company-Stakeholder Grievance Mechanisms: A Report of Lessons Learned*, 38-40.

40. Berman, C. et al., *Access to Remedy: Practical Guidance for Companies*, 28.

41. Australian Government. *Modern Slavery Act 2018* (Australia), Section 16(1)(e).

42. Adapted from: 'Grievance Mechanism Toolkit.' Compliance Advisor Ombudsman. Available at: <https://www.cao-grm.org/purpose-design-and-implementation>.

43. International Commission of Jurists. *Effective Operational-level Grievance Mechanisms*. Geneva: 2019, 50. Available at: <https://www.icj.org/wp-content/uploads/2019/11/Universal-Grievance-Mechanisms-Publications-Reports-Thematic-reports-2019-ENG.pdf>.

44. Ibid, 75.

45. The actions outlined in this table are drawn from a range of sources including: Berman, C et al. *Access to Remedy: Practical Guidance for Companies*; International Commission of Jurists. *Effective Operational-level Grievance Mechanisms*; Ethical Trading Initiative and Ergon Associates. *Managing Risks Associated with Modern Slavery*. IFC, December 2018. Available at: https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/publications/publications_gpn_modernslavery.

46. GCNA. *Effective Modern Slavery Grievance Mechanisms: A Case Study Publication for Business*.

47. Ethical Trading Initiative and Ergon Associates, *Managing Risks Associated with Modern Slavery*, 13.

48. Fair Labor Association. 'Third Party Complaint Process.' Last accessed, March 2021. Available at: <https://www.fairlabor.org/third-party-complaint-process>.



The Ten Principles of the United Nations Global Compact

The Ten Principles of the United Nations Global Compact are derived from: the Universal Declaration of Human Rights, the International Labour Organization's Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development, and the United Nations Convention Against Corruption.



Human Rights

- 1: Businesses should support and respect the protection of internationally proclaimed human rights; and
- 2: Make sure that they are not complicit in human rights abuses.



Labour

- 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
- 4: The elimination of all forms of forced and compulsory labour;
- 5: The effective abolition of child labour; and
- 6: The elimination of discrimination in respect of employment and occupation.



Environment

- 7: Businesses should support a precautionary approach to environmental challenges;
- 8: Undertake initiatives to promote greater environmental responsibility; and
- 9: Encourage the development and diffusion of environmentally friendly technologies.



Anti-Corruption

- 10: Businesses should work against corruption in all its forms, including extortion and bribery.

www.unglobalcompact.org.au

Twitter: @GlobalCompactAU

LinkedIn: Global Compact Network Australia



Global Compact
Network Australia