

**KEY ISSUES FOR ETHICAL AND SUSTAINABLE
PROCUREMENT**

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What is sustainable procurement?

The UK sustainable procurement task-force defines sustainable procurement as: “A process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the organisation, but also to society and the economy, whilst minimising damage to the environment.”¹

An easier way of understanding this is: sustainable procurement is a process that considers the environmental, social and economic consequences of design, material used, manufacturing methods, logistics and disposal.

Companies have different views on what sustainable procurement means to their operations.²

What is ethical procurement?

Ethical procurement can be defined as procurement processes that respect fundamental international standards against criminal conduct (like bribery, corruption and fraud) and human rights abuse.²

In companies that apply an integrated approach to managing their risks, ethical procurement requirements will form part of their overall sustainability strategy.

What role can procurement professionals play?

- Help to shape their organisation’s approach
- Work with internal colleagues (or external expertise) to consider the organisation’s risks
Assess the supplier market
Feedback to colleagues about the market
- Help develop a plan for the procurement process to shape the technical, social and environmental criteria of the specification.³

¹ Procuring the Future is available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69417/pb11710-procuring-the-future-060607.pdf

² <https://www.ardeainternational.com/bridging-the-gap-between-sustainability-and-procurement-4-key-challenges/>

³ See Theron: <https://www.ardeainternational.com/resources/publications/strategic-sustainable-procurement-an-overview-of-law-and-best-practice-for-the-public-and-private-sectors/>



Why should companies focus on ethical and sustainable procurement ?

Companies are increasingly focussing on their supply chains to:

- minimise their legal risks
- minimise operational risk
- prevent reputational damage
- gain a competitive advantage
- attract and retain talent
- avoid negative impacts (such as pollution clean ups)

How to identify risk?

What is sustainability risk?

PWC and Deloitte both note the sustainability performance of a business can be a risk to its potential value (i.e. sustainability risk)

For businesses to be able to develop greater resilience in their supply chains they have to identify their supply chain risks. A risk assessment identifies not only a risk in relation to lack of access to raw materials (particularly in the case of manufacturing companies) but also risks in the form of human trafficking or slavery, environmental impacts and degradation, and reputational impacts.⁴

The International Labour Organisation advises organisations to consider wider stakeholder perspectives regarding sustainable procurement. This means ensuring continued communication with employees, investors, and other interested parties to identify risks that may significantly undermine sustainability.

Prioritising risk

How far should companies look down their supply chain? Workers beyond the third tier are often more vulnerable to exploitation. The approach a company will

⁴ <https://www.ardeainternational.com/resources/publications/risk-management-sustainability/>



take on how they address sustainability risks in their supply chain will depend on its appetite to manage reputational and legal risks. Companies should therefore map their supply chains to be able to identify their risks. One example of an area particularly vulnerable to the issue of human trafficking beyond the third tier of the supply chain is the fashion industry.

How do you prioritise risks?

An initial risk assessment should be made so that the company can determine where it is more vulnerable to issues, for example, like human trafficking.

The initial assessment will usually include looking at:

- The level of spend vs level of business-critical or operational risk
- The level of 'sustainability risk'
- The likelihood of non-compliance with international or national law

Consider what other policies might have to be addressed

In order to embed the requirements of procuring sustainably and ethically, across all business activity, organisations may need to integrate the requirements into a wider range of policies. These could include

- Corporate Social Responsibility/Sustainability policies
- Responsible purchasing policies
- Environmental policy
- Anti-discrimination policy
- Supplier codes of conduct

Legal and best practice principles

Companies should adhere to legal requirements that apply to the procurement of services or goods in the countries they operate in. For example, public bodies have to adhere to the EU Procurement Directives. Where private companies are procuring products or services, these should follow the best practice rules to avoid litigation for misrepresentation.



The legal context of sustainable and ethical procurement is constantly evolving. Recent examples of legislation to consider include:

- UK Modern Slavery Act (2015)
- French Duty of Care Act (2017)
- EU Conflict Minerals Regulation (In force 2021)

Creating the procurement process

When creating the procurement process it is important that the organisation determines what the tendering process will look like - timing for pre-qualification stage,, sustainability and ethical specifications that will be needed, the evaluation criteria, who will be involved in the process , how the contract will be drafted and what support is required to achieve this.

Selection Questionnaires can be used to carry out a preliminary assessment of suppliers. They can ask for evidence of legal compliance, accreditations, social/ environmental policies and strategies, and environmental goals. The scoring of responses should be weighted in such a way that suppliers offering more sustainable solutions score highest.

Best practice in tender evaluations can also be drawn from public procurement. By using Most Economically Advantageous Tender (MEAT) criterion organisations can set mandatory sustainability specifications for products and processes.

Life-cycle costing should take into account sustainability factors relating to use (consumption of energy/resources), end of life costs, and emissions.

Sustainability in contracts

Social and environmental conditions should be included in the performance of the contract. A widely used approach is to include community or social benefit clauses with key performance indicators to be evaluated on a continuous basis. Alternatively, suppliers can be invited to demonstrate how they can incorporate sustainability based on their expertise. Reporting requirements should be set out as part of contract management and their parameters should be proportionate to the risk level of the contract.



Supplier engagement

Effective two-way communication can help deliver the priorities of organisations, their stakeholders, suppliers, and the global community. By applying positive pressure on suppliers, organisations can implement measures such as training programs and reporting schemes to improve performance. Continuous and transparent dialogue can ensure that new supply chain risks do not lead to social or environmental harm and subsequent litigation.

Common challenges associated with supplier engagement include a lack of resources, data, technical knowledge, and supply chain complexity. According to BSR, these challenges can lead to well-intentioned but ineffective efforts to address individual suppliers' needs.⁵ External collaborations can enable organisations to address the root causes of supplier issues beyond their own capabilities.

Supply chain codes and standards

There are a number of initiatives that have been created to try and harmonise codes used by buyers- such as the [Ethical Trading Initiative](#), the [Fairwear Foundation](#) and the [UN Global Compact](#). However, these codes are not perfect and organisations should always be aware of national laws and comply with these or apply provisions that apply greater protection.

ISO 20400:2017 is a guidance standard for organisations of all sizes to integrate sustainability into their procurement strategy. It is the first international standard to provide guidance on delivering sustainable objectives through the supply chain. Some key aspects of ISO20400:2017 are:

- it is a 'guidance' standard that provides a strategic framework. This means organisations cannot be certified against it
- its focus is sustainable procurement, not just 'green' purchasing. This means there is a need to consider all three pillars of sustainability, environmental, social and economic
- it is concerned with implementing procurement strategies and policies that look down the supply chain
- it can provide advice about how to incorporate laws such as the UK Modern Slavery Act into policy. This can help ensure purchasers avoid complicity in unsound procurement practices.

⁵ BSR New Models for Sustainable Procurement, https://www.bsr.org/reports/BSR_New_Models_For_Sustainable_Procurement.pdf



Sustainable procurement might also form a part of other international standards such as ISO 14001 (Environmental Management Systems), and reporting frameworks such as the Global Reporting Initiative (GRI) with elevated focus on supply chain issues.

Collaboration

70% of companies say multi-stakeholder collaborations are the key to more sustainable procurement and ethical supply chains.⁶ Collaboration with NGOs, community groups, labour organisations, and businesses with common goals can:

- create a common methodology for improving procurement
- identify risks and opportunities from different perspectives
- share the costs associated with supplier audits and engagement
- create a repository of information and exchange knowledge and expertise with other companies
- make informed purchasing decisions that incorporate the best available sustainability information

Where should my company start?

10 key steps to start the process:

- 1) Commit to ensuring a sustainable and ethical supply chain
- 2) Create a policy.
- 3) Understand the scope of the efforts you will take based on your business size and impacts
- 4) Work out who your suppliers are
- 5) Start communicating with your suppliers
- 6) Draft a code of conduct
- 7) Ask your suppliers to sign your code of conduct
- 8) Track your suppliers' performance
- 9) Communicate about your efforts and their impacts
- 10) Enter partnerships with trusted NGO

⁶ EY The State of Sustainable Supply Chains: Building Responsible and Resilient Supply Chain



Common barriers to implementing sustainable procurement

The main barriers to achieving sustainable procurement identified by the UN Global Marketplace are:

- habit and the difficulty in changing procurement behaviour
- lack of coherent corporate procedures and systems
- lack of suppliers of sustainable assets, suppliers or services
- lack of senior executive support
- the difficulty of including social as well as environmental considerations
- a perception that the process and outcomes are more costly or time consuming.
- In a workshop held in London during 2019 , Ardea and Greenstone plus identified 4 key barriers to embedding sustainable procurement in organisation⁷:
 1. lack of senior/ stakeholder buy in
 2. lack of understanding of sustainability
 3. lack of time and resource
 4. structure of the organisation

⁷ <https://www.ardeainternational.com/bridging-the-gap-between-sustainability-and-procurement-4-key-challenges/>



About Ardea

We are a specialist sustainability, business and human rights consultancy with expertise in modern slavery. We harness our legal expertise to support organisations meet their legal compliance obligations and develop best practice procedures.

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