

Office of the  
NSW Anti-slavery  
Commissioner

OFFICIAL

Dr Joe McGirr, MP  
Chair of the Modern Slavery Committee  
[Joe.McGirr@parliament.nsw.gov.au](mailto:Joe.McGirr@parliament.nsw.gov.au)

Ms Jenny Leong, MP  
Deputy Chair of the Modern Slavery Committee  
[Jenny.Leong@parliament.nsw.gov.au](mailto:Jenny.Leong@parliament.nsw.gov.au)

---

Our reference: D25/1638048

11 June 2025

Dear Dr McGirr

Dear Ms Leong

**Modern slavery risks faced by temporary migrant workers in rural and regional New South Wales – Post-hearing responses – Supplementary Questions**

I write in response to the Committee's email of 8 May 2025, following my appearance before the Committee on 30 April 2025, in which the Committee requested my answers to a number of supplementary questions. I provide my responses to the supplementary questions in the two documents enclosed with this letter:

- The document titled *Response to Supplementary Questions by NSW Anti-slavery Commissioner* sets out my response to all supplementary questions with the exception of Question 4(c). This document is intended for publication.
- The separate document titled *Confidential response to Supplementary Question 4(c) by NSW Anti-slavery Commissioner* sets out my response to Question 4(c). This response contains information that is sensitive from a law-enforcement perspective. I request that the Committee treat this document, and the information contained within it, as confidential and refrain from publishing any part of it.

I thank the Committee for the opportunity to provide evidence to assist the Committee in this Inquiry. Please do not hesitate to contact me should you have any further questions.

Sincerely,

Dr James Cockayne

---

Email: [antislavery@dcj.nsw.gov.au](mailto:antislavery@dcj.nsw.gov.au)

Website: [dcj.nsw.info/antislaverycommissioner](http://dcj.nsw.info/antislaverycommissioner)

**Office of the  
NSW Anti-slavery  
Commissioner**

NSW Anti-slavery Commissioner



# Modern Slavery Committee: Inquiry – Temporary Migrant Workers in Rural and Regional New South Wales

---

Response to Supplementary Questions by  
NSW Anti-slavery Commissioner

11 June 2025



# Contents

1	Is your office using any big data to identify the risk of modern slavery such as the UK Traffik Analysis Hub? .....	1
2	Implementation gaps and follow-through.....	3
3	Systemic State-level weaknesses .....	4
4	Labour hire and exploitation structures .....	8
5	Community cost and economic consequences .....	10
6	Power imbalances and worker silence .....	12
7	Forward strategy and worker silence.....	14



# 1 Is your office using any big data to identify the risk of modern slavery such as the UK Traffik Analysis Hub?

My Office has explored the potential of data-sharing by government and non-government agencies, to improve understandings of modern slavery risks and prevalence in NSW. The modern slavery sector in NSW currently faces significant administrative and legal hurdles to data-sharing. These include:

- a lack of clear and consistent data on victim-survivors of modern slavery: estimates of the prevalence of modern slavery in Australia range from approximately 1,600 (from the Australia Institute of Criminology (AiC)) to 41,000 (from Walk Free's Global Slavery Index). There are currently no robust, evidence-based estimates for NSW;
- significant practical challenges involved in conducting modern slavery population analysis in NSW: modern slavery's clandestine nature makes it difficult to identify. In addition, victim-survivors may be reluctant to report incidents due to fear or shame or mistrust in authority. Collating data can also require aligning multiple definitions and classifications of modern slavery across the different organisations who collect and hold data;
- confidentiality, privacy and consent issues, and (to a lesser extent) resourcing constraints for organisations working in the sector;
- data collected by service providers who support victim-survivors is varied in its completeness, and involves different referral pathways; and
- modern slavery datasets vary in accuracy and in their definition of victim-survivors.

To understand how these challenges might be overcome, in 2024 I commissioned a research study by Nous Group, a leading research consultancy. This Discussion Paper set out a plan to better understand the number and characteristics of the people in NSW who are, have been, or are at risk of being victimised by modern slavery. Producing the Discussion Paper involved consultations with over 22 stakeholder groups in Australia and globally, including non-profit service providers, academic groups, research organisations, and State and federal government agencies. All stakeholders expressed in-principle support for robust population estimates for NSW, subject to the need to carefully consider practical constraints relating to confidentiality, privacy and consent requirements.

Ultimately, a decision was made that my Office was not best placed to conduct these estimates. Firstly, my Office is not resourced to undertake a data aggregation project on the scale required. Secondly, creating systems to collect comprehensive and comparable data in a manner that is safe and confidential for survivors will require sustained collaboration and resourcing across the anti-slavery sector generally. The recently-appointed Australian Anti-slavery Commissioner may be better placed to catalyse / coordinate this work from a federal level.

One recently-developed source of national data on modern slavery risks and responses is the Human Trafficking and Modern Slavery National Minimum Dataset (NMDS). The NMDS, established at the Australian Institute of Criminology, is an administrative dataset that collects information on the nature and outcomes of reports of modern slavery in Australia to law enforcement, and the characteristics of suspected victim-survivors and perpetrators. While a promising source of data on the incidence of modern slavery offences, however, the NMDS is limited by its reliance on matters reported to law enforcement. As I noted in my submission to the Inquiry, reports to my Office suggest that a minority of victim-survivors wish to be referred to law enforcement or regulatory bodies.



The UK Traffik Analysis Hub is a proprietary, membership-based database that allows member organisations to share data related to human trafficking and access pooled information and analysis of this data. Any decision by a NSW or federal public entity to seek membership of the Hub would need to be made in compliance with applicable legislation and public sector policies (particularly those relating to privacy and data sharing), and mindful of confidentiality, consent, security and law enforcement implications. For clarity, my Office is not a member of the UK Traffik Analysis Hub and does not share data with it.



## 2 Implementation gaps and follow-through

2(a): You recommended the creation of an inter-agency taskforce and regional migrant hubs back in September. What concrete steps has the NSW Government taken since then? Have any departments committed funding, personnel, or timelines?

We understand that the NSW government is launching its first Migrant Workers Centre with a \$6.5 million investment over four years. Unions NSW has been chosen to operate the centre, partnering with organizations such as the Immigration and Advice Rights Centre. We understand that the centre, once operational, will conduct outreach to ensure support can be provided in regional and rural areas of NSW. A core focus of the work of the centre will be on address dangerous working conditions for temporary migrant workers, including sexual harassment. We are not aware of other concrete steps that the NSW government has taken with respect to an inter-agency taskforce or regional migrant hubs, and recommend that further inquiries on this matter are addressed to the NSW government.

2(b): Your report highlighted exploitative housing linked to unscrupulous landlords and labour hire intermediaries. Has your office conducted or commissioned any follow-up audits or mapping exercises of worker housing conditions in the past six months?

I have not undertaken audits or mapping exercises of worker housing conditions. I note that, under section 10 of the *Modern Slavery Act 2018* (NSW) ('the Act'), the Commissioner does not generally have the function of investigating or dealing directly with the complaints or concerns of individual cases. Additionally, my Office is not currently resourced to undertake or commission wide-ranging audits or mapping exercises of worker accommodation.

However, I continue to encounter reports of substandard accommodation while undertaking my support, advice and assistance functions pursuant to sections 9(1)(b) and 12 of the Act. In particular, I note that many of those reporting substandard or exploitative housing situations to my Office are temporary migrant workers in rural and regional NSW.



### 3 Systemic State-level weaknesses

3(a): Your report identifies areas outside traditional industrial relations oversight – accommodation, transport, food provision. Should NSW consider a stand-alone licensing scheme for employers or operators involved in these support services?

A stand-alone licensing scheme for employers/operators of accommodation, transport and food provision is one regulatory option. However, given that many accommodation and transport providers are labour hire companies, a licensing scheme for labour hire providers could address many of the risks of exploitation outside traditional industrial relations areas. For example, in Victoria, labour hire providers are required to tell the Labour Hire Authority if they intend to procure or provide accommodation in connection with a labour hire service. Even if the labour hire company is not the operator of accommodation nor procures the accommodation for the workers, they are nonetheless responsible for ensuring they do not place workers in premises that do not comply with applicable minimum standards.<sup>1</sup> The LHA undertakes regular inspections of labour hire accommodation in regional Victoria including to assess issues such as overcrowding, unauthorised building works, hygiene issues, and occupational health and safety violations.<sup>2</sup>

As noted in my *Be Our Guests* report, in the absence of a national licensing scheme for labour hire providers, a state-based scheme in NSW should be an urgent priority. A licensing scheme must be combined with monitoring and enforcement mechanisms given that existing monitoring by SafeWork NSW and the Fair Work Ombudsman may not be sufficient to identify where labour hire providers are located and to monitor them regularly.

A labour hire licensing scheme and the enforcement body which monitors compliance (or bodies, in the case of an interim interagency workforce) should look not only for dangerous or sub-standard accommodation, but also identify more nuanced forms of exploitation in order to:

- **Prohibit tying jobs to accommodation** unless workers freely opt in to such an arrangement.
- **Require full transparency** on accommodation costs, conditions, and contracts before arrival.
- **Ban non-consensual deductions** from wages for rent or bonds or – even if workers ostensibly agree to them - unfair penalty deductions for things such as having guests or bringing alcohol on premises.
- **Mandate compliance** with tenancy, safety, and planning laws.
- **Include regular audits** of accommodation standards and practices.
- **Allow the regulator to monitor complaints and reviews**, potentially via a centralised, regulated online platform for bookings and feedback.

These measures would help prevent cases where:

- Workers are forced to live in overcrowded, unsafe housing as a condition of employment.
- Employers use inflated rent to extract more income from vulnerable workers.
- Migrants are misled into paying upfront for non-existent jobs tied to accommodation offers.

The enforcement body/bodies should also work closely with local councils in order to streamline inspections, share intelligence and respond quickly to possible breaches.

<sup>1</sup> Labour Hire Authority, 2023. Changes to labour hire accommodation regulations in February 2023. <https://www.labourhireauthority.vic.gov.au/latest-news/changes-to-labour-hire-accommodation-regulations-in-february-2023/>

<sup>2</sup> *Ibid.*



To ensure comprehensive protection against exploitation in accommodation, such a labour hire licensing scheme could also be complemented with:

- Stronger legislative requirements on employers providing accommodation through public health and / or workplace relations legislation.

For example, in Victoria under the *Public Health and Wellbeing (Prescribed Accommodation) Regulations 2020* (Vic), employers and labour hire providers who provide worker accommodation must be registered by the proprietor with the local council and must meet cleanliness, hygiene, maintenance and other standards as set out under these Regulations. For labour hire providers, inspections can be conducted, and penalties enforced, by the Labour Hire Authority.<sup>3</sup>

The requirements for maintaining cleanliness and safety in employer-provided accommodation in NSW are less clear than in Victoria. Under the *Work Health and Safety Act 2011* (NSW) ('WHS Act'),<sup>4</sup> employers must provide accommodation in circumstances where other accommodation is not reasonably available. The main framework outlining the standards of safety is the [Code of Practice managing the Work Environment and Facilities](#) (2019).<sup>5</sup> The WHS Act also provides specific responsibilities around the provision of accommodation for rural workers pursuant to the [Code of Practice Accommodation for rural agricultural work \(2006\)](#). SafeWork NSW has a duty to inspect employer-provided accommodation where the employer is required to provide such accommodation under the *Work Health and Safety Act 2011* (NSW).<sup>6</sup> However, there is limited information available about how the monitoring and enforcement of these requirements is undertaken in practice. Further, SafeWork inspectors may only enter residential premises if the inspector reasonably suspects the residential premises is used as a workplace, entry is authorised by a search warrant, or entry is to gain access to a suspected workplace.<sup>7</sup>

- Legislative requirements on employers providing accommodation to undertake a housing assessment with the council before the workers' placement:

For example, Canada's government requires all employers of migrant workers in agriculture to submit a housing inspection report with their application to recruit temporary migrant workers and confirmation that an official authorized at the provincial/territorial or municipal level, has inspected the worker accommodation(s) for temporary migrant workers at least 8 months prior to their application, and found them compliant with applicable provincial, territorial or municipal legislation.<sup>8</sup>

One possible model for these requirements concerning employer-provided accommodation could be a regulatory compliance scheme similar to the *Boarding Houses Act 2012* (NSW) ('BH Act'). The BH Act requires that:

---

<sup>3</sup> In 2021-22, over 200 providers accommodated workers to carry out labour hire services in Victoria.

<sup>4</sup> Under section 19(4) the person conducting the business or undertaking must, so far as is reasonably practicable, maintain the premises so that the worker occupying the premises is not exposed to risks to health and safety.

<sup>5</sup> Further information available here NSW Government, 2019. *Code of Practice managing the Work Environment and Facilities*. <https://www.safework.nsw.gov.au/resource-library/accommodation-and-food-services-publications/accommodation-guide>. According to this Code of Practice: "Codes of practice are admissible in court proceedings under the WHS Act and WHS Regulation. Courts may regard a code of practice as evidence of what is known about a hazard, risk, risk assessment or risk control and may rely on the code in determining what is reasonably practicable in the circumstances to which the code of practice relates": p4.

<sup>6</sup> Safework NSW, undated. Accommodation Guide. <https://www.safework.nsw.gov.au/resource-library/accommodation-and-food-services-publications/accommodation-guide>

<sup>7</sup> Safework Australia, undated. Inspectors' powers to enter workplaces. <https://www.safeworkaustralia.gov.au/inspectors-powers-enter-workplaces>

<sup>8</sup> The Canadian government undertook a thorough consultation of accommodation standards in its temporary worker program in agriculture. Based on 150 submissions and views of 675 migrant workers, the government noted that there was a need for consistent inspection regimes and clearer, enforceable rules, and better coordination between federal regulations/inspections and those at provincial (state) level.



- A proprietor of a boarding house must lodge a notification with NSW Fair Trading which contains particulars of the boarding house, including details of the owner, its address, and the number of residents.<sup>9</sup> Proprietors must also keep this information up to date by lodging annual returns reporting changes in these particulars.<sup>10</sup>
- The names and addresses of boarding houses, as well as the names and addresses of their proprietors, is shared on a public register.<sup>11</sup>
- A local council must arrange for an initial compliance investigation of a newly-registered boarding house located in its area, or a boarding house for which the proprietor has changed, within 12 months of registration / change in registration. This inspection covers compliance with applicable planning, building, fire safety etc. standards.<sup>12</sup> Local councils can also enter and inspect boarding houses at any other time in line with their powers under the *Environmental Planning and Assessment Act 1979* (NSW) and the *Local Government Act 1993* (NSW).
- Enforcement officers are DCJ employees responsible for investigating and enforcing compliance issues. They can enter assisted boarding houses (boarding houses for persons with additional needs) without consent or warrant.<sup>13</sup>

Currently, the definition of boarding houses under the BH Act excludes employer-provided accommodation and backpacker accommodation. However, a 2020 [review of the BH Act](#) by the NSW Department of Customer Service and NSW Department of Communities and Justice recommended that the scope of the Act be broadened, and its name changed to the 'Shared Accommodation Act'. Further, it recommended that a wider range of shared accommodation, such as backpacker hostels, be subject to new fire safety and overcrowding provisions. The 2020 review also highlighted some implementation and enforcement challenges, including non-compliance with registration requirements and ineffective data-sharing between DCS / Fair Trading and councils.

Consideration could be given to ensuring that employer-provided or arranged accommodation, and backpacker hostels, are covered by fire safety and overcrowding provisions whether under a new Shared Accommodation Act or some other reform. However, this might be seen to expand the legislation beyond its original purpose.

An alternative would be to introduce a new regulatory scheme for employer-provided accommodation, which:

- requires employers or labour hire companies who provide worker accommodation to lodge a notification containing particulars with NSW Fair Trading;
- requires NSW Fair Trading to maintain a public register of accommodation provided by employers or labour hire providers;
- requires either local councils or SafeWork NSW (noting their responsibility under the WHS Act and relevant codes of practice) to arrange for initial compliance investigations of newly-registered accommodation provided by employers or labour hire providers, and
- requires SafeWork NSW to conduct periodic inspections of worker-provided accommodation to audit compliance.

Implementing a mandated disclosure requirement would need to be done in consultation with relevant stakeholders, including SafeWork NSW and local councils (e.g., through LGNSW). It would also require appropriate resourcing for NSW Fair Trading, SafeWork NSW and (if applicable) local

---

<sup>9</sup> *Boarding Houses Act 2012* (NSW), section 9.

<sup>10</sup> *Boarding Houses Act 2012* (NSW), section 10.

<sup>11</sup> *Boarding Houses Act 2012* (NSW), sections 12-14.

<sup>12</sup> *Boarding Houses Act 2012* (NSW), section 16.

<sup>13</sup> *Boarding Houses Act 2012* (NSW), Part 4, Division 3.



councils. Noting that this reform proposal is ambitious, a limited sectoral pilot for agriculture workers in regional and rural NSW could be one way to assess its feasibility.

3(b): What regulatory blind spots do you think are allowing coercive practices to thrive in regional NSW? Is it poor inter-agency communication, legal loopholes, or political will?

As set out in my *Be Our Guests* report and submission to the Inquiry, modern slavery is produced by the intersection of three factors: 1) vulnerability; 2) regulatory context or weak institutional safeguards; and 3) active exploitation (whether by a person or a particular business model).

Criminal justice responses tend to go after the third factor – the exploiter. This is important, but inadequate attention has been paid to how governmental capabilities can be used to better address the first two factors – vulnerability and weak safeguards.

My submission to the Inquiry highlighted the need for better coordination between federal agencies and local authorities, as well as across different State and federal agencies, to address the vulnerabilities faced by temporary migrant workers. In particular, I recommended a formalised referral process for complaints about unsafe and exploitative housing practices, which often fall outside the scope of State and federal industrial relations enforcement mechanisms (e.g., the Fair Work Ombudsman and SafeWork NSW).

Both DEWR (for PALM workers) and local government (under the *Environmental Planning and Assessment Act 1979* (NSW) and the *Local Government Act 1993* (NSW)) have limited mandates to inspect worker accommodation. However, there are limited channels of communication between federal agencies and local government: councils have no routine mechanism for raising concerns with DEWR around PALM worker accommodation, and federal agencies do not routinely tell local government authorities where in their local government area temporary migrant workers are living to ensure proper oversight.

In my submission, I also raised the need for training to equip frontline workers with the skills they need to identify and act on cases of suspected modern slavery. In particular, frontline staff who interact with temporary migrant workers (including council rangers, building inspectors, healthcare providers and workplace relations inspectors) should be provided training on indicators of forced labour, debt bondage, and other forms of modern slavery that occur in employment settings.

Finally, and as set out in more detail in my response to Question 3(a) above, in the absence of a national licensing scheme for labour hire providers, a state-based scheme in NSW should be an urgent priority. While most labour hire providers are compliant with their legal obligations and respect their workers' rights, I have received requests for support and assistance from a significant number of temporary migrant workers who have been exploited by unscrupulous operators. The absence of a labour hire regulation scheme in NSW (unlike Queensland, Victoria, South Australia and the Australian Capital Territory) may have the effect of attracting non-compliant operators who fear penalties in other jurisdictions.



## 4 Labour hire and exploitation structures

4(a): In your view, is the federal PALM Scheme structurally capable of preventing modern slavery, or does it inherently rely on coercive mechanisms like tied employment?

While the PALM Scheme includes important safeguards, the use of tied employment does create structural vulnerability to modern slavery. Tying workers to a single employer limits their bargaining power and can deter reporting of abuse, especially when visa status is linked to that employment. There may be other sound public policy reasons for relying on ‘tied’ visa arrangements; but where they are instituted, those arrangements will need to be matched by heightened safeguards and accountability systems to ensure employers do not abuse the preponderance of power that the tied visa arrangement affords them. The evidence increasingly suggests that the arrangements currently in place around the PALM scheme are not yet providing those safeguards.

With the right safeguards in place — such as strong worker protections, rigorous enforcement, and genuine oversight of labour hire practices — it may yet prove possible to reduce that risk substantially, even within a tied employment model.

That said, structural reform is the stronger option. A model that enables mobility within PALM, allowing workers to move between approved employers without risking disengagement, would better protect workers and reduce reliance on employers’ coercive conduct. This does not have to mean ‘open mobility’ where PALM workers can move to any employer at any time, outside the narrow bounds of the PALM scheme. For example, PALM workers could be given the unilateral right to move to another Approved Employer on the PALM scheme, if they can find an Approved Employer willing to employ them. This would be an important improvement on the status quo where workers first have to prove to DEWR that their employer was in breach and then wait for redeployment. The process can take up to 1.5 years. Allowing PALM workers a unilateral right to leave (with notice, or payment in lieu, except where there is clear exploitation), combined with support by local stakeholders such as unions and councils, can speed up redeployment. Ideally this would be supported by a government-funded centralized job-matching service (a market-clearing mechanism) that facilitates the transition of workers between PALM-approved employers when they seek to change jobs. Such a system would ensure that both employers and workers can quickly and efficiently fill vacancies, reducing concerns about labour shortages while preventing workers from falling into irregular employment situations. It would also, frankly, make government monitoring of the PALM workforce easier, and facilitate information sharing with local government areas hosting PALM workers. Longer term, government-managed recruitment pools for workers seeking to change employers could also be an efficient way of enabling mobility.

4(b): You called NSW’s labour hire regulation “notably weak.” Do you believe NSW should act independently of the Commonwealth to introduce a licensing regime? What accountability mechanisms would you build into such a scheme?

While a national licensing scheme is the ideal long-term goal, its development appears to have all but stalled. In the meantime, NSW faces immediate risks, with evidence showing that some labour hire providers are bypassing stricter regimes in Victoria and Queensland by operating in NSW. As raised in my submission and confirmed in discussions with workers, some of the worst exploitation is facilitated by unregulated labour hire operators.

Given this, the NSW Government should not allow the open-ended and apparently ineffective federal conversation on a national scheme to hold NSW hostage. If no national scheme will be operational by the end of 2025, the NSW Government should introduce its own licensing regime to set baseline standards. Such a scheme can be designed to align with and adapt to any future

national model — for instance, by building on the Victorian framework and including a sunset clause or harmonisation provisions.

Crucially, the scheme should embed accountability mechanisms. These could include:

- A robust "fit and proper person" test for labour hire providers based on civil standards, not just prior convictions, as current conviction thresholds are too limited to capture many real-world cases of exploitation.
- Specifying a role for the NSW Anti-slavery Commissioner to share information with the labour hire regulator and contribute to suitability assessments of labour hire providers.

4(c): Is there a recurring profile — geographically or sectorally — of the labour hire companies most linked to exploitative conditions? Are these known entities operating with effective impunity?

This response will be provided in a separate, confidential submission.



## 5 Community cost and economic consequences

5(a): You suggest that NSW bears hidden costs from federal exclusion of temporary migrants from Medicare and Centrelink. Can you quantify or give specific examples of how this burden is shifting to councils, hospitals, or emergency services?

I provide the following specific examples demonstrating the hidden costs of temporary migrant workers' exclusion from health and social services:

- During 2022-23, a part-time employee of a council in the Riverina region facilitated support for more than four pregnant women who had disengaged from the PALM Scheme, and consequently had no access to Medicare. This involved Murrumbidgee Health District assuming the costs for pre-natal checks and maternity care.
- A disengaged PALM worker was provided medical and social care at the expense of the Health District following a farming accident that resulted in emergency surgery and a transfer to a larger regional hospital.
- A disengaged PALM worker experienced a mental health crisis and sought support to return to his home country. The repatriation process was facilitated by the local council and a local multicultural support group.
- A NSW hospital referred a migrant worker they believed to be a survivor of modern slavery to my Office. The person was under the care of the Public Guardian and had a number of disabilities. However, they could not access the NDIS due to their visa status. I made referrals to the Ageing and Disability Commission and disability advocacy services for support and advice. This person stayed in hospital for an extended period of time (at the cost of the hospital) as safe and supervised accommodation could not be located.

My Office has worked with numerous disengaged and other migrant workers, whose case histories exhibit signs of modern slavery, to ensure these workers have access to emergency accommodation and food. We work through local charities, food banks and in some cases churches and civic organisations. In many cases individual community members absorb these costs. In other cases, local charities absorb them, often without any expectation of reimbursement or support from government, especially where these workers are out of visa status.

In many cases workers are being presented with large hospital bills after accessing the healthcare system. The pressure to pay may place them at greater risk of exploitation.

5(b): How does the lack of housing coordination for large migrant worker groups affect regional communities — not just the workers, but local renters, health clinics, and schools?

I recommend that the Committee direct inquiries on this point to local councils in regional communities. Relevant NSW Government agencies, including NSW Health, Homes NSW and the Department of Education may also be better able to provide feedback on this issue.



5(c): Would you support a mandatory disclosure requirement for employers who intend to bring in more than a threshold number of temporary migrant workers into a regional community?

I support a requirement for employers providing accommodation to register with local councils and / or appropriate State regulators. I have set out what this requirement might look like above, in my response to Question 3(a).



## 6 Power imbalances and worker silence

6(a): What are the main reasons temporary migrant workers don't speak up – fear of immigration consequences, threats from employers, or lack of safe reporting avenues?

In a national survey of over 4,000 migrant workers by the Migrant Justice Institute, 9 out of 10 migrants who knew they were victims of wage theft took no action.<sup>14</sup> For these migrants, the risks and costs of taking action substantially outweighed the marginal prospect of success, given the daunting nature of the legal and enforcement system in Australia.

Migrant workers may choose for many reasons not to speak up when they are victims of labour exploitation or modern slavery. The most significant is the dependence that a temporary worker may have on their employer for the livelihood, ability to stay in Australia, and often accommodation, transport and even food. PALM workers and working holiday makers are especially likely to live in employer-provided or arranged accommodation. They are dependent on the employer to stay in Australia, whether because of job mobility restrictions on the PALM scheme or the requirement for working holiday makers to undertake 88 days of work in regional or remote areas to extend their visas.

Even under the 'best' of circumstances, when workers have regular visa status and are not excluded from protections under the STPP, the Strengthening Reporting Pilot and the Workplace Justice Visa Pilot, temporary migrants are still restricted by language and cultural barriers in reporting exploitative conduct. For example, a distrust or fear of government authorities, service providers and others, may discourage temporary migrant workers from reporting incidents, or seeking services. Cultural norms and practices which make it taboo to challenge authority, or share personal information, can also play an important role.

The reality is that even for those temporary migrant workers who speak English and can understand the regulatory and legal systems, navigating these systems is practically impossible without specialist legal assistance. Community Legal Centres (CLCs), Migrant Workers Centres (MWCs), working women's centres, university student legal services and other free legal services need funding to support migrant workers but few cover regional and rural NSW. Indeed, unless they are union members, the only CLC that supports temporary migrant workers is Redfern Legal Centre, and it is only able to service a small proportion of temporary migrant workers, from Sydney. (The Adira multicultural centre also provides support to temporary migrant women but only services Western Sydney.)

Cases involving unpaid wages or sexual harassment are exceedingly hard to prove. The former require complex calculations of workers' wages and entitlements for every day worked: they are generally prohibitively resource-intensive for private and community lawyers, as are the requirements for filing and pursuing the claim through court. Sexual harassment often happens in isolated situations, though potentially with co-workers present. This requires witness identification and other evidence gathering. The limited affordable legal assistance that exists is often not sufficient for such complex cases and may be limited to one-off advice, or representation of only a small number of workers. Private legal representation is not commercially viable for most temporary migrant workers.

<sup>14</sup> Bassina Farbenblum and Laurie Berg, Wage Theft in Silence: Why Migrant Workers Do Not Recover Their Unpaid Wages in Australia (Report, 2018) 5 (Wage Theft in Silence).



6(b): You proposed “Welcome Committees” — what would make them credible in the eyes of workers? Is there a risk they become cosmetic if not coupled with strong enforcement?

As noted in the *Be Our Guests* Report, I believe that it is critically important that the membership of Welcoming Committees includes fellow migrant workers, as well as local community members, in order to ensure that these Committees are seen as credible by workers. While unions have been important advocates for migrant workers’ rights, there remains a low unionisation rate in sectors like horticulture. Having temporary migrant workers from key communities/sectors on the Welcoming Committees, ensuring that these workers are supported and fairly remunerated for their time on Committees, and ensuring their active participation will send a powerful signal to workers that their voices are important, and will help to ensure communication in both directions.

Inclusion of migrant workers on Welcoming Committees will require consideration of how barriers to their meaningful participation and inherent power dynamics might be overcome. Measures could include, e.g., logistical support with transport and expenses; and interpretation and translation of key documents.

6(c): You mentioned gendered violence, particularly affecting female PALM workers. Can you speak to the adequacy — or absence — of gender-specific protections in existing schemes?

I am not aware of gender-specific protections in existing migration schemes. Indeed, a number of gaps exist in these schemes, including:

- The 12-month insurance waiting period for pregnancy related services. I understand this measure is being removed for international students who take out a two-year policy, but remains in place for all other workers (including PALM workers and working holiday makers).
- Temporary migrant workers are generally ineligible for Parental Leave.
- Lack of access to childcare and social safety nets, with the possible exception of PALM workers on the Family Accompaniment pilot (200 workers), though information on the implementation of this pilot has not been made available.

Female migrant workers face a disproportionate risk of certain offences such as sexual harassment, however it is unclear what specific protections are in place on schemes such as PALM and the Working Holiday Maker program to address these risks. Importantly, gender disaggregated data is not available in relation to either the PALM or the Working Holiday Maker scheme, underscoring the need for more gender-responsive policy making and development of gender-specific protections.



## 7 Forward strategy and worker silence

7(a): What are three things the NSW Government can implement in the next 12 months that would significantly reduce modern slavery risk in regional industries?

Three impactful initiatives that the NSW Government could implement in the next 12 months are:

1. **Labour hire licensing scheme:** as noted in our Submission, and above, a labour hire licensing scheme and monitoring/enforcement mechanism is urgently needed to protect one of the most vulnerable cohort of temporary migrant workers. To fast-track such a scheme, the government could pass legislation similar to the *Labour Hire Licensing Act 2018* (Vic) or *Labour Hire Licensing Act 2017* (Qld). Either could serve as a useful model but the Victorian scheme has a broader definition which captures recruitment and placement services where the provider recruits individuals for a host and provides accommodation or contractor management services, which may be relevant. As an interim measure, an inter-agency taskforce could be brought together from agencies including NSW Industrial Relations and Safework NSW, with appropriate funding.
2. **Frontline worker training:** The NSW Parliament's Modern Slavery Committee, in its Review of the *Modern Slavery Act 2018* (December 2024) unanimously recommended that the NSW Government 'provide mandatory and ongoing training to government and non-government frontline organisations, including housing, education, healthcare, law enforcement and social services, to identify and respond appropriately to potential victim-survivors of modern slavery'. Though the recommendation was not supported by the Government (though all Government members of the Committee supported it), there appears subsequently to have been an increased appreciation within relevant Departments and agencies of the need for such training, and cost-efficient ways in which such a training could be rolled out. A consistent, whole-of-government frontline worker training framework on modern slavery will ensure early identification, appropriate referral, and better outcomes for survivors.
3. **Resourcing to community organizations** to support temporary migrant workers with housing, legal assistance and medical care: as noted above and in our submission, there is a severe lack of support provided to temporary migrant workers in crisis, especially where they have fallen into irregularity and ineligible for the STPP and other protections. Similarly, if they are not union members, the only organizations in NSW that can provide assistance, are the Redfern Legal Centre and Anti-Slavery Australia, though their resourcing is limited.

7(b): Is the current legislative framework under the NSW Modern Slavery Act sufficient to support systematic change – or is a more expansive legal mandate now required?

The NSW Modern Slavery Act passed in 2018 and has been in force since 2022. The Committee recently had an opportunity to assess its implementation and impact in its Review of the Act, and made a number of proposals in its December 2024 Report as to how the Act's legislative mandate might be strengthened.

Achieving systemic change requires not just a legal mandate, however, but sustained and sustainable commitments to implement that mandate. Three years into the Act's operation, and in an admittedly tight fiscal environment, I am concerned that this commitment may be drifting. I note, for example, the continued and increasingly acute under-resourcing of my Office, as well as other organisations with a mandate to act on these issues, such as the recently-established Migrant Worker Centre.



This raises questions about whether the necessary incentives are in place to support systemic change. Reducing modern slavery risks affecting temporary migrant workers will require, among other factors:

- strong political commitment from the NSW Government and across NSW Parliament;
- increased resourcing of frontline organisations, including local communities, service providers, and relevant NSW government bodies; and
- leadership across NSW government agencies.

Absent these incentives, stronger legislative arrangements are unlikely to translate into progress for temporary migrant workers and communities in rural and regional NSW.

7(c): How do you recommend this Committee hold departments to account on your recommendations, especially if progress stalls post-inquiry?

Please refer to my response to question 7(b), above.



**Office of the  
NSW Anti-slavery  
Commissioner**

6 Parramatta Square  
10 Darcy Street  
Parramatta NSW 2150

Office hours:  
Monday to Friday  
9:00am to 5:00pm

E: [antislavery@dcj.nsw.gov.au](mailto:antislavery@dcj.nsw.gov.au)  
W: [dcj.nsw.info/antislaverycommissioner](http://dcj.nsw.info/antislaverycommissioner)



Call 1800 FREEDOM (1800 37 33 36)  
for confidential support and advice  
for victims of modern slavery