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Chair  
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NSW Parliament

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Our reference: D23/2919806

27 November 2023

Dear Dr McGirr

### Questions on Notice - Responses of the Anti-slavery Commissioner

I refer to an email from the Modern Slavery Committee Secretariat dated 13 November 2023, inviting me to respond to certain questions on notice from the hearing of the Modern Slavery Committee on 30 October 2023, which formed part of the Committee's Inquiry into the *Modern Slavery Act 2018* (NSW) (the 'Act').

Thank you for the opportunity to provide my responses to questions on notice from the Modern Slavery Committee (the 'Committee'). I have carefully considered each question and provide a response below.

1. **Question on notice from Ms Jenny Leong: "The other thing that I think is very clear from your strategic plan is the commitment to want to involve people with lived experience in the guidance and direction. I think that is a very good and clear approach for where we need to be headed in this space. I wonder, do you have any thoughts around potential amendments to the Act to ensure that that is not just at the will of a certain Commissioner that may have a commitment to that, but rather what could be done in terms of strengthening the Act, both in terms of the role of the Commissioner, the role of the Committee and others in ensuring those lived experience voices and expertise are being used to shape the objects in the delivery of ending modern slavery?"**  
(Page 4 of the Transcript – Uncorrected)

### Response

I welcome the Committee's interest in considering how the Act might be amended to ensure that appropriate opportunities are afforded to those with lived experience of modern slavery, and related expertise, in efforts to combat modern slavery in New South Wales. I support this suggestion and offer the following proposals for amendments to the Act to achieve this outcome.

### ***Section 3 – Objects of Act***

Add a new section 3(ba) reading: ‘to promote, facilitate and support the participation of people with lived experience of modern slavery in efforts to combat modern slavery,’.

### ***Section 5 – Definitions***

Add a definition in section 5 of ‘people with lived experience of modern slavery’ to read: ‘victims of modern slavery offences and those who have first-hand experience of, but are not the victims of, modern slavery offences,’.

### ***Section 8A – Advisory Panel***

Add a new section 8A, reading:

#### **8A            Advisory Panel**

- (1)    The Commissioner may appoint an Advisory Panel to provide advice and counsel to the Commissioner in the discharge of the Commissioner’s functions.
- (2)    The Advisory Panel shall include both people with lived experience of modern slavery and other people with expertise and capabilities relevant to the discharge of the Commissioner’s functions.

### ***Section 9 – General functions of Commissioner***

Recommendation:

- add a new section 9(1)(ba) reading: ‘to support the participation of diverse people with lived experience of modern slavery in efforts to combat modern slavery,’.
- amend section 9(2)(a) to end in a comma, not ‘and’
- amend section 9(2)(b) to end in a comma, not a full stop
- add a new section 9(2)(ba) ‘the engagement with, and assistance and support to, people with lived experience of modern slavery,’.

### ***Section 11 – Strategic plan***

Recommendation:

- amend section 11(5)(b) to end with a comma, not a full stop
- add a new section 11(5)(c) reading: ‘strategies for supporting the participation of people with lived experience of modern slavery in efforts to combat modern slavery.’.

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***Section 12 – Commissioner’s public awareness and advice functions generally***

Recommendation:

- amend section 12(d) to end with ‘and’;
- add a new section 12(e) reading: ‘to promote the participation of people with lived experience in the design, implementation and evaluation of laws, policies and actions to combat modern slavery’.

***Section 15 – Co-operation with other persons and organisations***

Recommendation: add a new section 15(3) reading: ‘When possible, the Commissioner shall seek to work in co-operation with people with lived experience.’

***Section 19 – Annual and other reports to Parliament***

Recommendations:

- amend section 19(2)(d) to end with a comma;
- add a new section 19(2)(e) reading: ‘a description of the Commissioner’s co-operation and engagement with people with lived experience during that year’;
- amend section 19(3)(c) to end with a comma;
- add a new section 19(3)(d) reading: ‘the extent to which, in taking action to combat modern slavery, the government of NSW has co-operated with people with lived experience of modern slavery’.

***Section 22 – Functions of Committee***

Recommendations:

- amend section 22(1)(b) to end in a comma;
- add a new section 22(1)(c) reading: ‘to promote the participation of people with lived experience of modern slavery in the deliberations of the Modern Slavery Committee.’

**2. Question on notice from Ms Jenny Leong, requesting the 19 languages in which the Anti-slavery Commissioner’s fact sheet is published. (Page 4 of the Transcript – Uncorrected)**

**Response**

The NSW Anti-slavery Commissioner’s Fact sheet is available in the following languages: Arabic, Burmese, Chinese (simplified), Chinese (traditional), Dari, Dinka,

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English, Hindi, Indonesian, Khmer, Korean, Nepali, Portuguese, Punjabi, Somali, Spanish, Swahili, Thai, Turkish, Vietnamese.

3. Question from The Hon. Dr Sarah Kaine: 'In conversations we have had before, I've probably expressed my concerns about the lack of investigative, enforcement and sanctioning powers that you've referred to this morning. I note in your submission that you do allude to potential changes in conclusion 4. I wonder if you could elaborate more on that? What would those extended powers look like? You've given some examples, but perhaps if you could explain a bit further. I'm a bit concerned about us leaving it to some sort of normative process, people coming on board with the anti-slavery agenda – if you could explain what you were referring to.'

**Response**

As set out in my submission to the Inquiry, the Act currently adopts a passive approach to securing the objectives of detection and exposure of modern slavery under section 3(d), and to enforcement of the conduct requirements under the Act.

While the Anti-slavery Commissioner is charged with promoting good practice by law enforcement actors, s/he is given no power to direct that certain actions are taken, or to investigate specific cases of suspected or actual modern slavery. The Act implicitly relies on victims of modern slavery, and third parties, to come forward and report cases of modern slavery, notwithstanding the considerable barriers to them safely doing so. Where such information is shared with the Anti-slavery Commissioner, the Anti-slavery Commissioner can report that information to relevant investigative and law enforcement authorities, and to child protection actors, and/or go public. But the Anti-slavery Commissioner is given no power to take active steps to detect or expose cases of modern slavery, despite being given the function 'to identify... victims of modern slavery' (section 9(1)(b)). She or he may not inquire further into any specific matter raised with him, except in consideration of a 'general issue' (section 10(1)), or in discharge of another function – such as provision of assistance and support for victims of modern slavery (section 9(1)(b)).

The Anti-slavery Commissioner is given an active 'monitoring' role in the context of public procurement (sections 9(1)(e) and (f)) and may raise significant issues with government sector finance agencies (GSF agencies) concerning their operations (section 31(1)(a)). She or he may include certain non-conforming entities on a public register (section 26), but inclusion on this register does not have further legal or financial consequences for the entity in question. She or he may make recommendations to the Procurement Board (section 175(4) of the *Public Works and Procurement Act 1912* (NSW)), but she or he is given no power to direct government agencies or private sector organisations to take certain steps to address modern slavery-risks in supply-chains.

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The Anti-slavery Commissioner likewise has no independent enforcement powers. While government agencies and certain non-government organisations have a duty of cooperation with the Anti-slavery Commissioner, she or he has no power to direct, require or enforce compliance with that duty. Indeed, section 14 empowers those organisations subject to the duty of cooperation to determine unilaterally what level of assistance they consider is reasonable, and leaves the Commissioner no recourse to contest their assessment, except through reporting to Parliament and through the court of public opinion.

The Act:

- rules out investigation of specific matters, suspected instances of modern slavery, or the situation of specific people at-risk of modern slavery, by the Anti-slavery Commissioner,
- does not require cooperation with the Anti-slavery Commissioner by private sector organisations unless they advocate for, or provide services to, victims of modern slavery,
- gives the Anti-slavery Commissioner no ability to require or direct cooperation from an organisation subject to the duty of cooperation under section 14 of the Act, where the organisation unilaterally decides that the requested assistance is not ‘reasonable’, and
- does not give the Anti-slavery Commissioner the power to do things that other, analogous, independent statutory officers in New South Wales can do, including those powers detailed in Table 1 below.

Table 1 – Relevant powers afforded to independent statutory officers in New South Wales

Office	Building Commissioner	Children’s Guardian	Small Business Commissioner	Ombudsman
Act	<i>Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020</i>	<i>Children’s Guardian Act 2019, Schedule 2</i>	<i>Small Business Commissioner Act 2013</i>	<i>Community Services (Complaints, Reviews and Monitoring) Act 1993 (CSCRM Act) and Ombudsman Act 1974 (Ombudsman Act)</i>
<b>Power to...</b>				
Require information and records	Sections 17, 24	Section 14, 31	Sections 16	Section 17 (4) and (7) CSCRM Act Section 18 Ombudsman Act
Require attendance	Section 18	Section 14	Section 18	
Record evidence	Section 19	Section 13, 31		Section 17(7) CSCRM Act
Enter premises with a warrant	Section 20	Section 7 Section 31		Section 17 (1) and (2) and Section 18 CSCRM Act
Search and inspect premises	Section 24	Section 13		Section 18 Ombudsman Act
Direct provision of reasonable	Section 23	Section 31		

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Office	Building Commissioner	Children's Guardian	Small Business Commissioner	Ombudsman
assistance specified				
Seize things connected to offences	Section 24	Section 29		Section 17(3) (b) CSCRM Act
Investigate, review, monitor & conciliate, complaints	Section 32	Section 8X, 8Y, 8Z and 46	Section 14(1) (b)	Section 3(1) CSCRM Act
Review service standards	Section 8			Section 11 (1) (a) CSCRM Act
Monitor, review and inquire into service providers or practice		Section 6		Section 11 (1) (c) (e) and (j) CSCRM Act
Review a situation of children and other persons in care				Section 13 CSCRM Act

In my relatively brief time in the role, I have already seen how the absence of such powers limits the Anti-slavery Commissioner's ability to discharge existing functions under the Act. For example:

- the inability to enter premises and speak with people located there has prevented me potentially identifying and providing assistance and support for possible victims of modern slavery as required by section 9(1)(b), even when I have received specific information suggesting potential indicators of forced labour;
- the inability to require production of documents has limited my ability to monitor the effectiveness of governmental actions as required by section 9(1)(f), as well as my ability to identify modern slavery through examination of business records;
- two non-government agencies subject to the duty of cooperation under section 14 have expressed a reluctance to share information about the individuals they purport to provide support and assistance to, even on a de-identified basis, limiting my ability to understand the size and characteristics of the at-risk population in New South Wales and develop a hotline as required by section 12(d));
- one government agency subject to the duty of cooperation under section 14 indicated unwillingness to share information with me about individuals they have provided services to because, in their assessment, these individuals are not victims of modern slavery;
- I have no ability to direct government agencies to remediate deficient procurement practices.

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In short, the Act assumes good faith and a willingness to cooperate on the part of all relevant actors. Where that is not forthcoming, the Anti-slavery Commissioner is given no power to require or direct it, beyond megaphone diplomacy. The Anti-slavery Commissioner has no independent enforcement powers.

If the Committee wishes to consider amending the Act to strengthen the ability of the Commissioner to secure the objects of the Act, notably the object of detection and exposure, it could consider amendments that equip the Commissioner:

(1) where the Commissioner has reasonable grounds to believe that a modern slavery offence has occurred or may be occurring, to:

- (a) investigate that information with a view to detection and exposure, provision of assistance and support, or referral for criminal investigation of a modern slavery offence,
- (b) direct a person or organisation to provide specified reasonable assistance and cooperation,
- (c) require a person to provide information, records or copies,
- (d) record evidence,
- (e) enter premises for the purpose of detecting and exposing a modern slavery offence
- (f) search and inspect premises, and speak with any person on that premises,
- (g) speak with any person, and direct any person to answer questions,
- (h) seize things connected to a modern slavery offence.

(2) where an organisation refuses to cooperate with or provide specified reasonable assistance to the Anti-slavery Commissioner, as required under sub-section (1) or under section 14 of the Act, to:

- (a) invite the person to provide a written explanation of the basis for their non-cooperation within a reasonable time,
- (b) upon receipt of a written explanation under sub-section 2(a), consider that explanation and vary the Commissioner's request or direction for assistance, or repeat the request for cooperation or assistance without variation, and
- (c) in the event of continued non-cooperation or continued refusal of assistance, direct a person to comply with the request of the Commissioner.

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(3) where the Commissioner has identified significant issues in a Government Sector Finance agency's operations, and the agency has failed to take reasonable steps to address those issues, to:

- (a) direct the agency to take specific steps to remediate those significant issues; and
- (b) in the event that the agency does not take those steps within a reasonable time, to refer the matter to the NSW Auditor-General.

The Committee may also wish to make provision for a penalty in the event of a person or organisation failing to comply with a direction of the Anti-slavery Commissioner. Section 27 of the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020* (NSW), for example, states: "A person must not, without reasonable excuse, fail to comply with a direction of an authorised officer made in accordance with this Part." It provides specified penalties for failure to meet this legal obligation.

4. Question from Jenny Leong to Paul McKnight and Mark Follett: "I have a question specifically around training within New South Wales government departments and also within DCJ, recognising the intersection that is identified in a number of the submissions and the work of the Commissioner between, for example, housing and homelessness as a risk factor in relation to indicators of modern slavery risks but also the need to access supports once someone is identified as being subjected to modern slavery. Can you talk about the training that has been conducted within DCJ but also I guess any insights you have as to the broader training that's provided and resourcing that's provided for training and prioritisation of this Act as it relates to the Department of Customer Service, police, health and others?"(Page 12 of the Transcript – Uncorrected. Invitation to the Commissioner to answer this Question on Notice at page 15)

**Response**

To my knowledge there has been no central Government policy decision to date, under this Government or the previous one, to allocate specific resources to training on modern slavery or implementation of this Act.

The following information is taken from my Annual Report for 2022-2023, *Foundations for Growth* (at pages 38-39):

"1. The Department of Communities and Justice training on modern slavery is detailed below:

The Department's intranet site contains information and resources for caseworkers regarding what to do if issues of underage forced marriage or domestic and family violence are reported. This includes internal



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procedures and reporting to the Australian Federal Police in cases of forced marriage. Additionally, multicultural caseworkers are available to provide cultural consultation to caseworkers working with multicultural families, which may include consultation regarding underage forced marriage. Outlined below are additional activities that the Department is progressing over this financial year.

*NSW Domestic, Family and Sexual Violence Plans 2022-2027*

In 2022, the Department developed the *NSW Domestic and Family Violence Plan 2022-2027* and *Sexual Violence Plan 2022-2027* in consultation with key stakeholders. Both Plans were publicly released on 9 December 2022. The Plans provide strategic direction to prevent and respond to domestic and family violence and sexual violence in NSW over five years. The Plans are structured around five pillars: primary prevention; early intervention; response; recovery and healing; and system enablers. The Plans respond and align with the *National Plan to End Violence against Women and Children 2022-2032*.

Under the pillar of system enablers, the Plans include a focus area on building workforce capacity and capability. This includes a Domestic and Family Violence Workforce Development Strategy and Workforce Survey.

*Domestic and Family Violence Workforce Development Strategy*

The *NSW Domestic and Family Violence Plan 2022-2027* includes an action to develop a 10-year Domestic and Family Violence Workforce Development Strategy. In consultation with key stakeholders, the Department is currently leading the development of this Strategy. The aim of this Strategy is to build the competency of mainstream and specialist workers to better understand and respond to domestic and family violence. The Strategy will consider the training needs of the workforce, including on modern slavery.

*Domestic and Family Violence Workforce Survey*

The *NSW Domestic and Family Violence Plan 2022-2027* also includes an action to conduct a workforce census to better understand the capacity of the specialist and broader workforce to identify and respond to domestic and family violence. The Department is finalising the content of this survey, and consideration is being given to including a specific question on whether workers have completed training on modern slavery, such as human trafficking or forced marriage, and whether they would like to receive training on this topic.

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*NSW Forced Marriage Network*

The Department's Multicultural Services, Office of the Senior Practitioner and Child Protection Helpline, participate in the quarterly meetings of the NSW Forced Marriage Network, which supports awareness raising and builds collaboration between government and non-government agencies.”

2. The New South Wales Police Force (NSWPF) training on modern slavery is detailed below:

The NSWPF is committed to the national policing protocol to combat human trafficking and slavery and is working closely with all Australian police services in understanding and identifying these types of crimes.

In 2022, the NSWPF adopted the Australian Federal Police (AFP) “Look a Little Deeper” training package, which has been designed to increase the capability of police to identify, disrupt, investigate and respond to modern slavery offences. This material is now being delivered to all NSWPF employees. The NSWPF was also represented at this year’s Commonwealth Attorney General's Modern Slavery Conference, which brought together a number of stakeholders to build on the work and action underway to combat modern slavery.

3. The NSW Ministry of Health (NSW Health) training on modern slavery is detailed below:

A modern slavery component was included in the NSW Health policy training provided to approximately 700 staff in 2022. There was also inclusion of a training component on modern slavery within the ongoing Procurement Academy training. Modern Slavery guidance is provided throughout the Procurement Policy Procedures. HealthShare NSW currently is working to develop a comprehensive Modern Slavery Action Plan.”

**5. Question from Dr Sarah Kaine to Paul McKnight seeking information on contacts between the Anti-slavery Commissioner and Fair Work Ombudsman (Page 13 of Transcript – Uncorrected; Invitation to Commissioner on page 15).**

**Response**

I have had several formal meetings with the Fair Work Ombudsman since his appointment in August 2022. The first of these was in December 2022, four months after I commenced in office. The question of establishing arrangements for information-sharing was discussed, but as I did not at that time have any dedicated

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staff, it was considered unfeasible at that time. In the subsequent year, with a small staff of 12 now in place to discharge all of the Commissioner's functions, I have been seeking to put in place information sharing arrangements with relevant federal authorities. A draft information-sharing arrangement has been with the AFP for 7 months. Discussions with FWO for information and data sharing remain ongoing. The Anti-slavery Commissioner has directed two matters to FWO. To date, the FWO has not referred any matters to or shared any information concerning modern slavery issues with the Anti-slavery Commissioner.

6. **Question from Ms Jenny Leong to Paul McKnight and Mark Follett: “what changes could be made in the Act to ensure those reporting instances of modern slavery or at risk of modern slavery are able to access the other services that DCJ provides”, including housing services, “and if there’s additional legislative change that would be required to other Acts beyond the Modern Slavery Act to ensure the delivery of that”**

**Response**

At present victims of modern slavery in New South Wales lack reliable, dedicated access to critical services, including housing and healthcare. Improving this access will be critical to effectively combating modern slavery in NSW, because access to essential services is critical for people with lived experience to regain safety, stability, and agency.<sup>1</sup>

People with lived experience of modern slavery typically access support services in New South Wales in one of four ways:

1. **through other public and private sector arrangements**, not relying in any way on their lived experience or status as a victim of modern slavery. Victims of modern slavery may also have experienced domestic and family violence, addiction, healthcare issues, or homelessness, and may try to access services provided for these cohorts, without anticipating access to reserved spaces for victims of modern slavery.
2. **through the limited number of civil society organisations that do provide support specifically for survivors of modern slavery**. These include providers of housing services (such as The Salvation Army and Taldamunde Youth Service), providers of legal services (Anti Slavery Australia) and providers of recovery, training and employment services (such as The Freedom Hub). (This list is purely indicative and does not preclude that the named organisations provide services other than those identified here.) The support and places available through these organisations are necessarily limited. In some cases,

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<sup>1</sup> UK Modern Slavery and Human Rights Policy & Evidence Centre. (2023), [Policy Brief, Survivor support Based on the Modern Slavery PEC funded research portfolio](#)

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there are preconditions to eligibility such as visa status, or receipt of Centrelink services.

3. **through the Support for Trafficked People Program (STPP).** This is funded by the Commonwealth Department of Social Services and delivered by the Australian Red Cross. At present the only referral pathway to this programme requires the person with lived experience to be referred to the programme by the Australian Federal Police, though this is expected to change in 2024, with a new 'alternative referral pathway' to be established. This will give a contracted private organisation the ability to make referrals to this programme. (The tender process for this new approach has not yet been announced.) The STPP provides a time limited (up to 12 months) suite of services that include case management support, medical treatment (through Medicare and the Pharmaceuticals Benefits Scheme, or as approved); accommodation payment supports (reimburses eligible recipients for accommodation after they have made payment); counselling; referral to legal and migration advice; skills development training, including English-language classes and vocational guidance and social support. The exact supports available differ across the STPP's five streams: Intensive Support stream, Forced Marriage support stream, Justice Support stream, Temporary Trial support stream and/or Transition support stream.<sup>2</sup>
4. **Through the NSW Victims Support Scheme under the *Victims Rights and Support Act 2013 (NSW)*.** In theory, this provides for approved counselling services, recognition payments and victims support payment, including for victims of acts of modern slavery. To date the Commissioner for Victims Rights has however made no payment to anyone applying for support resulting from an act of modern slavery. However, I am aware of multiple victims of modern slavery that have been advised to apply to the scheme as victims of acts of violence, not as victims of acts of modern slavery, since the drafting of the Act and its implementation seem to make it more likely that this will lead to success and to a larger payment than appears to be available for those applying as victims of acts of modern slavery.

Crucially, beyond the arrangements detailed above:

- NSW law and policy does not currently provide for dedicated funding for support to people with lived experience of modern slavery, and
- NSW law and policy does not currently provide for lived experience of modern slavery to be a factor considered by NSW Government or other providers of essential services such as accommodation, healthcare or counselling services.

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<sup>2</sup> Department of Social Services, (2023). [Support for Trafficked People Program](#)

### *Focus on housing*

In the more than 40 presentations to date by victims of modern slavery seeking support and assistance from me in my role as Anti-slavery Commissioner, access to housing has emerged as an absolutely critical factor in determining survivors' ability to exit and recover from modern slavery. A 2021 Australian Red Cross report likewise concluded that a rights-based or 'Housing First' approach is needed to address the links between homelessness, housing insecurity and modern slavery in Australia.<sup>3</sup>

Homelessness, housing insecurity and access to emergency and longer-term accommodation are linked to vulnerability to modern slavery in Australia in several ways:

- Homelessness increases vulnerability to maltreatment and exploitation in formal and informal work and non-work family and social settings. This appears to be a particular risk for children and young people.<sup>4</sup>
- Housing insecurity has a significant effect on overall levels of well-being and health outcomes for survivors of modern slavery.<sup>5</sup>
- People at risk of, or suffering, various forms of modern slavery may be unable to report or exit their situation if they do not have access to safe, secure alternative accommodation. There are signs that lack of access to safe alternative accommodation may factor in the vulnerability of temporary migrant workers,<sup>6</sup> victims of coercive control, domestic and family violence,<sup>7</sup> and forced marriage.
- Limited access to crisis accommodation for those exiting situations of modern slavery creates risks of further exploitation or harm.<sup>8</sup>

Despite the recognition of the critical role that housing plays in exit and recovery, there is a clear shortage of dedicated beds in NSW. Issues include:

- **Availability:** At present there are only a couple of dozen dedicated beds across NSW available to survivors of modern slavery, including forced

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<sup>3</sup> Mebalds, G. & Garcia Daza, L. M., (2021). Barriers in accommodating survivors of modern slavery: Working towards safe, suitable, and sustainable housing Australian Red Cross, pp. 19 and 38.

<sup>4</sup> Yoder, J. R., Bender, K., Thompson, S. J., Ferguson, K. M., & Haffejee, B. (2014). Explaining Homeless Youths' Criminal Justice Interactions: Childhood Trauma or Surviving Life on the Streets? *Community Mental Health Journal*, 50(2), 135-144.

<sup>5</sup> UNANIMA International. (2020). The Intersections of Family Homelessness and Human Trafficking, (New York 2021). Barry, K. (2021) Momentarily immobile: Backpacking, farm work, and hostels in Bundaberg, Australia. *Geographical Research*, 59: 46– 55.

<sup>6</sup> Barry, K. (2021) Momentarily immobile: Backpacking, farm work, and hostels in Bundaberg, Australia. *Geographical Research*, 59: 46– 55.

<sup>7</sup> See e.g. Safe Steps, (2019) Housing pathways for women and children without permanent residency in the context of family violence.

<sup>8</sup> Pascual-Leone, A, Kim, J., Orrin-Porter, M. (2016). Working with Victims of Human Trafficking. *Journal of Contemporary Psychotherapy*, 47(1), 51-59.

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marriage (including children), yet we know that around 120-150 cases of modern slavery are reported *each year* in New South Wales.

- **Bottlenecks:** A 2021 study found that 55% of those organisations providing short-term accommodation options ended up providing service for more than 12 months.<sup>9</sup>
- **Rural and regional beds:** over three quarters of accommodation providers are in urban settings, despite our understanding that rural and regional workforces tend may in some circumstances be over-represented in modern slavery victim populations.
- **Lack of access to essential services and transport:** Cost of living pressures mean that most beds are located in places with poor access to essential services and public transport.
- **Limited tailoring to special needs, including disability and children:** There are few beds available for people with children, or those living with disability.
- **Visa status:** Many services exclude those who are not Australian citizens or permanent residents. This is especially problematic given the significant over-representation of those lacking long-term visas in the homeless population. Research by Homelessness NSW found that approximately 20% of people sleeping rough in inner city Sydney did not have permanent residency and could therefore not access services.<sup>10</sup> Foundations Housing found that 29% of Sydney domestic and family violence crisis accommodation services were occupied by women and children seeking asylum and on temporary visas.<sup>11</sup>
- **Financial barriers:** There is limited access to accommodation for survivors where they are not able to make an ongoing financial contribution. Forty-four percent of short-term and 58% of long-term accommodation services surveyed in the previously mentioned 2021 study required some form of co-payment from users.<sup>12</sup> The STPP reimburses clients for rental bonds and for six months of rent – but this requires survivors to find the revenue to stump up these payments in the first place. This restricts access to this support programme.
- **Cultural barriers:** Though forced marriage is the most reported form of modern slavery, there are few places available for survivors that accommodate their cultural needs.

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<sup>9</sup> Mebalds, G. & Garcia-Daza, L. M. (2021) Barriers in accommodating survivors of modern slavery: Working towards safe, suitable, and sustainable housing, Australian Red Cross, p. 24.

<sup>10</sup> Homelessness NSW. (2021). 'The Experience of People without Australian Permanent Residency Accessing Emergency Accommodation in Inner City Sydney' (Sydney: Homelessness NSW, December 2021),

<sup>11</sup> Roberts, A. (2020). 'Foundations Housing Project: A Scoping Study on Housing for People Seeking Asylum & Strategic Areas of Action towards Housing for All' (Sydney: Jesuit Refugee Service, Life Without Barriers, Asylum Seeker Centre, March 2020).

<sup>12</sup> Mebalds, G. & Garcia-Daza, L. M. (2021) Barriers in accommodating survivors of modern slavery: Working towards safe, suitable, and sustainable housing, Australian Red Cross, p. 24.

### *New approaches needed*

Given the broader crisis in the Australian housing market, new approaches and creative thinking are needed to identify practical solutions to ensure survivors of modern slavery have access to suitable accommodation options. In May 2023, I organised a workshop with the Paul Ramsay Foundation, service providers and accommodation providers, private sector businesses, and the UN Special Rapporteur on Contemporary Forms of Slavery, Professor Tomoya Obokata. Drawing on that workshop, I recently wrote to the Minister for Housing, The Hon. Rose Jackson MLC, to propose a new approach.<sup>13</sup> The key elements of this approach consist of:

1. **Homes NSW:** Homes NSW, a new government agency currently being established, could be mandated to ensure adequate access to crisis-, short-term and/or long-term housing for people with lived experience of modern slavery. In practical terms, this could involve Homes NSW playing a centralised clearing-house role for access of survivors of modern slavery to relevant accommodation spaces across NSW. This would make it easier for people with lived experience to access housing, whichever service they contact first. At present, survivors often have to spend significant amounts of time applying to multiple different organisations and agencies for access to beds. As frustration mounts, they are more and more likely to disengage, or even return to their situation of exploitation. Moreover, different organisations – and government – have no overall visibility (such as a dashboard) to understand the number of beds available in the system at any given time, making the process very inefficient. Mandating Homes NSW to play such a clearing-house role would also encourage Homes NSW to develop systems and programmes to ensure that survivors of modern slavery have access to adequate housing, on a needs basis. This could include, for example, the need for survivors to be assisted by support workers as they apply for accommodation; or Homes NSW setting minimum service standards that accommodation providers must meet in order to participate in the scheme. Specific training might be required to NSW funding and commissioning bodies, including Homes NSW and/or DCJ, to ensure modern slavery is appropriately included in funding agreements. The Anti-slavery Commissioner could assist and oversee Homes NSW's efforts in this regard through his existing powers under section 31(1) of the Act, resources allowing.
2. **public-private partnership for short-stay accommodation:** We have identified an interest from private sector short-stay accommodation providers, such as AirBnB, to explore providing their properties to survivors of modern slavery, potentially on a subsidised or no-cost basis. Some of these providers have obligations under the *Modern Slavery Act 2018* (Cth) to take action to combat

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<sup>13</sup> 'How Homes NSW can help fight modern slavery', Letter of NSW Anti-slavery Commissioner Dr James Cockayne to The Hon. Rose Jackson, MLC, 30 October 2023, OASC ref. D23/2563697.

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modern slavery. I am in touch with an array of these providers that may be willing to consider participating in such a programme, if government and civil society are able to put in place suitable eligibility criteria, safeguards for people with lived experience, and training for providers.

3. **a supervised homestay programme:** We have held conversations with anti-slavery service providers in NSW around the possibility of the development of a supervised homestay programme for people with lived experience of modern slavery. A key benefit of such an approach is that it is likely to increase the overall supply of available beds, and their geographic diversity. This will make it easier for survivors to access suitable accommodation. While there are numerous safeguarding, safety, privacy, legal and financial questions that would need to be addressed in order to stand up and safely run such a programme, an analogous arrangement has been successfully established and run in the United Kingdom by Hope at Home, a registered charity. There may be a role for government in underpinning such a programme, for example by providing access to insurance, training for hosts, funding or subsidising the administration of the programme, and supervising the scheme to ensure it is being safely administered.

*Recommendation*

The Committee may wish to consider amendments to the Act, and to other relevant legislation to:

- amend section 3(b) of the Act, 'Objects of the Act', to read:  
'(b) to provide assistance and support for victims of modern slavery and people at risk of modern slavery, including access to accommodation, healthcare and essential services'
- amend section 9(1)(b) of the Act, 'General functions of Commissioner', to read:  
'(b) to identify and provide assistance and support for victims of modern slavery and people at risk of modern slavery, in particular access to accommodation, healthcare and essential services'
- amend section 19(3) of the Act, Annual and other reports to Parliament, to add a new sub-section 19(3)(d), as follows:  
'(d) actions by the government of NSW during the year to ensure access for victims of modern slavery and those at risk of modern slavery to:
  - (i) safe, culturally-appropriate accommodation,
  - (ii) healthcare, and
  - (iii) other essential services.'



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Please do not hesitate to contact me should you require any further information in relation to any of these matters.

Yours sincerely,

Dr. James Cockayne  
NSW Anti-Slavery Commissioner