

## Contract Manager Guidance: Ethical Supply Chains

This document aims to help you ensure the delivery of Ethical Supply Chains requirements in contracts that you manage.

Ethical Supply Chains requirements in public contracts contribute to the Northern Ireland Executive's vision to "have an equal and inclusive society where everyone is valued and treated with respect".

Here we outline:

- The fundamental concepts behind including social value in public contracts
- NI Executive commitments, policies and procedures related to Human Rights
- What social value clauses ask of suppliers regarding Ethical Supply Chains
- Tools and resources to ensure supply chains are ethical
- How to contact the Social Value Unit for advice

### Maximising social value in public contracts

Social value is about maximising the social, economic and environmental benefits delivered through public procurement. The social value model used across the public sector in Northern Ireland is built upon 4 key themes:

- Increasing secure employment and skills
- Building ethical and resilient supply chains
- Delivering zero carbon
- Promoting Well-being

By including social value in procurement we can:

- Create job opportunities for people who face barriers to work
- Invest in skills
- Support Social Enterprises and new businesses
- Support Voluntary and Community organisations
- Reduce poverty
- Promote equality and diversity
- Reduce our carbon footprint
- Improve mental health and wellbeing

Including ethical supply chain requirements can help Contracting Authorities:

- Deliver best value for money
- Achieve and report against specific strategic objectives
- Reduce any risk of Human Rights and Modern Slavery violations and subsequent organisation reputational damage
- Lead by example

### Why does social value include Ethical Supply Chains requirements?

Social value requirements addressing Ethical Supply Chains are included on contracts where it has been identified that the supply chain includes an increased risk of modern slavery, human rights abuses and/or illegal or unethical employment practices. This could be because the contract's supply chain includes vulnerable workers or countries with an increased risk of modern slavery and human trafficking, or the sector as a whole has historical issues, for example.

While the language of Ethical Supply Chains may be unfamiliar to some businesses, most companies have policies and procedures that cover some of these issues. Examples include ethical employment practices for those involved in the recruitment and deployment of workers or policies prohibiting the use of child labour or forced labour. Ethical Supply Chains ensure that approaches such as these are applied beyond an organisation's direct employees so that Human Rights are respected and protected throughout the contract's supply chain.

Since 2011, the [UN Guiding Principles on Business and Human Rights](#) (UNGP) have been viewed as the authoritative global reference on business and human rights. The UNGPs are clear that the duty to identify, prevent, mitigate, and account for adverse human rights impacts extends across a company's value chains and business relationships (including suppliers). The UNGPs recommend that businesses should expand what they already have in place to develop a Human Rights due diligence approach, through which they will be able to assure stakeholders that they are taking reasonable steps to avoid infringing upon the rights of others and tackling infringements where they occur.

Here is [a useful overview of the UN Guiding Principles](#), as well as a short video and answers to some Frequently Asked Questions.

The key to ensuring Ethical Supply Chains in public contracts is good communication and sharing of information between Suppliers and the Contracting Authority, so that any negative impacts on Human Rights throughout the business' supply chains are addressed and prevented. This is what the Ethical Supply Chains requirement aims to deliver.

### NI Executive commitment to Human Rights

The [European Convention on Human Rights](#) (ECHR) came into effect on 3 September 1953. The ECHR contains 17 key articles relating to rights and fundamental freedoms which include the right to life, the prohibition of slavery and forced labour, and the right to liberty and security.

In the United Kingdom, the [Human Rights Act 1998](#), which came into force in October 2000, incorporates the majority of rights set out in the ECHR into domestic law. The Act requires all public authorities to respect and promote Human Rights.

[Section 24 of the Northern Ireland Act 1998](#) provides that Northern Ireland Departments may not commit any acts that are incompatible with the Convention rights.

More recently, the [Modern Slavery Act 2015](#) was designed to tackle slavery in the UK, its businesses and their supply chains, and consolidates previous offences relating to trafficking and slavery. Every

large company<sup>1</sup> has a responsibility under the Act to publish a statement detailing what it is doing to prevent slavery in its business and supply chain. This will in turn require smaller sub-contractors to feed in details of their relevant policies and practices.

Contracting Authorities have a duty to ensure Human Rights are respected when they enter commercial transactions with Suppliers.

[PPN 05/21 Human Rights in Public Procurement](#) was endorsed by the NI Executive with effect from 22 November 2021 to mandate the actions that Departments must take to incorporate human rights considerations into contracts when conducting a procurement process.

## Social Value contract clauses re: Ethical Supply Chains

Ethical Supply Chains clauses require suppliers to:

- Undertake a supply chain mapping exercise to ascertain where ethical sourcing risks exist within the supply chain of goods being used on or produced for the Contracting Authority's contract
- Submit a written Supply Chain Strategy to the Contracting Authority on actions taken to ensure that in practice slavery and human trafficking are not taking place in any part of the supply chain
- Submit an annual progress report in writing to the Contracting Authority, detailing the progress made in relation to the Supply Chain Strategy, as well as setting out quarterly actions for the year ahead.

**(Note:** Make sure to check the specific clauses included in the contract you manage, including timeframes, as Contracting Authorities can edit clauses to meet their strategic priorities and the needs of the particular contract.)

These clauses are included by the Contracting Authority in order to:

- Reduce the risk of modern slavery, human rights abuses and/or illegal or unethical employment practices within the supply chain.
- Take an active role in respecting, protecting and fulfilling Human Rights.
- Help to influence the behaviour of companies competing for public contracts.

## Helpful Tips and Resources

To learn more about respecting and protecting Human Rights in public sector supply chains:

- Watch the Northern Ireland Human Rights Commission's short [video](#).
- Take the [Introduction to Human Rights e-learning course](#) on [NICS LINKS](#).

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<sup>1</sup> The Act applies to all organisations with a turnover, or group turnover - that is, the total turnover of a company and its subsidiaries - of £36 million or more which are either incorporated in the UK or carry on a business in the UK.

- Access the Cabinet Office's [Tackling Modern Slavery in Government Supply Chains: A guide for Commercial & Procurement Professionals](#)
- Complete the [Government Commercial College's](#) Tackling modern slavery in supply chains e-learning course

#### At Contract Award/Commencement:

- Check the contract to find out how many days from contract award/commencement within which the Supplier has to complete their supply chain map.
- Check the contract to find out the time period within which the Supplier needs to submit their written Supply Chain Strategy to the Contracting Authority's Project Manager.
- Check the contract to find out when the annual progress reports need to be submitted in writing to the Contracting Authority's Project Manager.

#### What should a supply chain map look like?

Supply Chain Maps are live documents that need to be updated regularly, for example - when suppliers change. What you and the Supplier are trying to establish and answer through a supply chain map is 'Where are the most vulnerable workers in the supply chain?'

In order to answer this question, you need to know:

- The red flags of labour exploitation, forced labour and slavery
- Where the highest risks are in terms of countries and sectors
- Who the suppliers are in the supply chain and how much is spent with them

This brief [summary document from Walk Free Foundation](#) is an overview on what modern slavery is, what the red flags are, why business should act, where the risks are and how business can respond.

A supply chain map doesn't need to be complicated. It can be a spreadsheet which lists all of the suppliers involved in the supply chain and sets out:

- What country they are located in and the [Global Slavery Index](#) rating for that country
- What is bought from them and if that includes high risk goods or services
  - The US State Department's [Trafficking in Person's report \(TIP\)](#) highlights the main risk sectors and industries in their country narratives
  - The US Bureau of International Labor Affairs (ILAB) maintains a [list of goods and their source countries which it has reason to believe are produced by child labour or forced labour](#) in violation of international standards
- If they have a higher risk employment type, e.g. seasonal, agency or low skilled labour
- How much is spent with them per annum
- When the business relationship with them started
- Any contextual information that is known about them, i.e. have any had poor Health and Safety audits recently? Are they difficult to deal with? Are they responsive to enquiries? Have they made a commitment to tackle modern slavery, for example through a code of conduct or CSR report?

When this information is collated, Suppliers can they prioritise which suppliers in the chain to engage with first based on risk and/or opportunity.

The Cabinet Office's [Tackling Modern Slavery in Government Supply Chains: A guide for Commercial & Procurement Professionals](#) sets out more detailed information about mapping supply chains.

#### What should be in a Supply Chain Strategy?

The Supply Chain Strategy is a written document which sets out the actions the Supplier has taken to ensure that in practice slavery and human trafficking are not taking place in any part of the contract's supply chain.

The Strategy must at least include and address among other things:

- mechanisms to empower staff to raise suspicions of unlawful and unethical employment practices and criminal activity within the Contract's supply chain
- training on modern slavery and ethical employment practices for those involved in buying/ procurement and the recruitment and deployment of workers and a record of those that have been trained
- a commitment to ensure that undue cost and time pressures are not applied to suppliers if this is likely to result in unethical treatment of workers and that suppliers are paid on time – within 30 days of receipt of a valid invoice
- procedures for investigating any supplier identified as high risk, by direct engagement with workers wherever possible, and working with suppliers to rectify any issues of illegal or unethical employment practice
- quarterly actions designed to continually ensure unlawful and unethical employment practices are eradicated and to ensure all workers at every stage of the supply chain are treated fairly
- consideration been given to joining appropriate networks or other initiatives to tackle supply chain abuse, combat anti-trafficking etc.
- any work done towards continuous improvement in supply chain knowledge and to sharing best practice where appropriate

You can consult or direct Suppliers to the following resources which may be useful in the development of a Supply Chain Strategy:

- Walk Free's [Business & Investor Toolkit](#)
- Stronger Together's [Tackling Modern Slavery in Global Supply Chains Toolkit](#)
- Ethical Trading Initiative's [Managing Risks Associated with Modern Slavery: A Good Practice Note for the Private Sector](#)

#### At Contract Review Meetings:

- Add Ethical Supply Chains to the meeting agenda
- Ask questions to open communication and share information:
  - What's the labour market like at the minute?
  - How is the current climate affecting your labour supply/costs?
  - Have you had any supply chain issues to deal with lately?
  - Is the current climate increasing the risk of Human Rights violations across the supply chain?

- How do you support your workers to understand their rights if English isn't their first language?
- Use [Stronger Together's Suppliers' Self-Assessment Questionnaire](#). This can be issued in advance and then discussed at the meeting or you can use it as a tool to help you ask the Supplier relevant questions. The Questionnaire should not be seen as a one and done, tick box exercise but, rather, a tool to encourage and frame discussion of supply chain issues throughout the duration of the contract.
- Remind the Supplier of the date by which the Supply Chain Strategy Annual Progress Report must be submitted.
- Encourage the Supplier to log their progress to date in the Social Value Monitoring System.

### Supply Chain Strategy Annual Progress Report

The Annual Progress Report should be submitted to the Contracting Authority on the anniversary of contract/award commencement. It should be in writing and detail the steps the Supplier has taken, including with subcontractors (if any), to implement their Supply Chain Strategy in practice. The Annual Progress Report should set out the progress made in relation to the Supply Chain Strategy and set out quarterly actions for the year ahead.

Describing supply chain risks and how they are managed often requires contextual and qualitative information. It may be useful to ask the questions set out in the table below when reviewing the Supplier's Annual Progress Report, which are based on the [key quality indicators identified as part of the UN Guiding Principles Reporting Framework](#):

*Quality indicators of good corporate reporting on Ethical Supply Chains*

1. **Governance:** Does the reporting explain how the company's governance structures support the management of supply chain risks?
2. **Specific processes:** Does the reporting go beyond high-level statements of policy and commitment and discuss specific processes for implementing respect for Human Rights?
3. **Specific impacts:** Does the reporting refer to specific impacts that occurred within the reporting period and are associated with the company's operations or value chain?
4. **Clear examples:** Does the reporting provide clear, relevant examples of how the company's policies and processes have influenced practice and outcomes within the reporting period?
5. **Stakeholder perspectives:** Does the reporting explain how the company gains the perspective of stakeholders who could be negatively impacted?
6. **Challenges:** Does the reporting discuss complex or systemic supply chain challenges and how the company grapples with them?
7. **Metrics:** Does the reporting include specific data, key performance indicators or other metrics that offer clear and relevant evidence to support the narrative?
8. **Forward focus:** Does the report include information about the company's plans for advancing its efforts to ensure that in practice slavery and human trafficking are not taking place in any part of the supply chain?
9. **Strategic initiatives:** If the reporting references particular initiatives, for example, projects, third-party assessments or participation in industry or multi-stakeholder organisations, does it make clear how these initiatives help the company advance its own management of supply chain risks?
10. **Improving disclosure:** Where this is not the first year of Ethical Supply Chain reporting for the company, does the reporting show improvements in the quality of its disclosure in comparison with previous years, taking into account the indicators set out above?

All organisations are at different stages of their journey to having more Ethical Supply Chains but suppliers should demonstrate continuous improvement in how they mitigate the risk of modern slavery, human rights abuses and/or illegal or unethical employment practices within the supply chain.

Small and Medium Sized Enterprises (SMEs) make up a large proportion of the Northern Ireland supply base. One of the biggest problems facing SMEs is the lack of resources and knowledge surrounding Human Rights issues. Contracting with the public sector and being asked through contract requirements to develop, for example, a supply chain map will help improve SMEs' awareness of potential within their organisation.

It is important to remember that this type of monitoring and reporting may be new to Suppliers, and that the key to minimising any risks of modern slavery, human rights abuses and/or illegal or unethical employment practices is good communication and sharing of information between Contracting Authorities and their Suppliers. Whilst the contract requirements must be met, Suppliers may need support and advice in their delivery of the Ethical Supply Chains requirements. You can help the Supplier by discussing their progress at Contract Review meetings and drawing their attention to the resources set out in the Social Value Unit's [Guidance for Suppliers: Ethical Supply Chains](#)

### Monitoring of Ethical Supply Chains requirements

If it is set out in the contract conditions, the Supplier may be required to record the delivery of the Ethical Supply Chain Strategy on the Social Value Monitoring System. They are not required to upload it to the system – they deliver the policy to the Contracting Authority.

The Supplier can use the Notes section of the Social Value Monitoring System to log progress against the delivery of the requirements, e.g. completion of the supply chain mapping exercise, submission of the annual progress reports.

Both the Supplier's and the Contracting Authority's Contract Managers will receive an automated report via email from the Social Value Monitoring System that sets out the requirements and what has been delivered against each of them to date. These reports should be reviewed regularly at contract review/progress meetings.

#### *Procurement Guidance Note 01/13*

Social considerations are part of the contract and should be adequately managed to ensure that they are delivered in line with contract commitments. [PGN 01/13](#) states that *"when social considerations have been identified in the contract, then those requirements must be delivered in full. The Project Manager/Contract Manager must ensure that the Contractor's performance is carefully monitored. Poor performance by the Contractor on the delivery of requirements relating to social considerations must be addressed in accordance with the recommendations on poor contractor performance set out in [Procurement Guidance Note 01/12](#)".*

The reputation of a Department and Contractor can be damaged by a poorly managed contract that does not deliver the expected outcomes.

It is the responsibility of the Client Project Manager to monitor and review the contract including:

- Reviewing regular reports on how the obligations are being delivered.
- Addressing under-achievement.

### How to contact the Social Value Unit for advice

The Strategic Investment Board's Social Value Unit are available to offer support and advice to both Contracting Authorities and Suppliers who deliver contracts which include social value requirements. The Social Value Unit's Advisors can attend contract initiation and progress meetings, if required.

To contact the Social Value Unit, email [info@buysocialni.org](mailto:info@buysocialni.org)