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Compliance without ambition

Taking stock of ASX200 reporting under Australia's Modern Slavery Act

April 2023

This report was prepared by PILLAR TWO

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Our members include 26 Australian and international asset owners and institutional investors. Collectively, they manage over $1 trillion in assets.

Our members believe that ESG risks and opportunities have a material impact on investment outcomes. As fiduciary investors, they have a responsibility to act to enhance the long-term value of the savings entrusted to them.

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Leading voice on ESG issues and advocacy

ACSI members manage $1 trillion in assets

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We acknowledge and respect the traditional lands and cultures of First Nations people in Australia and globally. We pay our respects to Elders past and present and recognise First Nations peoples' longstanding and ongoing spiritual connections to land, sea, community and Country. Appreciation and respect for the rights and cultural heritage of First Nations peoples is essential to the advancement of our societies and our common humanity.

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- Rosie Rowe; and
- Melissa Stewart

ACSI also wishes to acknowledge the contribution of representatives from four ASX200 companies who agreed to participate in interviews on an anonymous basis to inform a case study included in this report.

About Pillar Two

Pillar Two is a specialist business and human rights advisory firm with extensive global experience supporting businesses and other organisations to identify, assess and develop effective responses to their human rights risks.

This includes building capacity of businesses to meaningfully engage stakeholders, such as affected rights-holders, civil society organisations, workers' associations, governments, investors and business partners, around their human rights approaches, including preventing and addressing any involvement in modern slavery.

Pillar Two takes a principled, integrated and practical approach founded on international frameworks, national laws and policies, evolving stakeholder expectations, and leading practice.

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Foreword

Modern slavery has a terrible human toll and is also a serious investment risk. ASX200 companies have shown a developing understanding of both of these issues, but too few companies are developing the robust responses required to address the reality of modern slavery.

ACSI released the first detailed analysis of the inaugural ASX200 company reporting under the Modern Slavery Act (MSA) in 2021. At that time, most of the statements satisfied the minimum reporting requirements, but there were significant opportunities for improvement, as most companies' statements coalesced around a low average score.

In this first detailed analysis of the third year of reporting under the MSA, ACSI commissioned Pillar Two to assess ASX200 companies' statements under the MSA. The research methodology assigns scores to company statements against 46 quality indicators over six assessment areas.

This methodology goes beyond measuring strict compliance under the Act to also assess whether companies reported on areas of recommended (but not required) practice in the Government Guidance. In addition, this year's approach extends the methodology used in 2021 to include six new or expanded indicators addressing modern slavery risk management practice.

Given this expanded methodology, I am pleased to see some encouraging results – such as the 44 companies which improved their first-year scores by 50% or more. This is to be welcomed as, although companies' scores are based on their reporting, the level of improvement suggests that these companies have taken concrete actions to improve their modern slavery risk management.

However, the general picture is of wider stagnation, with only an incremental improvement in most companies' average scores. While many companies are putting in place the foundations of modern slavery risk management approaches, too few are disclosing their activities and risk management actions in key areas such as supplier capacity building and stakeholder engagement.

This does not engender confidence that modern slavery risks are being addressed. Reinforcing this concern, only 8% of statements identified one or more allegations or instances of modern slavery. It is important that such instances are identified in order to be addressed appropriately.

In brief, there is little indication that the improvements many companies have made are translating to more effective modern slavery risk management. This report comes as the Government determines its response to the review of the MSA. ACSI contributed to that review, and called for a range of additions to the Act focused on addressing modern slavery and its impacts, including:

- an independent Anti-Slavery Commissioner, with an important role in monitoring the impacts and functioning of the MSA
- a due diligence requirement that has a clear scope and is focused on material and salient risks, to ensure entities are improving their risk assessment and mitigation
- more robust enforcement of noncompliance, through penalties and other incentive measures
- additional detail in the mandatory reporting criteria to ensure entities are providing sufficient granularity in their modern slavery statements; and
- access to remedies for victims of modern slavery.

ACSI will also continue to engage with companies on their responses to modern slavery and their reporting under the MSA. We have an opportunity to renew the focus on this issue and ensure that all of our responses are having an impact.

Louise Davidson
Chief Executive Officer, ACSI

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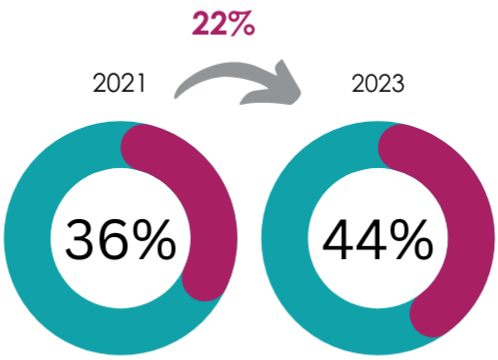
Key findings

This report, commissioned by ACSI and conducted by Pillar Two, assessed the quality of ASX200 companies' modern slavery statements (**statements**) under the Australian [Modern Slavery Act 2018]() (**MSA**). These findings offer the first detailed insight into the MSA's third reporting cycle[1] and a window into ASX200 companies' broader modern slavery risk management actions.[2]

ASX200 companies' third statements, assessed against an extended methodology developed by Pillar Two and ACSI, indicate the MSA has successfully driven action to implement the foundations of modern slavery risk management. Common areas of potential legal non-compliance over the first reporting period also appear to have been largely resolved.

However, while a third of companies (34%) significantly improved their score over the first to third reporting periods, the average company score remained low, at 44%. Most companies appear to have made only incremental improvements and only a small number of companies disclosed more sophisticated risk management actions.



ASX200 companies improved their average score by 22%, which reflected an ongoing focus from many companies on implementing core modern slavery risk management actions, but the overall average remained low, at just 44%.

These results suggest that while many companies have made progress in their modern slavery risk management, few are taking the steps necessary to develop robust responses. This highlights a risk that companies' responses may be stagnating, as they continue to focus on foundational action rather than evolving their response and moving beyond a compliance-focused mindset.

These incremental improvements are also disproportionate to the scale of the modern slavery challenge facing companies, governments and the global community. One of the key aims for the MSA is to drive business action to identify and address modern slavery incidents in their operations and supply chains. While the number of companies reporting they have identified modern slavery red flags or potential modern slavery incidents has increased, fewer than one in ten statements disclose this. Most of these provided little information on how companies responded in practice.

To drive change on the ground, more statements need to show companies are moving beyond foundational actions and are identifying and, where appropriate, remediating or supporting the remediation of, modern slavery incidents.

Only 19 companies scored above 65%, which shows the improvements in reporting still to be made.

[1] Due to the six month legislative deadline for submitting statements, these research also assessed a number of second year statements. The research assessed 123 third year statements and 23 second year statements from ASX200 companies operating on a calendar year or financial year ending after 30 June.
[2] To the extent these actions are disclosed in statements.

Statements indicated **ASX200 companies are taking foundational actions** to manage modern slavery risks, including through risk assessments of supply chains (96%), use of contract clauses (67%), internal training (90%) and collaboration (51%).

However, **only a small cohort of companies clearly disclosed and explained more complex or advanced actions** to manage modern slavery risks. This includes:

- working with suppliers to build their capacity to manage modern slavery risks (6%)
- building the internal capacity of boards and senior leadership on modern slavery (3%)
- consulting with potentially affected groups or their representatives (such as workers or their representatives) as part of risk assessment processes (2%); and
- defining effectiveness or an effective response to modern slavery to assist with tracking performance (10%).

Although companies' disclosures of modern slavery risks in their supply chains has improved with 96% identifying risk areas or modern slavery risk factors, **only 28% of statements provided granular detail about these risks, such as explaining examples of how they could occur in practice.**

Only 14% of statements provided information about companies' supply chains at Tier Two or below, where many severe modern slavery risks may occur.

Reporting on modern slavery risks in companies' operations also remained weak, with only 13% of statements providing granular detail about modern slavery risks in this area.

ASX200 companies' **ability to identify and respond to incidents or allegations of modern slavery appears limited**. Few statements (10%) identified steps taken by companies to ensure their grievance mechanisms are trusted and accessible to hear and address modern slavery complaints and only 8% of companies indicated they had identified a modern slavery incident or allegation.

Understanding good practice and key gaps: recommendations for action

This section identifies key recommendations and good practice examples companies can implement to enhance their modern slavery reporting. It also sets out recommendations for investors and the Australian Government.

Assessment area	Recommendations for companies	Good practice examples
2. Describing structure, operations and supply chains	• Enhance reporting on company structures, including where there are multiple reporting entities. • Provide greater detail about supply chains at Tier Two and below.	• Identifying reporting entities in a table which also includes a short description of each entity's operations (where a statement covers multiple reporting entities). • Including a diagram showing the structure of the group, including reporting entities and key owned or controlled entities (such as those that operate overseas or undertake external facing functions). • Providing indicative information about the key activities involved in companies' full supply chains (which can be done through visual diagrams) and / or more focused reporting on higher risk sections of the supply chain at Tier Two and below, such as information gained from deep dives with suppliers.

Assessment area	Recommendations for companies	Good practice examples
3. Describing modern slavery risks	• Improve the level of detail provided about modern slavery risks by: – using the UN Guiding Principles on Business and Human Rights' (**UNGPs**) continuum of involvement[3] to describe modern slavery risks; – identifying key modern slavery risk factors; and – considering opportunities to report on potential modern slavery risks associated with downstream value chains.[4]	• Using the UNGPs continuum of involvement to describe at a high level how the company could be involved in modern slavery risks, such as through a three column table listing relevant risks under the 'cause', 'contribute' and 'directly linked' elements of the continuum. For example, the table could show what risks the company considers it might cause or contribute to (such as potential exploitation of contracted workers on its sites) as well as those risks it might be directly linked to (such as potential exploitation in its raw material supply chains). • Providing short hypothetical examples of how modern slavery could occur in key elements of the company's operations or supply chains. For example, if uniforms and PPE were listed as a procurement category, this could include noting that there is a risk that raw materials used in unforms could be harvested by children overseas exploited through the worst forms of child labour. • Explaining key modern slavery risk factors in the company's operations and supply chains, such as use of migrant or seasonal workers or use of recruitment agencies for low skilled labour, and identifying external factors such as conflicts, pandemics or natural disasters that may have exacerbated these risk factors. • Identifying modern slavery risks that could be associated with customers and other end users, taking into account the potential complexity in providing more granular detail for some sectors. • Explaining how modern slavery risk assessments align with broader risk assessments undertaken by the business, such as materiality assessments. This could include an explanation of whether or not the company sees modern slavery as material.

[3] The UNGPs are the recognised global standard for preventing and addressing business related adverse human rights impacts such as modern slavery. The continuum of involvement provides a way for businesses to understand and explain the spectrum of conduct (both acts and omissions) that may result in their involvement in modern slavery based on three concepts: cause; contribute; and directly linked. This continuum is explained in more detail in the 2021 research report.

[4] See discussion of downstream modern slavery risks on page 23.

Assessment area	Recommendations for companies	Good practice examples
4. Describing actions to assess and address modern slavery risks	• Use reporting as an opportunity to discuss key challenges and learnings, such as difficulties building and using leverage. • Improve disclosures around supplier engagement and capacity building. • Outline briefings or engagement with the board and/or senior leadership on modern slavery in addition to the reporting process. • Explain engagement with external stakeholders including affected rights-holders, particularly any at risk or vulnerable groups. • Report on actions taken to ensure grievance mechanisms to hear and address modern slavery related complaints are fit for purpose, including explaining how any modern slavery related incidents were addressed.	• Including a variety of case studies that explain how key actions were implemented in practice and identify lessons learned. • Outlining steps taken to engage with suppliers, such as by providing targeted training sessions on key issues identified through audits or providing suppliers with access to tools and resources. • Explaining how the board and/or senior leadership (such as the Executive Committee) are engaged on modern slavery issues beyond the statement process, such as through periodic reports to the Board on the implementation of key risk management actions. • Identifying and describing any training or capacity building provided to the board and/or senior leadership on modern slavery, such as strategic briefings. • Outlining how the company engages with affected rights-holders including particularly at risk or vulnerable groups (such as migrant workers) to help inform its modern slavery risk management. For example, this could include engagement with workers' representatives or use of a trusted worker voice app to help assess and manage risks relating to issues such as suppliers' workers' accommodation conditions or working hours. • Providing information about steps taken to help ensure grievance mechanisms are trusted and accessible, such as promotion of mechanisms to workers or training for grievance mechanism operators on how to identify modern slavery. • Explaining what steps were taken to respond to and, where appropriate, remediate a modern slavery incident (while respecting the privacy of the survivor/s and any commercial confidentiality requirements).

Assessment area	Recommendations for companies	Good practice examples
5. Describing actions to assess effectiveness	• Increase the sophistication of actions to assess the effectiveness of modern slavery risk management programmes.	• Disclosing what the company sees as the core components of an effective response to modern slavery, such as meaningful risk assessments and trusted and accessible grievance mechanisms and aligning effectiveness KPIs to these components. • Including short case studies showing how the effectiveness of a specific action was assessed, such as explaining an external review of the effectiveness of grievance mechanisms or outlining how training attendees were surveyed to identify any remaining knowledge gaps. • Reporting on how the company is seeking to assess effectiveness by evaluating outcomes and not just outputs.[5]

[5] Further information about assessing outcomes vs outputs is included on page 28.

Recommendations for investors

- Encourage more open disclosures where appropriate around identification of modern slavery allegations or incidents, including audit findings relating to modern slavery red flags for suppliers.
- Encourage companies to share lessons learned and key reflections about how their modern slavery response is evolving through their statements, including through the use of case studies outlining where certain elements of a response worked well and where there were challenges.
- Continue to integrate modern slavery into wider engagement with investee companies on ESG and related issues.
- Use the Australian Government's Modern Slavery Register, as well as third party benchmarking projects, to identify and engage with investee companies that appear to have comparatively weaker reporting than peers.
- Explore opportunities for collective engagement to increase leverage with companies to drive action, potentially initially by focusing on particular higher-risk sectors.
- Take steps to enhance investors' own modern slavery reporting and risk management to help set an example for investee companies and leverage this experience (such as challenges assessing risks or reporting on assessing effectiveness) to help inform ongoing engagement with investee companies.
- Make use of conversations with investee companies about modern slavery reporting and risk management as a jumping off point to engage with companies about their wider human rights risk management.

Recommendations for Government

- Appropriately resource the Modern Slavery Business Engagement Unit within the Attorney-General's Department to provide guidance and support to companies and encourage multistakeholder consultation and knowledge sharing, including by identifying good and poor practice reporting trends and providing training and resources.
- Consider options to facilitate collaborative engagement, including by identifying barriers to collaboration within sectors. This could include consideration of options to provide exemptions from competition law where this is a legitimate hindrance.
- Provide guidance to companies about reporting on risks relating to reported state-sponsored forced labour in supply chains. This should include advice about managing potential sensitivities where companies operate in or have suppliers in countries where state-sponsored forced labour is reported.
- Monitor changes to modern slavery and broader business and human rights frameworks (including those relating to mandatory human rights due diligence) overseas, including to assess how to provide a consistent regulatory environment for Australian businesses operating in multiple jurisdictions. Where relevant, this could include consultation with Australian businesses, investors and civil society and international knowledge sharing.
- Engage with companies when developing and implementing new rules around 'green' and 'blue' washing to understand any implications for companies' disclosures in their modern slavery statements. It may be challenging for companies to verify some information disclosed, so the focus should be on acknowledging the basis and veracity of disclosure. Continue to provide funding to civil society groups including workers associations, business associations and other stakeholders to help address the root causes of modern slavery.

Note: The Government has undertaken an independent review of the MSA, due for release in the first half of 2023 but unavailable at time of publication.

What did this research assess?

The findings in this report are based on a comprehensive benchmark of ASX200 companies' most recent modern slavery statements. This benchmark included **126 third year statements** from ASX200 companies available at the time of publication. The benchmark also included **20 second year statements** from ASX200 companies operating on a calendar year or financial year ending after 30 June.[6] These results build on research conducted by Pillar Two in 2021, which evaluated the quality of ASX200 companies' statements over the MSA's first reporting cycle.[7]

Through the benchmarking process, statements were assessed against 46 quality indicators over six assessment areas covering:

- identifying reporting entities
- describing reporting entities' structure, operations and supply chains
- describing modern slavery risks in the reporting entities' operations and supply chains and those of any owned or controlled entities
- describing actions to assess and address modern slavery risks by the reporting entities and any owned or controlled entities
- describing actions to assess the effectiveness of the reporting entities' modern slavery response; and
- describing consultation between reporting entities and with any owned or controlled entities, as well as addressing approval and signature requirements.

These 46 indicators align with the expectations for reporting set out in the Australian Government's official guidance (**Government Guidance**) about reporting under the MSA, as well as key international standards, such as the UNGPs (which were used by the Government to inform the Government Guidance).

Notably, the 46 indicators used in this assessment included six new or expanded indicators added to the 2021 assessment methodology to enhance assessments of companies' reporting. These indicators relate to the quality of companies' reporting on:

- supply chains at Tier Two and below
- use of the UNGPs continuum of involvement to describe modern slavery risks
- engagement with the board on modern slavery issues outside of the statement approval process
- any board or senior leadership capacity building on modern slavery
- work with suppliers to build their capacity to manage modern slavery risks; and
- assessing effectiveness using outcomes as well as outputs.

[6] Companies have six months after the end of their financial year to submit their statements to the Australian Government for publication on the online register, meaning not all third statements were available at time of publication. For example, companies operating on a calendar year have until 30 June 2023 to submit their third statements.
[7] The MSA entered into force in January 2019 and the first reporting cycle for companies on an Australian Financial Year was 1 July 2019 to 30 June 2020.

These five indicators cover important aspects of modern slavery risk management that companies should be considering as they seek to continually improve their response.

Each indicator was scored using clear criteria on a three-tiered scale ranging from 0.0 to 0.5 to 1, with 1 indicating a high quality response.[8] These indicators were distributed across each assessment area, with the largest number of indicators assigned to the fourth assessment area: describing actions to assess and address modern slavery risks. This reflects that this assessment area provides the greatest detail about companies' actions in practice.

For comparative purposes, this report refers to key findings from the 2021 research where relevant. Where the report directly compares cumulative overall findings, such as average scores, to those of the 2021 research, it uses the same methodology (without the five additional 2023 indicators) to ensure a fair and accurate comparison. The periodic rebalancing of the ASX200 also means that not all companies assessed in 2021 remained part of the ASX200 for this assessment.

This research project focused on analysing the quality of ASX200 companies' statements. It did not consider other sources of information such as sustainability reporting or website content, or review the extent to which those companies' reporting accurately reflects the underlying actions they are taking to manage modern slavery risks. However, in most cases the quality of ASX200 companies' reporting is likely to broadly correlate to the quality of the underlying actions they have taken to assess and address modern slavery risks. This is because it would be difficult for a company to meaningfully report under all of the MSA's mandatory reporting criteria without taking at least some concrete actions to identify and manage their modern slavery risks.

For example, a company that is able to disclose a detailed overview of its modern slavery risks and reports in detail on key actions it has taken to manage these risks is likely to have a stronger modern slavery response than a company that produces a basic, high-level statement, especially where the same wording is provided year on year. This means that companies' scores in this benchmark are relevant not just to the act of reporting but can also be used to help understand their broader modern slavery risk management approaches.

The Australian Government has clearly indicated that it expects all companies to commit to continuous improvement, irrespective of the maturity of their modern slavery reporting and underlying risk management. While companies that received comparatively higher results in the benchmark are likely to be taking more meaningful action to respond to modern slavery risks than peers, higher scores do not necessarily indicate that a company is effectively managing all modern slavery risks or has no room for further improvement.

[8] One indicator relating to reporting on modern slavery risks was scored on a scale from 0 to 0.5 to 1 to 1.5 to allow for greater differentiation of companies' responses.

CASE STUDY: Interview feedback about drivers for good practice and key challenges

This research project included a series of targeted anonymous interviews with representatives from four ASX200 companies across a range of sectors. These interviews focused on interviewees' experiences reporting under the MSA and implementing modern slavery risk management actions across their organisations, including drivers for good practice responses.

Key challenges for Modern Slavery Risk management

Interviewees highlighted that internal resourcing remains an ongoing challenge for effective modern slavery risk management. Several interviewees flagged that companies' modern slavery risk management experience and capacity can vary across sectors, with some sectors potentially having greater access to resourcing, as well as exposure to and experience with other reporting frameworks overseas and greater familiarity with ethical sourcing approaches and tools.

Another key challenge identified by interviewees was supplier capacity. While some interviewees suggested supplier cohorts commonly regarded as higher risk were becoming more sophisticated in their modern slavery risk management, interviewees pointed to ongoing difficulties engaging with smaller suppliers, understanding which suppliers to prioritise, and building visibility of supply chains at Tier Two and below. Interviewees also indicated that a lack of credible, sector specific data about modern slavery risks and challenges and difficulties building leverage continue to hamper supplier engagement efforts.

Key challenges for Modern Slavery Reporting

Interviewees were all involved in preparing statements for their companies under the MSA. Many suggested that companies remain uncomfortable about making detailed disclosures relating to modern slavery risks. This reflected concerns about increased detail in disclosures potentially leading to the company being scrutinised more closely than competitors that provided more high level information. Potential responses from stakeholders including investors, civil society and business partners to disclosures around both risks and identified modern slavery incidents also remained a concern for some interviewees. However, other interviewees saw disclosures as a pre-competitive issue and an opportunity for companies to shape the narrative around modern slavery risks in their sector and their response.

A number of interviewees also felt their ability to increase the detail of disclosures in their statements was complicated by difficulties verifying information and risks of misleading the market. For example, some interviewees suggested that it was challenging to include even aggregated information about suppliers' modern slavery risk management actions which could not be externally verified. The increasing focus on 'green' and 'blue' washing may also mean companies become more risk averse in relation to public disclosures including their modern slavery statements, although these concerns are able to be managed with disclosure as to the veracity of the data.

Reflections on drivers for good practice responses and the impact of the MSA over three reporting cycles

Interviewees outlined a range of drivers for good practice modern slavery risk management and reporting. Some interviewees pointed to investor scrutiny as a key driver. However, other interviewees (including from higher risk sectors) noted that they were not aware of any significant engagement by investors with their company about modern slavery.

Scrutiny by corporate customers was also seen as a driver of good practice responses and reporting for businesses in some sectors, although interviewees suggested this scrutiny was primarily from other Australian companies covered by the MSA, rather than global customers.

Interviewees also flagged the role of the board in driving good practice, including where directors sit on boards of other companies with more advanced responses. Most interviewees had also engaged with external benchmarking of their modern slavery reporting, including to understand opportunities for improvement.

All interviewees were positive about the overall impact of the MSA over three years, although in some cases felt their companies would have taken steps to manage modern slavery risks irrespective of the legislation. In other cases, interviewees suggested the MSA had provided valuable internal impetus for action.

In addition to elevating modern slavery as an issue relevant to businesses, interviewees also suggested the increased transparency created by the MSA has helped to expose companies in their sectors that are not taking meaningful action. The MSA was also seen as more effective than the United Kingdom (UK) legislation on which it was based, including due to the inclusion of mandatory criteria for content (the UK MSA does not currently mandate reporting criteria). Interviewees also expected the increasing pace of global regulation around modern slavery and broader human rights issues to further heighten stakeholder expectations.

One interviewee highlighted that the legislation and particularly the requirements around consultation with owned or controlled entities had provided them with greater access to key areas of the business. The requirement to report on how effectiveness of the company's modern slavery response is assessed was also seen as potentially driving greater board engagement by facilitating senior level scrutiny of the impact of key actions and creating accountability for functions responsible for key elements of the company's response.

Deep dive: potential drivers for improvement

The improvements identified by this research are likely to reflect a diverse range of factors, including those identified through the interviews described above.

These may include:

- increased scrutiny from business partners including corporate customers (particularly where these entities are also required to report under the MSA or under other regimes overseas)
- increases in companies' awareness of modern slavery including through directors sitting on multiple corporate boards with growing discussions about modern slavery risk management
- investor interest (particularly for companies in sectors seen as higher risk) and ongoing regulatory developments in other jurisdictions relating to both modern slavery and broader human rights issues; and
- third party benchmarking and awareness-raising activities undertaken by civil society groups and academics.

Notably, consumer activism does not appear to have been a major driver for improvements to date, although this may evolve in future years for consumer facing sectors.

CASE STUDY: are companies adequately identifying key risks?

While companies improved their reporting on modern slavery risks in their operations and supply chains, the overall quality of disclosures on key risks remained poor. In many cases, companies provided high level information about general risk factors and potential risk areas, but did not specifically identify and describe key modern slavery risks in detail.

This trend has also been identified by other third party benchmarks, such as the 2022 report '[Broken Promises: Two years of corporate reporting under Australia's Modern Slavery Act]'. Prepared by a coalition of academics and civil society organisations, the Broken Promises report analysed 102 statements from companies[9] sourcing from four high risk sectors and found that 43% of statements failed to 'identify obvious modern slavery risks in their supply chain'.

This variability in the quality of reporting on modern slavery risks is also evident in the third round of statements from ASX200 companies. To evaluate this trend, this research project assessed three statements from the healthcare sector to determine whether they clearly identified modern slavery risks relating to sourcing of disposable gloves. A further five statements from the infrastructure and mining sectors were assessed to determine whether they identified modern slavery risks relating to the sourcing of solar panels. Sourcing of both these products is generally understood to involve comparatively high potential modern slavery risks.

Healthcare sector and disposable gloves

All three statements selected from the healthcare sector identified the sourcing of disposable gloves as involving modern slavery risks. However, the detail of these disclosures varied significantly. One statement outlined work to understand and map disposable glove supply chains at Tier Two and below. The other two statements addressed risks relating to disposable gloves in the context of broader risks for personal protective equipment. Of these two statements, one identified key modern slavery risk factors relating to disposable gloves, while the second mentioned gloves briefly. There were also differences across all three statements in where this information was included. For example, one statement clearly addressed disposable gloves in a specific section about modern slavery risks, while the other two statements addressed this risk area as part of more general discussions about actions to manage modern slavery risks.

Infrastructure and mining sectors and the sourcing of solar panels

The five statements selected from the infrastructure and mining sectors also included varying levels of detail about potential modern slavery risks associated with the procurement of solar panels. Two companies (both from the mining sector) did not address this issue at all in their statements or explain why this issue was not relevant to them, despite both companies publicly disclosing work around solar farms as part of decarbonisation efforts on their websites.

[9] This benchmark focused from companies from a range of sectors and was not limited to ASX listed companies.

The remaining three statements all identified risks relating to solar panels, with two specifically referencing the reported use of state-sponsored forced labour in the solar supply chain. In addition to identifying solar panels as a modern slavery risk area, each of these three statements also included details on how this risk was being managed, such as case studies about engagement with suppliers. In contrast to the statements addressing risks relating to disposable gloves, all three companies clearly identified solar panel risks in the risk sections of their statements and provided additional context about the nature of the risks.

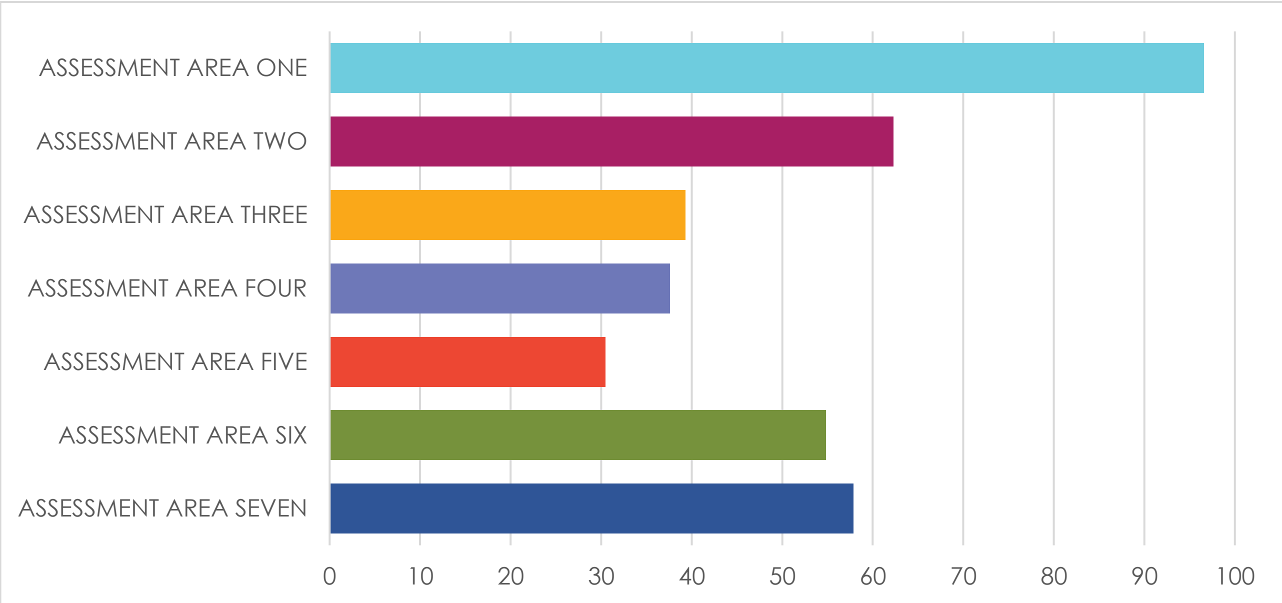
Companies' differing approaches to identifying and describing modern slavery risks relating to disposable gloves and solar panels is likely to reflect multiple factors. This could include varying levels of awareness of these risks within companies, as well as concerns for some companies about disclosing more detail around risks than key peers. In the solar panel context, some companies may also be concerned about potential sensitivities associated with reporting on steps taken to address reported state-sponsored forced labour, including where they have staff, major customers, or key suppliers in the country where the exploitation is allegedly occurring.

The differing quality of companies' risk disclosures outlined above also highlights the important role investors can play in encouraging investee companies to provide meaningful disclosures around modern slavery risks, including engaging with companies that provide limited or no disclosures about known risk areas. There is also an ongoing role for the Australian Government in promoting improved risk disclosures, including modelling good practice through its own Commonwealth Modern Slavery Statements and considering opportunities to communicate its expectations around risk disclosures to companies.

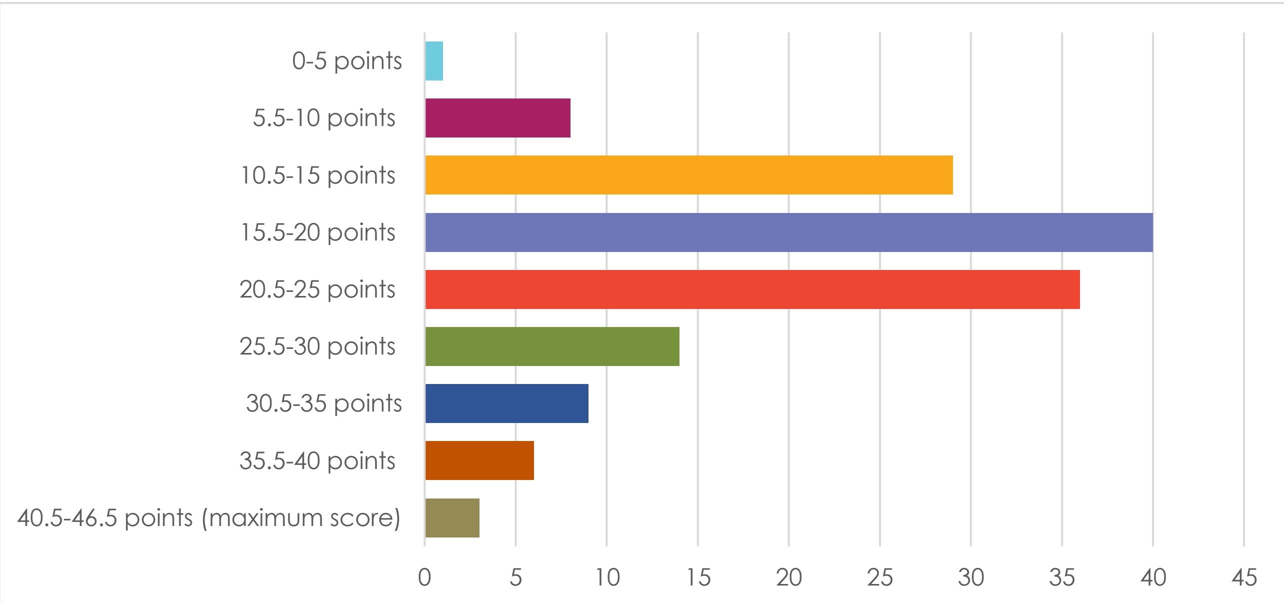
Key statistics: cumulative results

The visuals below provide an overview of companies' cumulative results. Specific results for each assessment area are set out in the following sections.

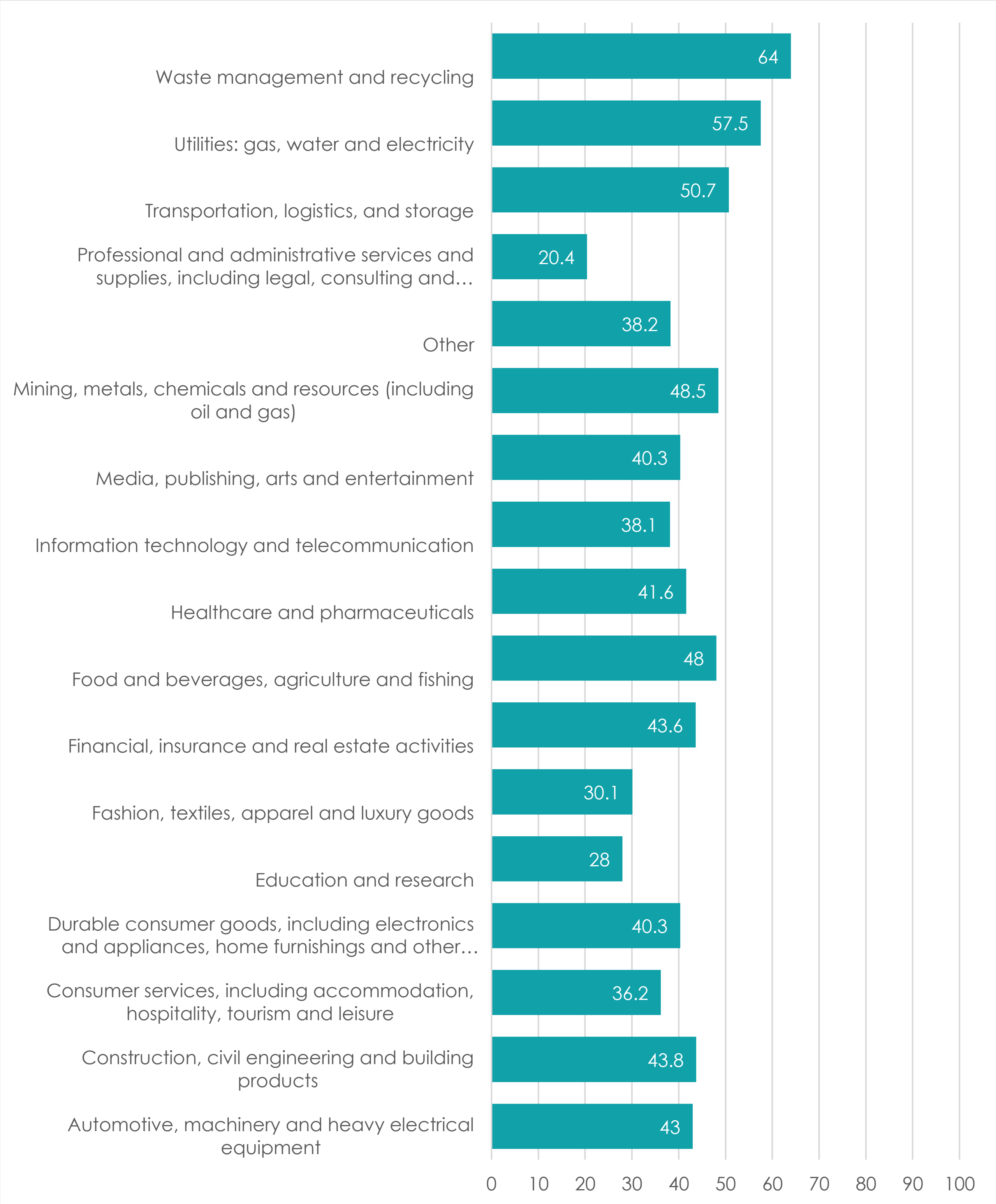
Graph 1: Average score by assessment area



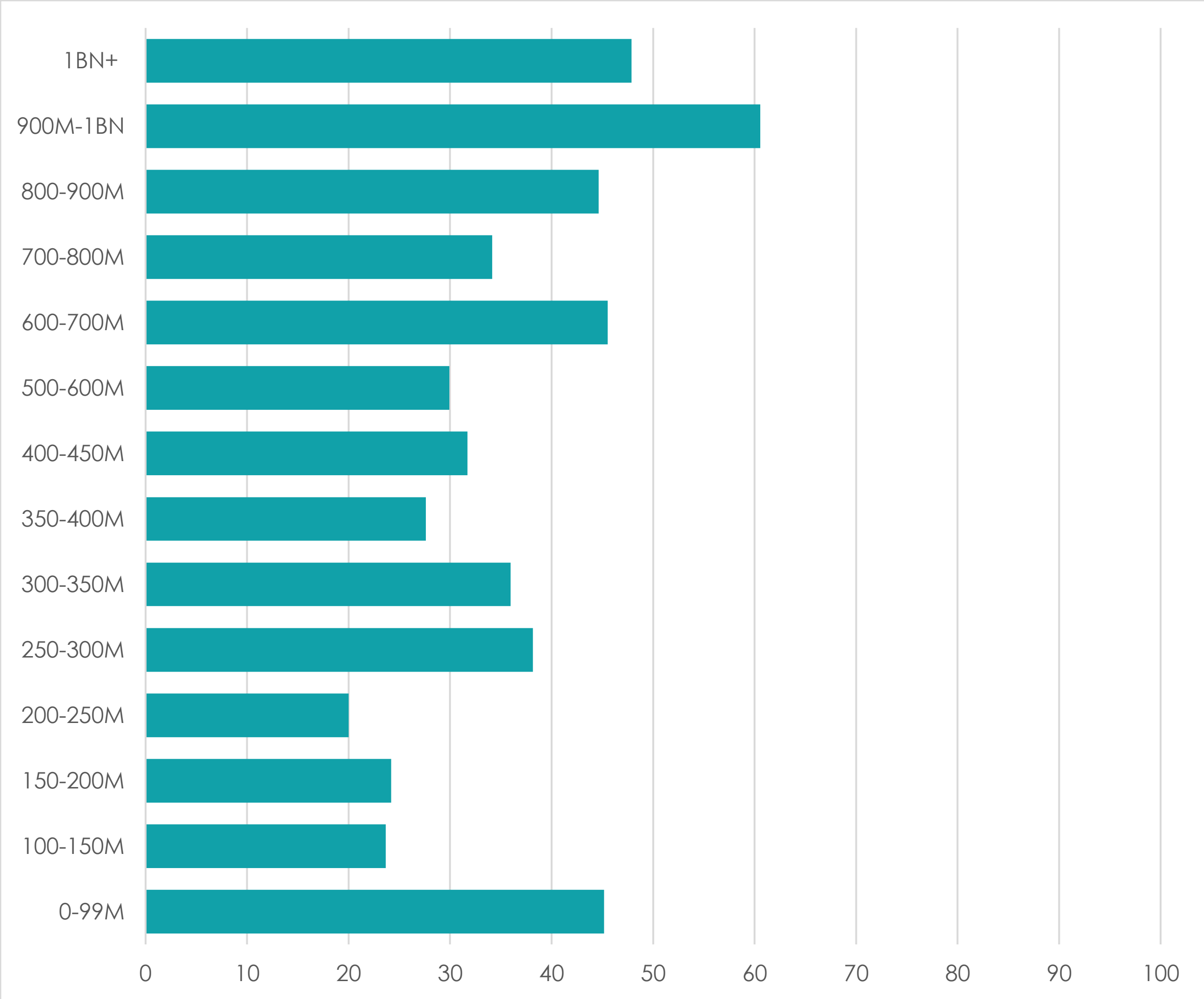
Graph 2: Distribution of statements by score



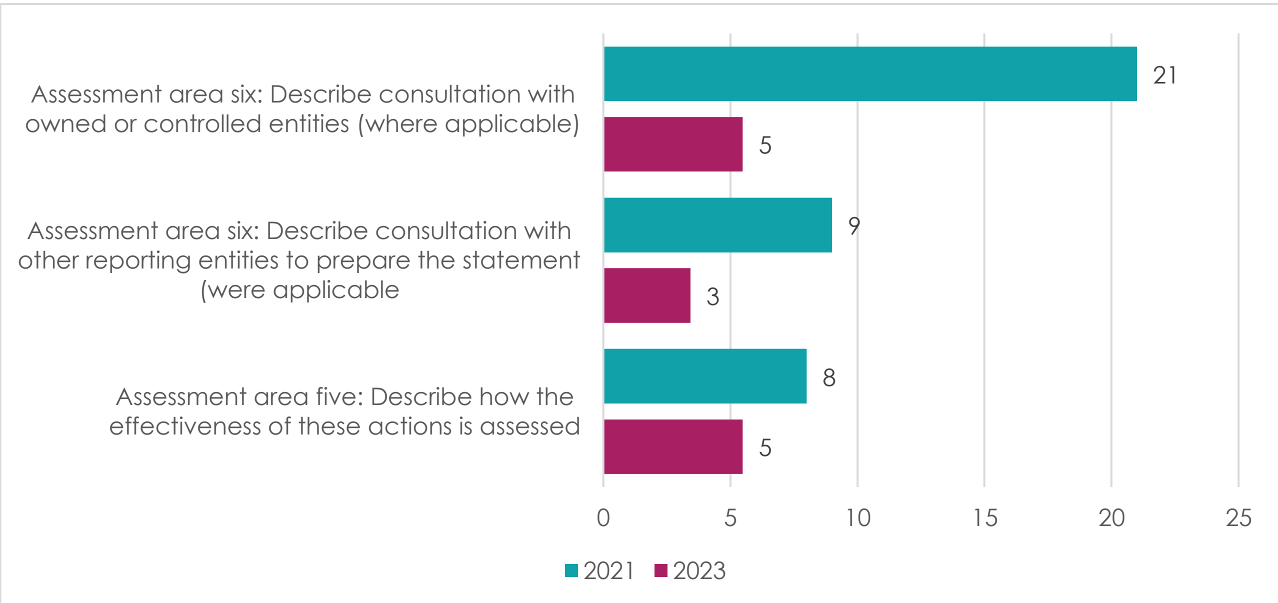
Graph 3: Average score by sector



Graph 4: Average score by revenue



Graph 5: Comparison of reduction in potential legal non-compliance



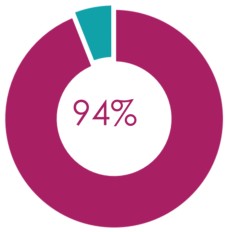
Identifying reporting entities and describing structure, operations and supply chains

How did ASX200 companies perform?

ASX200 companies have strengthened disclosures relating to their structure, operations and supply chains. This includes improving reporting on issues such as workforce composition and supplier spend. These improvements are reflected in the increase in the average score for these assessment areas, which increased from 54% (2021) to 69% (2023).

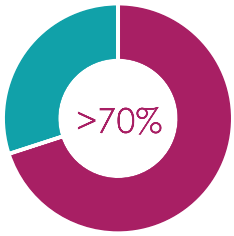
However, the quality of reporting remained variable, including reporting on the proportion of suppliers located in key countries, and few statements showed a strong understanding of supply chains at Tier Two and below. This suggests there may still be gaps in ASX200 companies' awareness of the composition and geographic breakdown of their full supply chains, which in turn is likely to hamper their ability to identify and manage modern slavery risks. While building visibility of supply chains can be complex, it is important companies are able to show progress in this area, especially for higher risk segments of their supply chain.

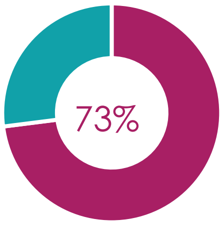
Consistent with the first reporting cycle, almost all statements appeared to identify at least one reporting entity covered by the statement. However, as in 2021, the extent to which statements identify all reporting entities within a corporate group remained unclear.[10]



94% of statements clearly identified the reporting entity or entities covered by the statement (95% in 2021). However, the non-compliance rate is likely to be higher than indicated by this figure due to some statements potentially not identifying all reporting entities in a corporate group.

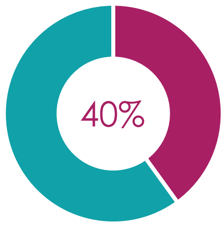
More than 70% of statements explained the composition of the reporting entities' workforce (28% in 2021). Of these statements 35% provided an indication of both workers' status and the number of workers in each category (37% in 2021).

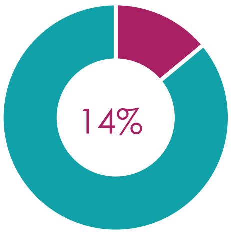




73% of statements identified the approximate number of Tier 1 suppliers (61% in 2021). 38% of statements provided a breakdown of major procurement categories (33% in 2021).

40% of statements identified the countries where all or almost all (above 80%) of Tier 1 suppliers are located (31% in 2021).





Only 14% of statements provided at least some information about the reporting entities' supply chains at Tier Two and below, such as an indicative visual outline of its extended supply chain showing key stages of the supply chain including sourcing of raw materials, processing, and transportation and logistics.

[10] Under the MSA, entities will be reporting entities where they have annual consolidated revenue of at least AU$100 million and are either Australian entities or foreign entities carrying on business in Australia. It is not possible for this research to externally verify whether a statement names all reporting entities covered by the statement, such as all of the reporting entities in a single corporate group.

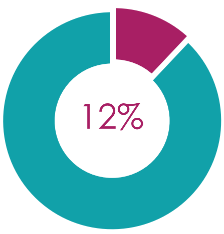
Describing Modern Slavery risks

How did ASX200 companies perform?

More ASX200 companies are identifying modern slavery risks in their statements and explaining these risk areas. This includes an increase in companies identifying modern slavery risk areas or risk factors across both their operations and supply chains. The number of statements drawing on the UNGPs' continuum of involvement[11] to describe risks (as recommended in the Government Guidance) also doubled, although it remains low overall. In line with these improvements, the average score for this assessment area increased from 30% (2021) to 44% (2023).

These improvements may reflect a better understanding from companies about modern slavery risk factors, as well as increasing comfort in publicly disclosing at least some information about modern slavery risks. However, with the exception of a small number of companies, risk disclosures continued to lack granular detail and remained focused on high level risk factors. The case study on page 16 provides further analysis about selected companies' reporting on risks in two key areas: solar panels; and disposable gloves.

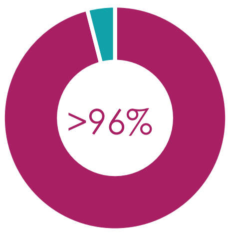
While not scored as part of this benchmarking exercise, few statements indicated companies are considering downstream modern slavery risks relating to their customers and end users, although some companies briefly addressed downstream risks when describing risks relating to their operations. While the MSA does not require reporting on customer-related modern slavery risks,[12] there is growing recognition that companies can be exposed to modern slavery and other human rights risks through their downstream value chains.[13] This is likely to be a focus area as the market matures.



12% of statements described companies' risk of involvement in modern slavery using the UNGPs' continuum of involvement (fewer than 5% in 2021). A further 10% of statements suggested companies drew on the UNGPs to help them understand risks, but did not use the continuum to explain specific risks (17% in 2021). Approximately half of all statements did not reference the UNGPs at all.

Over 56% of statements identified potential modern slavery risk areas or risk factors relating to companies' operations (fewer than 40% in 2021).

However, only 13% of statements provided granular detail about these risks.



Over 96% of statements identified potential modern slavery risk areas or risk factors relating to companies' supply chains (87% in 2021).

However, only 28% of statements provided granular detail about these risks, such as explaining hypothetical examples of how they could occur in practice.

[11] The UNGPs continuum of involvement is outlined on page 8.
[12] The Government Guidance indicates that while statements need to address modern slavery risks associated with business partners, lenders and borrowers at an overarching, thematic level, reporting is not required to cover 'customers who purchase...products or services'. Downstream risks may be part of operations.
[13] This is also consistent with the framing within the UNGPs, which stater that companies can cause, contribute or be directly linked to adverse human rights impacts through the entire range of their business relationships, not just within their operations or supply chains.

Describing actions to assess and address Modern Slavery risks

How did ASX200 companies perform?

ASX200 companies are continuing to report on the implementation of foundational modern slavery risk management actions. For example, more statements indicated companies are using modern slavery contract clauses and providing internal training. Companies also generally reported using a combination of actions, potentially highlighting growing recognition that no one tool offers a complete solution to meaningfully identifying and acting on risks. The average score for this assessment area increased from 30% (2021) to 40% (2023).

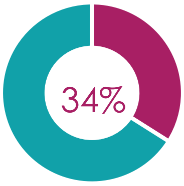
The number of companies disclosing they had taken collaborative action to address modern slavery risks also increased. This may reflect the increasing number of multisector and industry specific groups and forums on modern slavery available to Australian companies, as well as willingness from some companies to see modern slavery as a competitive issue. The number of companies using case studies in their statements to help explain key actions also doubled. The use of meaningful case studies can serve as a general indicator for the overall quality of reporting as it can indicate a greater willingness to be more transparent about challenges as well as successes, and the average score for statements that included two or more case studies was 50% higher than the overall average score.

While these results indicate ASX200 companies are continuing to take action to manage modern slavery risks, they also show that few companies are disclosing more complex or advanced risk management actions. This includes action in areas such as internal engagement with the board and senior leadership, supplier capacity building, engaging with potentially affected groups, and identifying, remediating or taking a role in the remediation of modern slavery incidents. Action in many of these areas, including engagement with potentially affected groups and remediation, also aligns with key expectations for business action under the UNGPs.

Consistent with 2021, a key area of weakness continues to be companies' capacity to identify and remediate or take a role in remediation of modern slavery incidents in their operations and supply chains. For example, the number of companies able to explain in detail how their grievance mechanisms operate and identify steps taken to ensure their grievance mechanisms are trusted and accessible remained low. A significant majority of companies also continued to provide no indication of whether they had identified any modern slavery incidents or allegations.

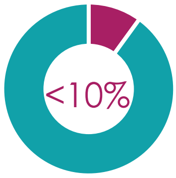
The indicators used to assess companies' statements for this assessment area align with the three core expectations for business action to respect human rights set out in the UNGPs: policy commitment; human rights due diligence; and processes to enable remediation. The findings below are presented using these three categories.

Policies

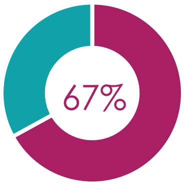


Almost all (96%) of statements identified and provided basic information about one or more key policies used by companies to help provide the framework for their modern slavery risk management (87% in 2021). However, only 34% of these statements (shown in pie chart) clearly identified how these key policies are relevant to addressing modern slavery (21% in 2021) and less than 5% explained how these policies were both communicated and enforced internally and /or with business partners such as suppliers.

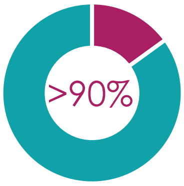
Human Rights due diligence



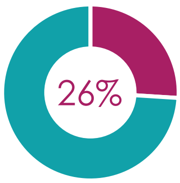
Fewer than 10% of statements explained how at least one potentially affected group or stakeholder (such as workers or their representatives) was consulted as part of risk assessment processes (fewer than 5% in 2021).



Around 67% of statements indicated companies use modern slavery clauses in some or all contracts with their suppliers or other business partners (59% in 2021)

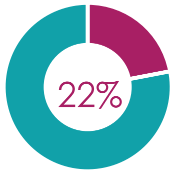


Over 90% of statements disclosed providing modern slavery training to their own workers (79% in 2021), although only 22% explained what this entailed, such as providing a high level overview of content. Only 15% of statements identified that training had been provided to the board or senior leadership (shown in pie chart and not assessed in 2021).

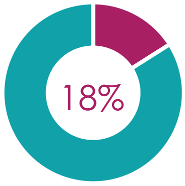


The majority of statements did not disclose any actions taken to build suppliers' capacity to manage modern slavery risks. Only 26% of statements disclosed training or other awareness-raising support was provided to suppliers about modern slavery or broader human rights issues.

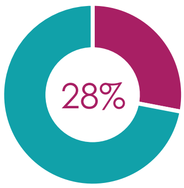
Remediation



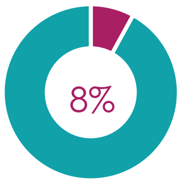
Only 22% of statements explicitly confirmed companies are committed to providing for or cooperating in remediation where they identify they have caused or contributed to modern slavery-related impacts in line with the UNGPs (8% in 2021).



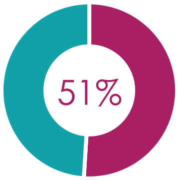
Only a small number of statements provided information about the operation of grievance mechanisms covering their operations (18%) and supply chains (16%) (shown in pie chart), such as who can access the mechanism and the number of complaints received. However, most statements only disclosed the general number of complaints received or the number of complaints relating to a broad range of human rights issues, rather than specific information about modern slavery-related complaints.



28% of statements were able to identify at least one step taken to ensure grievance mechanisms are trusted and accessible, such as promotion to workers or consultation with stakeholders in the design of the mechanism (17% in 2021).



8% of statements identified that the reporting entities identified one or more allegations or instances of modern slavery, although most provided little detail about these incidents including how they were resolved.

Policies	Human Rights due diligence	Remediation
	 50% of statements provided one or more case studies to show how companies have worked to assess and address modern slavery risks in practice (25% in 2021). This included case studies on actions such as training and supplier deep dives.  51% of statements identified at least one instance of collaboration to assess and address modern slavery risks, such as membership of a business and human rights multistakeholder group or business only sector specific collective initiative (36% in 2021).	

Describing how effectiveness is assessed

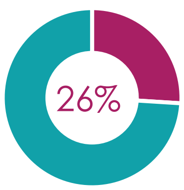
How did ASX200 companies perform?

ASX200 companies continued to experience difficulties measuring and reporting on how they assess the effectiveness of their modern slavery response. The Government Guidance explains that statements must outline how companies assess the effectiveness of their actions to manage modern slavery risks (although this does not require companies to disclose whether their modern slavery risk management is effective). The average quality score for this assessment area increased incrementally from 22% to 29% (controlling for the addition of a new indicator measuring reporting on outputs versus outcomes[14]).

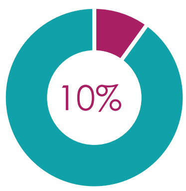
Potential levels of non-compliance with the requirement to explain how effectiveness is assessed appear to have reduced to 5% from 8% for the first reporting period. This refers to statements that appeared not to address how the company assesses effectiveness at all, as opposed to statements that addressed this issue but in a low quality way.

Among other factors, this apparent reduction in potential non-compliance may reflect the release of additional Government guidance on this issue. However, the number of statements clearly explaining how reporting entities assessed the effectiveness of their response was lower than in 2021. This indicates the majority of ASX200 companies continue to rely on basic frameworks to assess effectiveness, which focus on tracking quantitative outputs (rather than outcomes) and do not incorporate external stakeholder feedback. Examples of external feedback could include supplier feedback about contract clauses or capacity building training or civil society organisations or workers' associations' feedback on measures to increase worker voice.

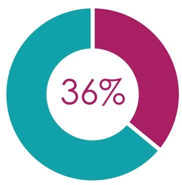
Few ASX200 companies have defined the concept of effectiveness (such as by identifying what they see as the key components of an effective response to then help explain how they will assess it). Defining effectiveness can provide a framework to focus companies' effectiveness assessments, which may help them to develop more robust approaches to track their performance.



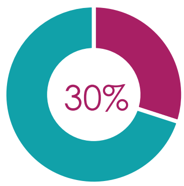
Just over a quarter (26%) of statements clearly explained how reporting entities assess effectiveness, including by setting out multiple KPIs and/or a range of qualitative approaches to assessing effectiveness (32% in 2021).



10% of statements explained how reporting entities understood or defined effectiveness or an effective response to modern slavery (1.5% in 2021).



Just over a third (36%) of statements showed companies are attempting to measure outcomes and not just outputs as part of their effectiveness assessments.



Feedback from external sources is an important aspect of ensuring an effective response to modern slavery, and 30% of statements indicated reporting entities incorporate feedback from external stakeholders (such as civil society groups, suppliers or suppliers' workers) in their assessment of effectiveness (21% in 2021). For example, this could include engaging with a civil society group that benchmarks statements to understand opportunities for improvement.

[14] Outputs refer to quantitative actions such as the number of people trained, while outcomes are often qualitative and focus on the results of key actions, such as increases in awareness following training.

Meeting requirements for consultation, approval and signature

How did ASX200 companies perform?

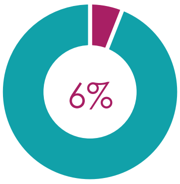
ASX200 companies appear to have largely addressed potential non-compliance challenges relating to consultation. Statements must describe consultation with any other reporting entities covered by the statement, as well as consultation with any owned or controlled entities. In 2021, almost a quarter of statements appeared to fail to address the consultation requirements for owned or controlled entities. This reduced to 5% of statements for the third reporting cycle. Notwithstanding this improvement, the quality of disclosures in this area remains poor with few statements providing a meaningful overview of how consultation with these types of entities occurred in practice.

The requirements to consult with reporting entities and also describe any consultation with owned or controlled entities are an important element of the MSA, as they encourage reporting entities to develop statements and work to manage modern slavery risks in collaboration with owned or controlled entities and with any other reporting entities covered by the statement. This is particularly important for larger corporate groups including conglomerates operating across different sectors.

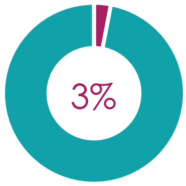
However, disclosures suggest that companies remain uncertain about how to undertake this consultation in practice. This includes situations where statements are developed through engagement across functions (such as procurement or sustainability teams), which have responsibility for multiple or all entities within the group rather than through direct engagement with specific individual entities. There may also be uncertainty about the optimal timing and approach to engage the boards for reporting entities where statements cover large numbers of reporting entities. Some statements also suggest companies are unsure whether to address the consultation requirements by describing consultation to prepare the statement, ongoing engagement across the business to implement their modern slavery response, or both these actions.[15] These areas of ambiguity are likely to have contributed to the generally poor quality of disclosures in this area.

There was also a significant increase in the number of statements that included a foreword or message from the statement signatory (the board member responsible for signing the statement, usually the managing director, Chair, or CEO). This inclusion may indicate an increase in senior leadership's engagement with the reporting process. Those companies whose statements included a foreword scored an average of 39% higher than those who did not.

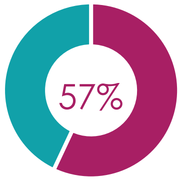
[15] As currently drafted, the Government Guidance appears to suggest consultation could include both the preparation of the statement and broader engagement and collaboration between entities but the MSA itself is not clear on this point.



6% of statements were potentially non-compliant with the requirement to describe how owned or controlled entities were consulted (21% in 2021). However, while most statements addressed this requirement, 80% of statements did not clearly explain how owned or controlled entities were consulted in practice such as by providing any detail on the nature of the consultation beyond a reference to the fact that consultations were held.



3% of statements were potentially non-compliant with the requirement to describe how multiple reporting entities covered by the statement were consulted in the statement's preparation (9% in 2021) although it is not possible to verify whether statements accurately identified all reporting entities.



57% of statements included a foreword or message from the statement signatory (the board member signing the statement), such as the CEO or Chair (36% in 2021).

Australian Council of Superannuation Investors
Level 23
150 Lonsdale Street
Melbourne VIC 3000
Australia

P: +61 (3) 8677 3890
E: info@acsi.org.au
W: www.acsi.org.au