

Protecting human rights in the supply chain



A guide for public
procurement practitioners



CIPS members can record one CPD hour for reading a CIPS Knowledge download that displays a CIPS CPD icon.

Version 1.0

May 2017

© London Universities Purchasing Consortium
© University of Greenwich
© Chartered Institute of Procurement and Supply

This document is intended for free distribution, but save for the sample contract conditions it shall not be copied or reproduced in whole or in part in any format without the prior permission of the copyright holders.

About the authors

Dr Olga Martin-Ortega is Reader in Public International Law at the School of Law, University of Greenwich (UK), where she leads the Business, Human Rights and the Environment Research Group (www.bhre.org). Olga is a member of the Board of Trustees of Electronics Watch and a member of the Board of Directors of London Universities Purchasing Consortium. She is a member of the Steering Committee of the International Learning Lab on Public Procurement and Human Rights and leads its Electronics Hub.

Andy Davies MBA FCIPS is Director of London Universities Purchasing Consortium and has enjoyed a 30-year career as a procurement professional, principally in public service in the United Kingdom. He is a Fellow of the Chartered Institute of Procurement and Supply and has an MBA from Kingston Business School. Andy is also a member of the Steering Committee of the International Learning Lab on Public Procurement and Human Rights.

Acknowledgements

The authors would like to thank Robert Stumberg, Professor of Law at Georgetown University, Claire Methven O'Brien of the Danish Institute for Human Rights and Donal Bowman, Redford Healey and Laura Compton of LUPC.

Contents

1	What is this document for?	5
2	What exactly is the problem?	6
3	Why is it important to the Public Sector?	11
4	Where do we start?	13
5	How do we assess and prioritise risks?	19
6	How do we monitor supply chains?	22
7	How should we respond to human rights abuse in a supply chain?	26
8	How do we measure and report effectiveness?	28
9	Where can I find out more?	29

1

What is this document for?

Through reports in the broadcast media and in the press, the world is getting to know about widespread abuse of human rights in supply chains. Human exploitation is both easy and lucrative in many parts of the world, including the UK, where more and more cases are being brought to light and perpetrators brought to justice. Businesses are responding, as many global brands take steps to tackle this scourge of our society.

It is becoming clear that the tide of opinion is also placing greater responsibility on public purchasers to address the issue, emphasising an increasing need to understand the potential human impacts of our commercial activities. Public authorities need to start putting the infrastructure in place to achieve compliance and pursue good practice to identify, prevent and mitigate the risk of human rights violations in our supply chains.

The purpose of this document is to encourage public procurement practitioners, decision-makers and opinion-formers to:

- understand why promoting respect for human rights in public supply chains is important;
- develop a strategic approach to human rights due diligence;
- identify practical steps that can be taken to help mitigate the risk of human rights abuses in supply chains;
- work in collaboration with other organisations in order to increase knowledge and promote good practice.

2

What exactly is the problem?

Modern slavery is an umbrella term used to encompass the most serious violations related to work exploitation, including work in slavery-like conditions, forced or compulsory labour, bonded labour, the worst forms of child labour and human trafficking. The majority of human trafficking takes place for the purposes of labour exploitation.

What is 'Modern Slavery'?

Slavery did not end with abolition in the 19th century. Modern slavery blights our society and harms people all over the world.

Someone is in slavery if they are:

- forced to work – through coercion, or mental or physical threat;
- owned or controlled by an 'employer', through mental or physical abuse or the threat of abuse;
- dehumanised, treated as a commodity or bought and sold as 'property';
- physically constrained or have restrictions placed on their freedom of movement.

Forms of exploitation can range from forced prostitution and forced labour to forced marriage and forced organ removal.

- *Forced labour* – any work or services which people are forced to do against their will under the threat of some form of punishment.
- *Debt bondage or bonded labour* – the world's most widespread form of slavery, when people borrow money they cannot repay and are required to work to pay off the debt, then losing control over the conditions of both their employment and the debt.
- *Human trafficking*– involves transporting, recruiting or harbouring people for the purpose of exploitation, using violence, threats or coercion.

Source: Anti-Slavery International www.antislavery.org

Human rights violations that occur in supply chains are much wider than what is referred to commonly as ‘modern slavery’. They are equally present in private and public supply chains. Despite the emphasis and media interest in the consumer and retail sectors, the public sector is not immune and there is increasing pressure on public authorities to pay closer attention to the sources of goods and services they buy.

While forced and bonded labour and human trafficking are prevalent globally in agriculture, fisheries, garment and electronics industries, closer to home incidences have been found - and perpetrators convicted - in UK farms and factories as well as in the sex trade, nail bars and car washes.

Threats to human rights in public supply chains include:

- compulsory or forced labour;
- bonded labour;
- human trafficking;
- restrictions on freedom of association and the right to collective bargaining;
- poor, unhygienic or unsafe working conditions;
- illegal child labour;
- very low, or no, pay;
- excessive working hours;
- discrimination;
- harsh and inhumane treatment.

The global context

While there is no exact data on the prevalence of forced labour and human trafficking, the International Labour Organisation (ILO) estimates that there are 21 million people in forced labour across the world.

The United Nations Guiding Principles on Business and Human Rights (UNGPs), published in 2011, set out the principles that govern the relationship between commercial activities and human rights. They were developed to address the joint and shared responsibility of corporations and governments to respect, protect and promote human rights in business contexts.

UNGP No.6 states:

“States should promote respect for human rights by business enterprises with which they conduct commercial transactions.”

Source: Guiding Principles on Business and Human Rights, United Nations, 2011

By way of commentary, the UN Guiding Principles add:

“States conduct a variety of commercial transactions with business enterprises, not least through their procurement activities. This provides States – individually and collectively – with unique opportunities to promote awareness of and respect for human rights by those enterprises, including through the terms of contracts, with due regard to States’ relevant obligations under national and international law.”

Source: Guiding Principles on Business and Human Rights, United Nations, 2011

This means that public authorities are explicitly tasked with respecting and promoting human rights, and this includes through their procurement activities.

The UK was the first UN member state to produce a National Action Plan to implement the UN Guiding Principles on Business and Human Rights, strengthening its commitment to protecting human rights in the supply chain. While the UK Government is yet to set out a clear plan as to how public authorities will respond to the UN Guiding Principles, it is only a matter of time before public authorities find themselves at the centre of demands to improve conditions through their business relations.

What is the Modern Slavery Act?

Whilst forced labour is often perceived as a problem in developing countries it is important to realise that it is also happening in the UK. Research carried out by the Home Office in 2013 suggests that the number of potential victims of modern slavery in the UK is between 10,000 and 13,000.

Nonetheless, the UK is perceived as relatively low risk internationally when it comes to human rights abuse, despite its profile in the media. However, the following example highlights an incidence of modern slavery in the UK that demonstrates just how real this problem is:

Case Study: Koze Sleep

A factory owner who ran his bed-making business on a "slave workforce" of men paid as little £10 a day has been jailed for two years and three months.

Mohammed Rafiq employed large numbers of Hungarians at his firm Koze Sleep and its subsidiary Layzee Sleep, which supplied retailers like John Lewis, Next and Dunelm Mill. Police said the men had "no contract, no rights and were exploited terribly". Rafiq was convicted of conspiracy to traffic.

An investigation into Rafiq's businesses found he had knowingly employed men trafficked into the UK by two Hungarian nationals Janos Orsos and Ferenc Illes for about two years. At trial, the jury heard Rafiq knew Orsos's organisation would source him "cheap slave labour" and he "went along with their exploitation as a slave workforce".

The jury also heard how ethical audits by leading high street retailers failed to spot what was going on. The men were promised good wages, housing and food if they travelled to the UK but found themselves living in shared, cramped and squalid accommodation.

Jailing Rafiq at Leeds Crown Court, Judge Christopher Batty said Orsos was a "ruthless gang master" who preyed on his countrymen, but that his "hideous exploitation" was only possible with the help of businessmen like him. He said: "You accepted the cheap labour that he found you regardless of how they were being treated. I'm satisfied you did nothing to help, you did not care."

Det Insp Andy Leonard, from West Yorkshire Police, said the men had been "controlled heavily" by the traffickers. "They had very little money, they were not allowed out and they were transported to and from the workplace. They worked long hours, they worked seven days a week, up to 15 or 16 hours a day, every single day of the week for little or no pay. They had no contract, no rights and were exploited terribly."

He said Orsos had been paid £200 per week for each worker but would only give the men £10 each, leaving them "totally helpless and totally controlled". One man who was trafficked to the UK and put to work in Rafiq's factory said: "I could not comprehend how they could do this. There were people there who had been living there in abject poverty, struggling for three or four years."

Orsos and Illes were jailed for five years and three years respectively in 2014 after admitting people trafficking offences.

Source: BBC News, 12 February 2016, www.bbc.co.uk

It was in this context that the Modern Slavery Act (MSA) came into force in 2015. The MSA is part of the UK Government's commitment to addressing this global problem. It provides a comprehensive framework to fight modern slavery and human trafficking, providing the necessary powers and competences to prosecute crimes, protect victims and support those involved in fighting these violations.

The MSA also:

- seeks to make supply chains more transparent for consumers and to push for a movement for the eradication of modern slavery from the supply chains of businesses operating in the UK; and
- places a direct obligation on commercial organisations to report on their efforts to identify, prevent and mitigate the risk of modern slavery deriving from their commercial operations by publishing an annual Slavery and Human Trafficking Statement.

The MSA has seen more organisations begin to gather information to implement the requirements and better understand their own supply chains, the risks of human rights abuses inherent within them and how they impact on them. However, current efforts of UK businesses still require dramatic improvement to be really effective. As civil society, i.e. the third sector organisations distinct from government or business, has pointed out:

“We know from our work with leading businesses that efforts to address modern slavery in supply chains are becoming increasingly prominent in human rights due diligence processes, but a look at the macro picture leaves much to be desired.”

Source: Francis West, (formerly of) Unicef, 1 September 2016

The MSA promotes good practice in business operations as it requires larger businesses, many of which supply the public sector, to exercise transparency in their supply chains. The MSA already applies to some entities governed by the Public Contracts Regulations 2015, such as institutions of higher education, while parliamentary initiatives such as the Modern Slavery (Transparency in Supply Chains) Bill are aimed at extending MSA obligations to the public sector.

In March 2017, the UK Parliament's Joint Committee on Human Rights recommended that:

“If the Government expects business to take human rights issues in their supply chains seriously, it must demonstrate at least the same level of commitment in its own procurement supply chains.”

Source: Human Rights and Business 2017: Promoting responsibility and ensuring accountability, House of Lords House of Commons Joint Committee on Human Rights, April 2017

As a public procurement practitioner, you must be ready to face these new commitments. You can show leadership by establishing policies and processes to make sure your activities don't harm others and that your authority conducts business with dignity and respect for human rights.

3

Why is this issue so important to the public sector?

Failure to promote respect for human rights in the supply chain not only runs contrary to UN Guiding Principles, international labour conventions and labour laws in a great many countries, including the UK Modern Slavery Act, but also to the very aims and values of public service. In public authorities, this should be understood by political leadership, senior management, employees and service users alike.

It would be absurd were hospitals to buy surgical instruments made in factories by workers who routinely suffered injuries because working conditions were so poor. It would be equally unacceptable for universities to buy electronic equipment made in factories where young students are forced to work against their will. Yet this is what public authorities are doing, unwittingly, day in and day out.

Public servants want their work to reflect the aims and values of their employing entity – be it a local authority, university, healthcare agency or any other public body. No one wants to buy goods and services that have been produced in a way that harms or exploits people. But while public authorities work hard to make the world a better place for people, for some, working in their supply chains it is a life of exploitation and suffering.

Businesses wanting to sell to the public sector increasingly need to demonstrate that they are going far beyond the minimum when it comes to addressing risks of human rights abuse in supply chains. Those with the most robust human rights due diligence processes that keep up with good practice will be in a much better position to out-perform the competition and secure lucrative public sector contracts. As awareness of human rights risks in supply chains increases, so will public buyers' expectations, as they themselves are mandated to address an issue of mounting importance and a heightening public profile.

Maintaining reputational integrity has become increasingly challenging for organisations in the fast-moving, super-connected world of social media. In this digital age, consumers are more informed than they have ever been and as a result, maintaining a positive corporate reputation is increasingly vital. Information can appear through platforms on a daily basis that, without effective management and communication, can render a lasting impact on an organisation's reputation. This is equally true in public and private organisations.

Organisations that choose to do the right thing and implement a structured approach to responsible sourcing find that it helps to build a positive reputation and establish trust with consumers and service users.

Adopting and building upon a responsible procurement policy and strategy not only helps to mitigate the risk of negative press coverage from human rights abuses in the supply chain, but it also helps to improve the plight of workers in sensitive industries and communities around the world.

The fact that a given incidence of human rights abuse might be happening in some far-off place does not mean it's not the responsibility of public authorities buying the goods or service to act. Tolerating human right abuse in the supply chain has a similar effect upon people whether it's at home or abroad.

As a public procurement practitioner, you need to become more proficient at identifying and mitigating these risks, so you can help safeguard and promote respect for human rights in public supply chains.

The good news is that you won't be on your own, there are a number of relatively simple things you can do. Most importantly, collaborating with other public authorities will make the task easier, quicker and cheaper and have a significantly greater impact than you could achieve working on your own.

4

Where do we start?

Public authorities need to commit, plan and organise how they are going to manage the risks they face when sourcing products and services that involve global supply chains. Promoting respect for human rights in the supply chain is not merely a compliance issue, it requires organisations to take pro-active action to know their supply chains, identify the human rights risks involved in them and act upon the problems identified. This is what is referred to as human rights due diligence.

What is Human Rights Due Diligence?

Due diligence is the process of identifying human rights risks in an organisation's supply chain, preventing them from occurring or mitigating those risks and reducing their impact. It includes planning remedial or corrective action.

Human rights due diligence is not about the risk to the organisation, it is about the risk to the people involved in providing services and producing goods in the supply chain.

The fundamental elements in defining and developing an organisation's approach to human rights due diligence are rooted in organisational commitment and involvement. Your suppliers will need to demonstrate their ability to conduct due diligence in their supply chains and share their results with you, while you'll need to collaborate with others to monitor supply chains and respond to incidences of human rights abuses in your supply chains.

As a public procurement practitioner, you will need to **put in place fundamental organisational enablers** before you can implement effective human rights due diligence.

These enablers are:

- organisational commitment;
- supplier engagement;
- collaboration.

These enablers then provide the resource, energy and impetus needed for all of your due diligence activities, as illustrated in Figure 1 below.

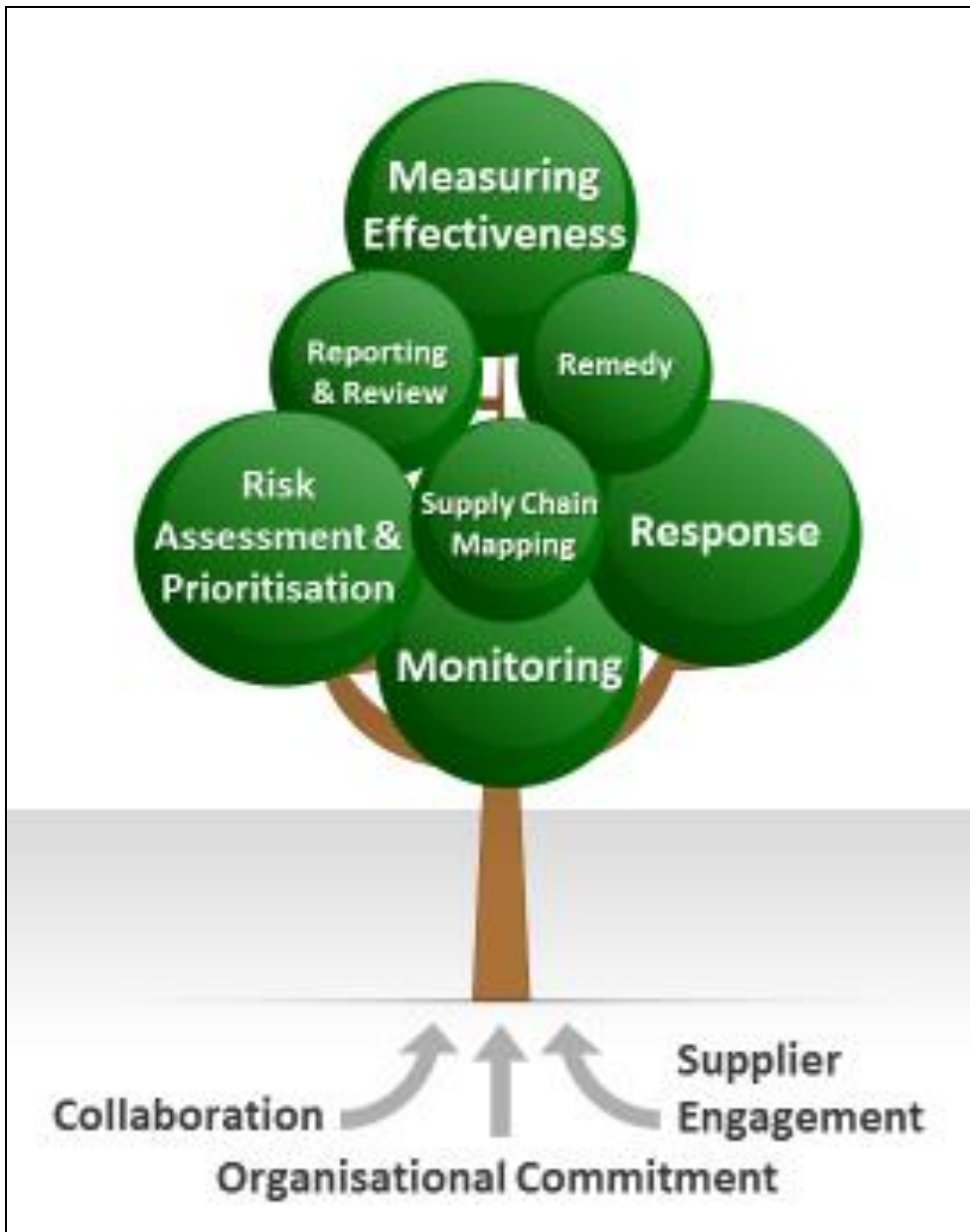


Figure 1: The Tree of Due Diligence

Gain Organisational Commitment

The MSA has placed senior management commitment at the heart of organisation’s obligations, which is essential when embedding human rights due diligence into the supply chain management approach.

Most public bodies have clearly defined values and have a strong commitment to sustainable and socially responsible procurement, having due consideration for those to whom goods and services are provided, but also those who manufacture or deliver them, both in the home country and internationally. An organisation’s first step to human rights due diligence is to include policy commitments towards human rights in the supply chain in its sustainable and social policies and strategies.

While senior management commitment and prioritisation is essential, protecting human rights in the supply chain, including fighting modern slavery, requires the involvement of the whole organisation. In any public authority, responsible procurement needs to be recognised and acknowledged as an activity core to the culture and mission of public service. **Adopting responsible procurement as a core value** will ensure that considering the impact of purchasing decisions is at the fore-front of its approach to acquiring goods and services. It will also help to inform stakeholders on the importance of responsible procurement, both now and in the future.

In this regard the Modern Slavery Act has provided a catalyst for this discussion at a senior level. Drafting and publishing an annual Slavery and Human Trafficking statement, whether or not it is required by the Act, can be an advantageous first step to winning the support of senior management. The Statement, which should be approved by the senior governing body, signed by a director or equivalent and linked directly to the home page of your website, can act as an effective launch-pad for senior leadership commitment to the project.

Organise some awareness training for your senior management team and encourage them to endorse an annual Slavery and Human Trafficking Statement, even if your organisation is not required to do so under the Act. Explain how managing your supply chain is linked to your organisational values, set out the risks and explain what an uncontrolled response to human rights abuse would mean for your reputation.

Get resources for your activities if you possibly can. It's vital that organisations resource responsible procurement activities adequately. Proper resourcing that enjoys explicit support at the very top of the organisation is necessary to embed the promotion of respect for human rights into the organisation's policy-making, procurement, contract management, risk management and communication processes. If this activity is seen as merely a compliance issue then the committed resources are likely to be too limited to have any genuine impact.

Engage with your suppliers

You should always aim to **work with your suppliers**, to ensure that they know what your strategy is and that you expect them to co-operate with you to deliver it. Positive, proactive engagement with suppliers is necessary at all times of the relationship in order to implement an effective human rights due diligence approach.

You should **communicate your policy and strategy** to your suppliers and make sure they understand the part that they will play in it. Work with suppliers to highlight the issue and show how important it is to your organisation, its service users and employees. You could insert clauses into all of your contracts, or at least those you identify as 'higher-risk'.

Sample conditions of contract that require your suppliers to work with you to promote human rights in their supply chains are given below.

Sample Contract Conditions

1. **Modern Slavery, human trafficking, forced and bonded labour, and labour rights violations in the supply chain**
 - 1.1 The Supplier will work with the Authority to identify and mitigate the risk of modern slavery, human trafficking, forced and bonded labour and human rights violations in its supply chain.
 - 1.2 The Supplier will, within 90 days of the commencement date, produce a Modern Slavery in the Supply Chain Due Diligence Report identifying the main risks of modern slavery, human trafficking, forced and bonded labour and human rights violations in its supply chain, highlighting the main products and countries involved and the steps to be taken to mitigate the risks in the short, medium and long term.
 - 1.3 The Supplier will update the Modern Slavery in the Supply Chain Due Diligence Report annually for the duration of the contract. More regular updates will be provided when risks of modern slavery, human trafficking, forced and bonded labour and human rights violations in its supply chain are assessed as imminent either by the Supplier or the Authority.
 - 1.4 The Supplier agrees that the Authority will assess the Modern Slavery Due Diligence Report and the annual progress to prevent and mitigate risks of modern slavery, human trafficking, forced and bonded labour and human rights violations in its supply chain.
 - 1.5 The Supplier agrees to work with the Authority in the implementation of the Modern Slavery in the Supply Chain Due Diligence Report by jointly drafting a Modern Slavery in the Supply Chain Action Plan.
 - 1.6 The Supplier agrees to appoint a nominated person to liaise with the Authority in the drafting and implementation of the Modern Slavery in the Supply Chain Due Diligence Report and the Modern Slavery in the Supply Chain Action Plan.
 - 1.7 The Supplier will share its Modern Slavery and Human Trafficking Statement, if required by the Modern Slavery Act to produce such statement, with the Authority. If not required to report, the Authority encourages the supplier to voluntarily produce a Modern Slavery and share it with it.

Source: London Universities Purchasing Consortium, www.lupc.ac.uk

Not just another tendering requirement

You might be tempted to try shoe-horning human rights due diligence into the competitive tender process, when suppliers' interest is most heightened, but there are several reasons why this is unlikely to be the best time to do it:

- **Most markets aren't yet ready:** Right now, precious few markets supplying the public sector, at least those outside the garment and electronics industries, are yet well placed or mature enough to demonstrate the ability to conduct real due diligence in their own supply chains.

-
- **Tender processes are relatively short:** Within the time-span of a typical tender process, you will barely scratch the surface of a supplier's due diligence regime, when what you really need is get right into their corporate capability – by understanding their sourcing process and ideally, by talking to their own sourcing teams.
 - **There are too many competing priorities:** Public purchasers are already obliged to line up a long series of hoops for suppliers to jump through, demonstrating not only their technical or financial capability, but their track record on equalities, sustainability and social value. Just adding yet another award criterion – with what would very likely be a very low weighting – encourages the dreaded 'tick-box' approach, which would not do justice to the problem and most certainly will not help save workers from exploitation. Asking bidders to write yet another policy to score a few more marks will achieve little, as anyone can do that. But the alternative – putting in pass/fail tests for bidders – would mean narrowing down the competition far too much, particularly in these early days. The public sector needs to work with markets to broaden and deepen competencies in this developing area, not push them away.
 - To carry out due diligence properly, you need to be in a **close working relationship** with your suppliers. You've neither the time nor resources to achieve this with a whole group of bidders in a tender process. It's just not practical. And with supply chains constantly on the move, the exercise would likely be out of date before the contract could be awarded. Moreover, to make effective use of limited resources, public purchasers need to tackle spend categories in order of risk, by addressing those product groups and source countries that represent the highest risk first. By assessing human rights risk primarily in the tender process, you'd be addressing them in the order that contracts come up for award or renewal, which is neither efficient nor effective.

Instead, **use competitive tender processes primarily to communicate your policy and strategy to bidders.** Include clauses in tender documents that require suppliers to acknowledge your commitment to promoting respect for human rights and actively co-operate with you in undertaking due diligence in their supply chains (see sample contract conditions above).

Suppliers can provide necessary information about human rights risks and provide access for the purpose monitoring the risks. They will also will need to be involved in any response and remediation process (see Section 7). You could ask your higher-risk suppliers to complete a **supplier questionnaire**, allowing you to gather information that can then be assessed against a pre-determined grading policy indicating a supplier's level of compliance with your requirements. Those suppliers that need to improve their level of compliance can then be given a fixed time frame in which to improve against a set of indicators, before being re-assessed.

You should also let suppliers understand that in the event of any problem arising, you will be looking to **terminate your contract only as a very last resort**. An approach involving punitive, fast-track termination runs a very real risk of encouraging denial and concealment. Instead, as partners, you and your supplier must both commit to working to resolve the issue and learning from the process, a practice that will be mutually beneficial and more importantly, help promote greater respect for human rights in the supply chain.

Find ways to motivate your suppliers to promote respect for human rights in the supply chain. For example, you could award a small prize to the most proactive supplier or recognise their efforts in your communications for service users or other stakeholders. It can also be beneficial for supplier engagement to promote good practice from a supplier internally and externally.

Collaborate with others

You don't need to do this on your own. A far greater impact and return on resources can be achieved if you work in collaboration with others. Understanding and addressing the risks for people working in supply chains is a major task. You will need to reach out to your fellow procurement practitioners in other public authorities, perhaps through purchasing consortia or your suppliers. Joining forces will not only save resources and maximise the potential for a positive outcome, it will also help as a great learning experience for everyone involved.

Build links with external organisations with whom you might not have thought of working before, such as civil society, non-governmental organisations or universities. Specialist organisations, with expertise in international labour rights or in specific sectors have knowledge and understanding that you could use to great effect. They have experience and resources to engage with suppliers, factories or workers. Keep this in mind and be open to reaching out to others at every stage of your due diligence process.

5

How do we assess and prioritise risks?

As a public procurement practitioner, you'll need to **get to know your organisation's supply chains** and identify those that present the higher risks for people working in them. In public authorities there are often a large number of suppliers operating across a broad range of spend categories, with greatly varying degrees of risk.

A risk-based approach to supply chain assessment and action is the most effective way to apply limited resources to human rights due diligence. It won't hurt to inform all your suppliers about your commitment to promoting respect for human rights, or to invite them to join you. But adopting a **risk-based approach** allows your resources to be concentrated and targeted at those spend categories – the product groups and source countries - where human rights abuses are most likely to occur.

Treating the suppliers in these spend categories as **a priority** and in greater depth will deliver a better return in both impact and reducing the level of risk exposure to your organisation. If, from the outset, you were to attempt to resolve the issue across your entire supply base and in all supply chains, you could expect to achieve no more than a very superficial, cursory impact on the problem in general.

When identifying risk in a given supply chain, you'll need to consider the industry, its geographical source and the nature of the supplier relationship. All are relevant in assessing what will be required for your due diligence to be effective.

Some research, particularly into media coverage or using information provided by civil society or NGOs, will help you determine those spend categories and source countries - and therefore which of your suppliers – will warrant closer examination.

What is supply chain mapping?

It is important to gauge how much risk there is in the supply chain. Any major risk identified within the supply chain could have a serious impact on an organisation were it to occur. The best food producers, supermarkets, automotive suppliers and retail chains use techniques such as supply chain mapping, monitoring and factory audits to understand the risks in their supply chains. These are practices that public authorities must learn to adopt and share if they are to conduct effective human rights due diligence.

Supply chain mapping will help you build a picture of the supply chain, locating assembly plants, component factories and sources of raw materials. This will give you an overall viewpoint from which the risks can be identified - by industry, by source country, or both - and where improvements need to be made most, allowing risks to be investigated and mitigated in rank order.

If they are willing, all suppliers can disclose details of the suppliers they trade directly with, known as their Tier 1 suppliers. Many industries have multiple tiers of suppliers in the supply chain and the number of workers involved in the production process will vary from product to product. Getting suppliers to disclose details of suppliers at Tiers 2, 3, 4 and so on down the supply chain is a much more challenging task.

This is because:

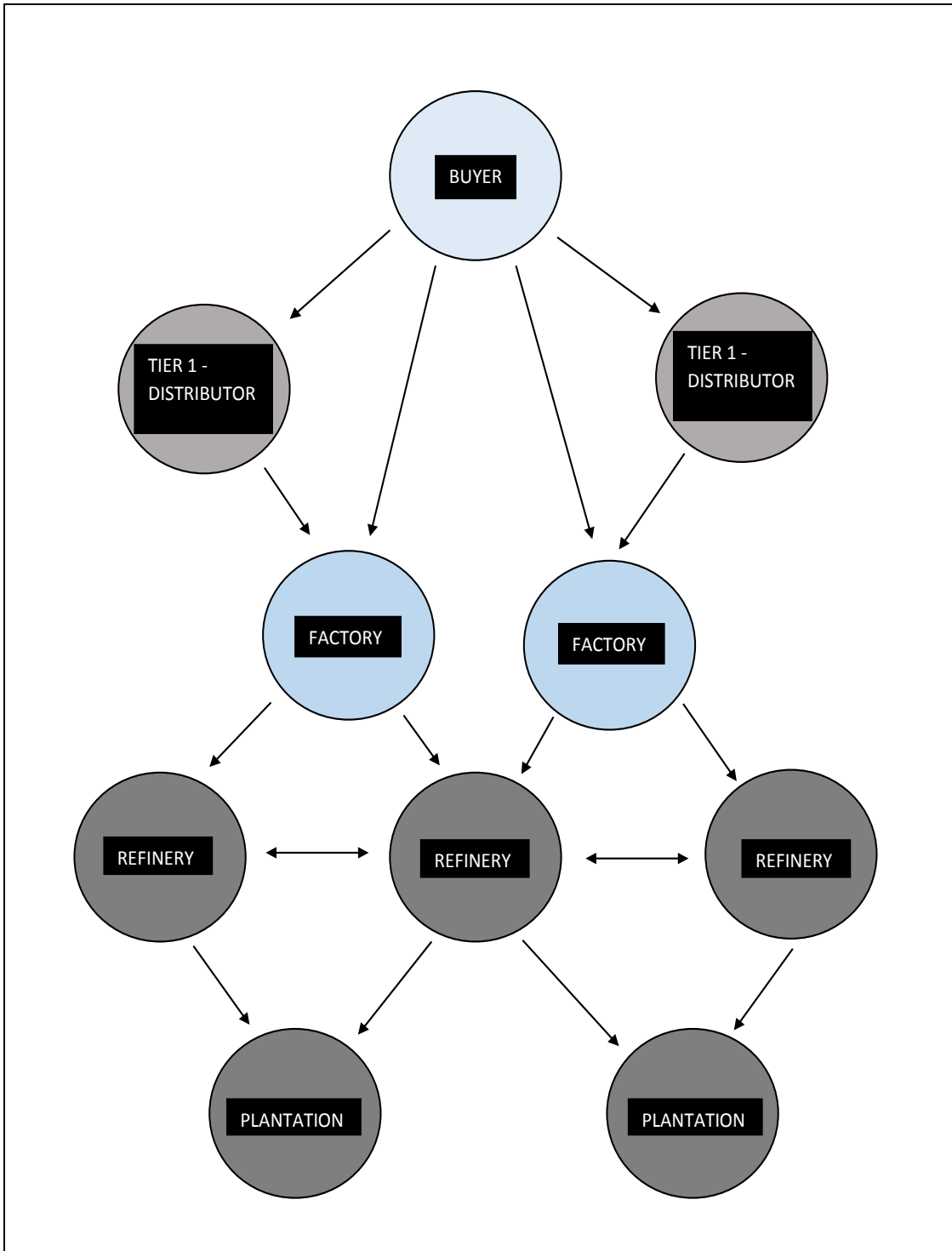
- supply chains are constantly in motion as new products are sourced and suppliers enter or leave markets;
- many suppliers consider information about their supply chains to be commercially sensitive;
- suppliers themselves may be working with very limited information about suppliers in the lower tiers, where basic components or raw materials are produced.

Supply chain mapping is nevertheless a necessary discipline to be mastered if the risks of human rights abuse are to be mitigated.

You must systematically **capture and analyse data** in collaboration with suppliers if you are to improve traceability and help identify risks in the supply chain. Your data capture system need not be elaborate – a spreadsheet will do. Knowing is far better than not knowing and your resources can then be better allocated to each corrective action plan to mitigate any potential negative situation.

Don't be overwhelmed by the amount of data to be gathered. The first step is to capture names and locations of suppliers from Tier 1 through to Tier 4, building information and data about the supply chain, including information about potentially higher-risk industries, processes and source countries. Capture data systematically.

Some leading electronics brands have published the names and locations of hundreds of assembly plants and component suppliers, while some well-known retailers have posted interactive maps online, identifying the name, precise location and number of employees in clothing and food factories. This welcome openness might enable customers to spot whether a retailer is using a factory that features in a media report, for example. But disclosing factory locations is really just the start.



This diagram shows a simplified supply chain for plastic gloves used mostly in the health sector.

Tier 1 – Distributor

Tier 2 – Factory of Manufacture

Tier 3 – Refinement of raw materials

Tier 4 – Plantation where the resins are cultivated.

6

How do we monitor supply chains?

Once you have identified risks in your supply chains you'll need to monitor them for potential violations in factories and other workplaces where your goods and services are produced. In industry and commerce, monitoring supply chains is understood and accepted as a costly and a fairly labour-intensive activity. Happily, there are ways to share these costs with other public authorities, with improvements to both efficiency and effectiveness.

Monitoring can be both proactive and reactive. Proactive monitoring, such as conducting factory audits, helps guard against human rights abuses from taking place, while reactive monitoring is the practice of responding to media reports or issues emerging in one part of a supply chain, perhaps following a factory audit.

What are the basic standards to look for?

Forced labour is illegal in every country of the world. Basic workers' rights are protected in many countries by local labour laws and by International Labour Organisation (ILO) Conventions. Yet a great many supply chains pose human rights risks to people working in them.

To assess whether labour and human rights are violated you should ensure you understand which standards you are looking for. While all suppliers are subject to local legislation protecting human rights, there are also standards that suppliers can adopt on a voluntary basis, such as the Base Code of the Ethical Trading Initiative. This is useful guidance to follow when monitoring your supply chain.

The Base Code of the Ethical Trading Initiative

1. Employment is freely chosen
2. Freedom of association and the right to collective bargaining
3. Working conditions are safe and hygienic
4. Child labour shall not be used
5. Living wages are paid
6. Working hours are not excessive
7. No discrimination is practiced
8. Regular employment is provided
9. No harsh or inhumane treatment allowed

Source: www.ethicaltrade.org

What is a factory audit?

Factory audits are widely regarded as a standard requirement for suppliers trying to supply larger businesses in industry and commerce. They help identify how goods are being produced and provide a snapshot in time of the standards and conditions in a particular factory at the time of the audit. Audits have the advantage of systematically gathering information on what is happening and those that provide the most detailed information on the real situation in a factory are ones that involve independent expert analysis of worker conditions.

Although there are drawbacks with current systems of auditing, it is important that public procurement practitioners engage in this activity to gain knowledge of the process and understand what works well and what is less successful.

A factory audit is usually conducted under one of three internationally-recognised formats: Smeta, SA8000 or BSCI. They focus on labour standards drawn from the Ethical Trading Initiative Base Code and look for potential non-conformances in a factory. Auditors are trained to check paperwork such as employee, safety and pay records in addition to physical conditions. They also conduct interviews with workers.

Problems with factory audits

There are recognised drawbacks with factory audits:

- Audit firms that are led by third parties, particularly in low-cost countries, may be open to external influences, such as pressure from owners or local officialdom and thus may have limited effectiveness in uncovering human rights abuses or safety concerns. The careful selection of reputable auditors is essential.
- Audits can be announced, semi-announced or unannounced. Clearly only unannounced audits mean factory management has no opportunity to prepare for the audit. With prior warning, perhaps by removing or “prepping” certain employees, altering or falsifying documentation or making physical changes on the factory floor, management can present a rosy image of the factory.

-
- Since modern supply chains are global and complex, gathering accurate and reliable information can be a major undertaking. An audit may only look into a single tier of a particular product's supply chain.

Audits do, however, serve the purpose of providing a snapshot in time of what an expert party witnessed in a factory on a given day and this information can be vital for the improvement of supply chains.

Audits can also be carried out on suppliers of services. This can be particularly valuable in service industries where low-pay is prevalent, such as cleaning or security services. Suppliers' recruitment practices can be audited, particularly those that employ third parties to recruit workers and where workers are paid through a third party. Employee information can be audited to look for signs of human trafficking – such as large numbers of workers resident at the same address, or with sequential bank account numbers.

Collaboration in monitoring

Audits alone are not sufficient to mitigate the risks of human rights abuses in the supply chain. Combatting human rights abuses in global supply chains can be both labour- and cost-intensive. In general, public authorities will not have the resources or know-how to address all risks effectively.

By working collectively, public authorities can share costs, share information and help to drive improvement in common supply chains, with benefits for everyone involved. Support from non-governmental organisations, purchasing consortia and collaborative supply chain monitoring organisations can also help public authorities successfully develop and implement a human rights due diligence strategy. Collaboration will also help to educate and raise greater awareness of the issues, getting more people involved in the process.

As a public procurement practitioner, it is unlikely you will have the resources at your disposal to commission in-depth supply chain monitoring through third parties and continue their investigation, through all tiers of the supply chain, implementing risk mitigation actions to improve working conditions along the way. Working in collaboration can help to ease the financial burden of this and helps gauge where the supply base is at now and where specific issues exist that need to be addressed by the market.

Public authorities can collaborate regionally, nationally and internationally in monitoring supply chains to much greater effect. Sectors within public service, such as local government, higher education and health, where supply chains are common to many public authorities, offer particular opportunities for collaboration. Sharing resources means more monitoring, auditing and more effective intelligence gathering can be done. It also means increased leverage and better expertise when negotiating with the global brands – far better than public authorities could hope to achieve on their own.

An example of just such a collaboration between public authorities is Electronics Watch:

Collaborative Monitoring of Supply Chains: Electronics Watch

Electronics Watch is an independent monitoring organisation that assists public sector buyers to meet their responsibility to protect the labour right of workers in their global electronics supply chains more effectively and less expensively than any single public sector buyer could accomplish on its own.

Electronics Watch organises public sector buyers from affiliated organisations and gives them the essential tools to create effective market demand for decent working condition in their ICT hardware supply chains. When public sector buyers in many countries take action together, based on the same supply chain intelligence and the same enforceable contract requirements, working conditions can improve.

Electronics Watch has a model for change that takes a three-step process:

1. Electronics Watch organises enforceable demand for decent working conditions in the ICT hardware supply chain through contract performance conditions that affiliates include in their contracts for ICT hardware products.
2. Electronics Watch monitors for compliance and helps to strengthen workers' own voices to monitor and report on labour rights and safety breaches in their factories.
3. Electronics Watch works with affiliates, workers, companies and other stakeholders to address the problems in factories, compensate workers for harm they have suffered, and develop "socially responsible trading conditions" to ensure sustainable change.

The Electronics Watch Contract Conditions are a tool for affiliates and their contractors to address working conditions in ICT hardware factories that assemble or make the components of the products purchased under the contract. They require the supplier to perform due diligence to identify, prevent and mitigate risk of breach, remedy actual breaches, and compensate workers affected by the breaches, consistent with the UN Guiding Principles.

Source: Electronics Watch <http://electronicswatch.org/en>

7

How should we respond to human rights abuse in a supply chain?

Be prepared – public authorities need to be ready to respond effectively to incidences or reports of human rights abuses in their supply chain. You should **develop a detailed response plan** to deal with risks or issues as they occur.

Your plan of action will need to be well thought-out and approved in advance by senior management. By involving key personnel – in communications, procurement and human resources – detailed arrangements can be drawn up to manage your response. It will not only save time, but a swifter, surer response will also help protect both the people affected, the reputation of the organisation and serve to underline its commitment to its core values.

When specific abuses have been uncovered they need to be addressed swiftly. In some cases, abuses will be a consequence of the way a specific industry is organised and these will require a longer term approach to address the root causes of the abusive practice.

Once you have identified that human rights are at risk of being violated in a supply chain and that people may suffer abuses such as modern slavery or human trafficking, you must **take action to remedy** them. Not only should urgent steps be taken to stop the abuse, but action should be taken to ensure that victims of violations are properly compensated and their rights restored. Providing for or participating in the act of remedy makes your authority part of the solution, rather than part of the problem.

Remediating an incidence of human rights abuse should:

- **Involve your suppliers:** When human rights abuses have been identified, terminating the supplier relationship, demanding a change of sub-contractor or supply from another country is seldom the best approach. Only if a supplier is unresponsive or obstructive should you consider termination. Sometimes just the threat of termination is enough to get a positive reaction that will help the victims of the abuse. Including remediation processes in the contract will provide you with the necessary leverage during the contract management phase to deal with incidences that occur.
- **Involve law enforcement:** If you suspect workers are being subjected to criminal abuse such as modern slavery or human trafficking, you should involve law enforcement agencies **immediately**.

If you believe a person is being trafficked and is in immediate danger, you should **call 999 straight away**.

You can also report suspicions of trafficking by calling 101 or visiting your local police station. You can also provide information to **Crimestoppers** anonymously on **0800 555 111**.

The UK's 24/7 **Modern Slavery Helpline** is also an excellent means of accessing information and advice. Potential victims, statutory agencies, frontline professionals, businesses and members of the public can call **08000 121 700** for specialist support and guidance.

You can also contact The Salvation Army, who run a 24-hour confidential Referral Helpline on 0300 3038151 available 24 hours a day, seven days a week.

Source: www.modernslaveryhelpline.org

- **Collaborate with stakeholders and other interested organisations.** There are many industry, multi-stakeholder and other collaborative initiatives that aim to promote respect to human rights in supply chains. Engage with these, making sure that they provide effective grievance mechanisms in case of abuses.

Grievance mechanisms

When violations have occurred your authority may wish to participate in grievance mechanisms designed to remedy the harm caused to people working in your supply chain. A grievance mechanism is a process by which violations and abuses are reviewed and remedies can be sought for the victims, often by your supplier working with employers in the affected part of the supply chain.

Local judicial systems are sometimes unable or unwilling to hear cases brought against wealthy business people. Some suppliers will therefore have alternative measures in place to remedy violations and compensate victims. For example, in cases of illegal child labour, local employers could be required to provide support and education for affected children, while compensating families for lost income.

For grievance mechanisms to be effective and considered legitimate they need to be both **accessible and transparent**. Your involvement and constructive dialogue with your suppliers can help victims to access these mechanisms with confidence.

8

How do we measure and report effectiveness?

Once you have successfully mapped your supply chain, identified risks, monitored potential abuses and taken mitigating action with your suppliers, you need to be ready to **measure the impact of your activities**.

You will need to establish whether the tools and procedures you and your suppliers have put in place to highlight risks are working, whether corrective action is being followed and what its impact has been on the ground. Effective indicators will develop as part of your due diligence process, but remember it is usually better to engage with suppliers that don't comply with the rules than terminate your relationship with them straight away. Only by **staying engaged** will you know whether violations are being remedied. Walking away just leaves problems to get worse.

The MSA requires that commercial organisations report on their efforts to combat modern slavery, including the effectiveness of measures they've taken in an effort to address the problem. Reporting on the effectiveness of your due diligence activity is good practice as it demonstrates your authority's commitment to transparency and your willingness to learn from your successes and failures. Reporting can be internal, to senior management, or external, for example on your website.

Alternatively, you could usefully share information with those with whom you collaborate, such as other practitioners, purchasing consortia or the organisations that help you monitor your supply chain. Performing human rights due diligence in your supply chain is a continuous, learning process, and as such is always better shared and reflected upon and subjected to feedback and impartial assessment. Don't be afraid to let your partners know you are not perfect. It is solving the problem that matters, rather than pretending there isn't one.

As with any process involving a review of successes and failures, it is important to recognise due diligence as a flexible, organic process that enables your organisation to live up to the expectation of its service users - to conduct its business without harming others. Review what action has worked and what hasn't, ensuring that future practitioners can continue to build the knowledge, experience and competencies needed to solve this global problem.

9

Where can I find out more?

Numerous organisations are doing great work to further our knowledge and understanding of the risks people face when working in global supply chains. Many organisations are contributing positively to ending abuse by designing strategies and procedures to help those at risk. These are but a few.

Advanced Procurement for Universities and Colleges (APUC)

APUC is the procurement centre of expertise for all of Scotland universities and colleges. It is a private limited company, owned by its client institutions and established in response to the Review of Public Procurement in Scotland (the "McClelland Report"), which made recommendations for public procurement reform.

www.apuc-scot.ac.uk

Anti-Slavery International

Anti-Slavery International is the world's oldest international human rights organisation, founded in 1839 by British abolitionists such as William Wilberforce and Thomas Clarkson. Today, Anti-Slavery International is the only British charity exclusively working to eliminate all forms of slavery and slavery like practices throughout the world. Anti-Slavery International's online tool for identifying the products of slavery and where they are produced can be found at <https://productsofslavery.org/>

<https://www.antislavery.org/>

Business, Human Rights and the Environment Research Group (BHRE)

The BHRE Research Group was created in 2013 under the leadership of Dr Olga Martin-Ortega and is based at the School of Law at the University of Greenwich. It brings together the expertise and research interests of several leading academics in the field of business and human rights, international environmental law and international criminal law. The BHRE develops high quality, policy relevant research in a number of research areas and provides training and capacity building to public bodies and corporations as well as other consultancy services.

www.bhre.org

Chartered Institute of Procurement and Supply (CIPS)

CIPS exists to promote and develop high standards of professional skill, ability and integrity among all those engaged in purchasing and supply chain management. CIPS Knowledge is a unique benefit, available only to CIPS members, offering best practice insights, guidance, and tools and templates to support procurement professionals in their roles, including on modern slavery in the supply chain.

<https://www.cips.org>

Ethical Trading Initiative (ETI)

ETI is a leading alliance of companies, trade unions and NGOs that promotes respect for workers' rights around the globe. Their vision is a world where all workers are free from exploitation and discrimination, and enjoy conditions of freedom, security and equity. They offer training and helpful literature on promoting respect for human rights in the supply chain.

<http://www.ethicaltrade.org/>

Gangmasters Licensing Authority (GLA)

GLA works in partnership to protect vulnerable and exploited workers. It is a Non Departmental Public Body (NDPB) governed by an independent Board made up of a chair and six members, who were recruited for their respective knowledge, experience and skills. Their licensing scheme regulates businesses who provide workers to the fresh produce supply chain and horticulture industry, to make sure they meet the employment standards required by law. They also provide guidance on using a licenced labour provider and best practice.

<http://www.gla.gov.uk/>

Global Slavery Index

The Global Slavery Index provides a map, country by country, of the estimated prevalence of modern slavery, together with information about the steps each government has taken to respond to this issue. This information allows an objective comparison and assessment of both the problem and adequacy of the response in 167 countries.

<http://www.globalslaveryindex.org/>

International Learning Lab on Public Procurement and Human Rights

The International Learning Lab on Public Procurement and Human Rights is a global network to generate knowledge, tools and guidance, and build capacity of local and national procurement agencies to integrate human rights into public purchasing.

<https://knowthechain.org/>

London Universities Purchasing Consortium (LUPC)

LUPC is a non-profit, professional, collaborative buying organisation owned by its Members, for its Members in the higher and further education, arts, sciences and cultural sectors. Formed in 1968, its sole aim is to maximise value for its Members in the acquisition of goods and services, without causing harm to others. It is a leader in promoting respect for human rights in public supply chains.

www.lupc.ac.uk

Unseen UK

Unseen is working towards a world without slavery by concentrating efforts on three main areas - supporting, equipping and influencing - to tackle the issue in a way that really works. Through supporting survivors, their care provision gives them a safe place to recover from trauma and rebuild their lives. Their website includes information on how to spot the signs of slavery and human trafficking. Unseen UK also operates the Modern Slavery helpline on 08000 121700.

<http://www.unseenuk.org/>

CIPS Group Easton House, Easton on the Hill, Stamford, Lincolnshire, PE9 3NZ, United Kingdom
T +44 (0)1780 756777 F +44 (0)1780 751610 E info@cips.org

CIPS Africa Ground Floor, Building B, 48 Sovereign Drive, Route 21 Corporate Park, Irene X30, Centurion, Pretoria, South Africa
T +27 (0)12 345 6177 F +27 (0)12 345 3309 E infosasa@cips.org.za

CIPS Australasia Level 8, 520 Collins Street, Melbourne, Victoria 3000, Australia
T 1300 765 142/+61 (0)3 9629 6000 F 1300 765 143/+61 (0)3 9620 5488 E info@cipsa.com.au

CIPS Middle East & North Africa Office 1703, The Fairmont Hotel, Sheikh Zayed Road, PO Box 49042, Dubai, United Arab Emirates
T +971 (0)4 327 7348 F +971 (0)4 332 5541 E mena.enquiries@cips.org



*Printed on stock containing
50% post consumer
recycled content*

www.cips.org

CIPS™ is a registered trademark of the
Chartered Institute of Purchasing & Supply