



CLEANING  
ACCOUNTABILITY  
FRAMEWORK

Cleaning Accountability Framework Submission:

Review of Australia's *Modern Slavery Act 2018*

15 November 2022



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## About the Cleaning Accountability Framework (CAF) and Modern Slavery

Cleaning has previously been recognised as a key risk area for modern slavery in Australia by the Department of Home Affairs.<sup>1</sup> Withholding of wages, immigration-related coercion and threats, deceptive recruitment, excessive overtime, debt bondage, confiscation of personal and travel documents, and dangerous and substandard working conditions are all practices that are found in the cleaning industry in Australia.

The Cleaning Accountability Framework (CAF) was created to directly address these issues. CAF is an independent, multi-stakeholder initiative that seeks to improve labour standards in the cleaning industry in Australia. CAF promotes the rights of cleaners, responsible contracting practices and transparent supply chains. We do this through the CAF Certification Scheme, recognising and rewarding good practice in the cleaning industry.

CAF has been recognised as an anti-slavery mechanism by leading business and human rights experts for the work we do in relation to worker-driven compliance, robust third-party auditing, and tripartite collaboration and education.<sup>2</sup>

CAF was founded in 2013 by AustralianSuper, the United Workers Union, and a coalition of industry leaders that included the Fair Work Ombudsman, property owners, building managers, and cleaning contractors who shared the common aim of protecting cleaners from exploitation and driving responsible contracting practices in the cleaning industry with the development of an industry standard, the 3 Star rating.

The CAF Core Principles, the CAF 3 Star Standard, the CAF Pricing Schedule (a mechanism to bring transparency and accountability to contract pricing), and CAF's unique worker engagement model were derived through our stakeholders' collaborative efforts. CAF certification for commercial office and retail mall buildings was launched in March 2019. As of 2022, CAF has assessed 36 commercial and retail sites nationally for its 3 Star rating and we will expand to include higher education providers in 2023.

CAF's approach to modern slavery risk management is effective, worker-voice-led human rights due diligence in action. CAF is one of Australia's foremost multi-stakeholder anti-slavery mechanisms, which is driving change in one of the highest risk industries nationally for modern slavery: cleaning. The multi-stakeholder CAF model goes beyond social audits, engages all levels of the value chain and holds lessons for other industries. Further details regarding CAF's approach to modern slavery can be found at our website.<sup>3</sup>

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<sup>1</sup> **Commonwealth Modern Slavery Act 2018: Guidance for Reporting Entities** (2018)

<https://www.homeaffairs.gov.au/criminal-justice/files/modern-slavery-reporting-entities.pdf>, p.44

<sup>2</sup> Rawling, M., Kaine, S., Josserand, E., & Boersma, M. (2021). "Multi-Stakeholder Frameworks for Rectification of Non-Compliance in Cleaning Supply Chains: The Case of the Cleaning Accountability Framework". **Federal Law Review**, 49(3), 438–464. <https://doi.org/10.1177/0067205X211016575>; Sarah Kaine and Michael Rawling (2019) "Strategic 'Co-enforcement' in Supply Chains: The Case of the Cleaning Accountability Framework" **Australian Journal of Labour Law**, 31(2), 305-334.

<sup>3</sup> <https://www.cleaningaccountability.org.au/modern-slavery/>

## Key Concerns

In proposing changes to the *Modern Slavery Act 2018* (Cth), we focus on the need for effective, practical measures which will support all stakeholders in improving sectoral working conditions and delivering decent work. In general terms, legislative change which enhances worker rights, increases supply chain transparency, promotes collaboration and standards amongst stakeholders and strengthens regulatory powers are all effective anti-slavery mechanisms.

CAF supports the Act and believes that it has played a very important role in raising awareness of modern slavery and modern slavery-like conditions within Australia and throughout the supply chains of entities which operate in Australia and internationally. Overall, CAF believes the mandatory components of the Act are reasonable and would not support any weakening of current requirements.

To strengthen the Act, we see the need for the appointment of an independent, statutory Anti-Slavery Commissioner with a range of powers, which could include the ability to conduct reviews, investigations and make recommendations. Such a Commissioner would not be novel, the role of the Australian Information Commissioner's powers under the Privacy Act offer one model for guidance.

The Commissioner, while being concerned with all slavery matters, should be directed to focus on sectors considered high-risk, where the propensity for slavery and slavery-like conditions are demonstrated, or where the structures of those sectors create circumstances where slavery is more likely to occur. The Commissioner should direct research in areas of priority.

We note the Department of Home Affairs recommends that entities, "exchange information and identify opportunities for collaboration with other entities, key stakeholders and local communities."<sup>4</sup> CAF believes this aspect could be strengthened with a Commissioner empowered to convene meetings of sectoral stakeholders (employers, trade unions, other civil society organisations, academics) for the drafting and setting of minimum standards and best practice guidance for effective human rights due diligences for modern slavery risk management in different sectors. Consideration could be given to whether industry standards developed could form addenda to industrial awards. Alternatively, a Commissioner could play an effective role in the promotion and setting of Industry Codes (as available under the *Competition and Consumer Act 2010*) in collaboration with the Australian Competition and Consumer Commission.

We note that different stakeholders will view the role of an independent Anti-Slavery Commissioner differently; in simple terms this can be expressed as a role as a regulator or as a support mechanism for guidance and best practices. CAF does not necessarily see these as mutually exclusive, but existing within a spectrum. CAF would encourage framing the Commissioner's role by prioritising actions leading to meaningful stakeholder collaboration for the strengthening of standards (mandatory and non-mandatory) within high-risk sectors. Such standards might include best practice guidance for modern slavery risk identification and prevention, the development of industry standards for supplier questionnaires, best practice guides on effective human rights protection in specific high-risk sectors, standardised

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<sup>4</sup> **Commonwealth Modern Slavery Act 2018: Guidance for Reporting Entities** (2018) <https://www.homeaffairs.gov.au/criminal-justice/files/modern-slavery-reporting-entities.pdf>, p.87

minimum third party audit expectations for high-risk sectors, and information sharing forums for industry.

CAF supports the continuing grounding and extension of 'human rights due diligence' frameworks in the Act, as outlined in the UN Guiding Principles on Business and Human Rights. CAF believes one role of the Commissioner could be to facilitate the formulation of the details of leading practice for due diligence for different sectors.

We welcome the Government's Modern Slavery Register and believe this plays an important role in transparency. CAF would like to see further information available in the register, for example differentiation between compliant and non-compliant entities. At present, an entity which meets reporting deadlines is treated no differently in the register than an entity which does not. At a minimum, showing whether entities met their reporting deadlines would increase transparency and act to reward those entities which comply with requirements.

We would recommend the Modern Slavery Expert Advisory Group have stronger worker and trade union representation. The representation of those persons with the most direct experience of modern slavery and modern slavery-like conditions are the least represented in the Modern Slavery Advisory Group.

At present, the Act contains no penalties for non-compliance. CAF neither supports nor is against financial penalties. However, we do note that financial penalties could become a mechanism for some entities to simply view the penalty as a fee to pay for non-compliance, which would effectively nullify the purpose of the Act. If consideration is given to financial penalties, an option might be to make their application discretionary.



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