



Identifying and minimising labour rights issues in your supply chains



These are initial steps that you, as a procurer, can take to identify and minimise **labour rights'** risks in your business and supply chain(s).

Those working in procurement can help protect workers from unfair and unsafe behaviours by requiring suppliers to comply with employment law including **employment standards**.

Step 1: Create, communicate and seek commitment to a supplier code of conduct or ethical sourcing policy

Whether your business is already running or you are just starting out, it is important to set out and clearly communicate your expectations of how your business and suppliers should operate. Follow these principles:

- › Set expectations: a supplier code of conduct or ethical sourcing policy can show the behaviour and values that you want from your suppliers and those that supply to them.
- › Confirm: suppliers should commit and confirm that they understand the requirements and will comply.
- › Do not rely on verbal confirmation: make sure that any commitment is in writing.

A. Supplier code of conduct example:

"New Zealand Government Supplier Code of Conduct" – visit: www.procurement.govt.nz

B. Map your supply chain and identify any risks

Mapping your supply chain can help you to identify potential issues so that you can minimise any risks. You will know who your direct suppliers ("Tier 1") are, but you may not know who your indirect suppliers ("Tier 2", "Tier 3", etc) are. The main steps you apply should include the following:

- › Start by involving the part of your business that manages your procurement and supply chain. This is essential because they have knowledge of, and own the day-to-day relationships with your suppliers. This will help you identify potential risks effectively.
- › Work with your suppliers to make sure the mapping process works. To get 'buy-in', it is critical that you

spend as much time on the "why" as on the "how," so that you properly communicate the reason for the importance of mapping the supply chain.

Most companies have limited resources to look beyond their primary suppliers and may benefit from both an "internal" and "external" collaborative approach to map their supply chain. Please note that:

- › Internal means engaging across the different business functions within your company that might deal directly with the supply chain.
- › External means getting the 'buy-in' of your company's suppliers in the mapping process.

Engaging with suppliers throughout this whole process will also help them to understand the risks in their own supply chain. Please note that:

- › Some suppliers may be reluctant initially, so it will be important for them to understand the reason for the mapping and that they have control over access to the information.
- › Some suppliers may still be reluctant to give access to information either because of commercial sensitivities or because they know there are problems and are choosing not to disclose this.
- › You may need to be more direct with these suppliers and make it a requirement of doing business with you. This includes adding the mapping process into your supply contract and making sure that it is complied with.



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Step 2: Conduct a risk assessment

Whether you have an existing supply chain, or you intend to procure services, or have contracts up for renewal you should conduct a risk assessment. See **risk factors table** for more information or visit www.employment.govt.nz and search “risk factors table”.

Most businesses have limited resources to complete full checks on all their existing suppliers. You will need to carefully focus your time and resources to get the best results possible for you.

A. You will need to make two key decisions:

- › **Decide which of your suppliers are of greatest importance to you.** Consider and compare the suppliers that are essential to the continuation of your business versus the ones you spend the most money with.
- › **Decide which of your suppliers carry the greatest risk.** Identify and rank your suppliers that have the highest risk of worker exploitation.

B. Carry out an initial high-level assessment of your supply chain, including coverage of direct and indirect suppliers, labour providers and contractors.

This is to classify which suppliers are at “low”, “medium” and “high” respective risk levels. See the **risk factors table** or visit www.employment.govt.nz and search “risk factors table”.

C. The next step is to get this information by asking your suppliers to complete self-assessment questionnaires.

Make sure to include the following questions and ask your suppliers to provide supporting documents with their answers.

- › Does the supplier have an employment code of conduct or policy in place?
- › Does the supplier have a supplier code of conduct or policy in place for their own suppliers?
- › Does the supplier have systems to ensure compliance with employment standards? If no, does the supplier have other relevant “**management systems**” in place?

- › Is the supplier affected by overseas anti-slavery legislation?

UK Modern Slavery Act, Australian Modern Slavery Act and California Transparency in Supply Chains Act are examples of overseas anti-slavery legislation. These laws require the parties, within their scope, to report on the risks of modern slavery in their operations and supply chains and actions to address those risks steps.

- › Has the supplier been reported to have broken New Zealand Employment legislation?

To answer this question, the following resources should always be consulted:

- › **Stand down list:** this shows any employers who have been found to have broken employment law and are banned from recruiting migrant workers. View the **stand down list** or visit www.employment.govt.nz and use search words “Employers who have breached minimum employment standards”.
- › **ERA database:** a search of the Employment Relations Authority (ERA) database will reveal if the employer has had cases determined against them by the ERA. View the **Employment law database** or visit: www.employment.govt.nz and use search words “Employment law database” and read any cases to see if they are relevant to your concerns.
- › **Employment Court database:** a search of this database will show if there are any Employment Court decisions against the employer or if an ERA determination has then been overturned. View the employment court database or visit www.employmentcourt.govt.nz and browse “**judgments then decisions**”.
- › Do the suppliers’ workers always have free access to their documentation, including passports, identity papers and travel documents? This is very important to help protect against migrant exploitation.
- › Has there been any reported non-compliance with legislation overseas?

To answer this question, you should:

- › Carefully monitor the agencies that provide contract labour (especially from other countries) and blacklist those known to have withheld documents of workers, which prevent them freely leaving New Zealand if they want to do this.
- › For more information, visit: www.ilo.org and search for “A Checklist & Guidance for Assessing Compliance, A Handbook for Employers & Business”

- › Does the supplier undergo assessment for any certifications? If so, have they ever been found in breach of employment standards? If so, have they rectified the issue(s)?

To answer this question, you should note:

- › In supply chains, many supplier businesses undergo third party audits to ensure that they are compliant with requirements set by their procurer further up the chain.
- › There are certifications/accreditations that have employment rights criteria. For example, here are some widely-used schemes:
 - › **Sedex Members Ethical Trade Audit (SMETA)**, visit: www.sedexglobal.com
 - › **GLOBALG.A.P. GRASP** (a trademark and a set of standards for good agricultural practices), visit: www.globalgap.org
 - › **Ethical Trade Initiative (ETI)**: a leading alliance of companies, trade unions and NGOs that promotes respect for workers’ rights around the globe, visit: www.ethicaltrade.org

Following the self-assessment, consider whether the responses and evidence provided are sufficient to assure you that your suppliers are complying with your requirements.

Dependent on your assessment of risk you may wish to consider one or more mitigations. See the **risk mitigations table** or visit www.employment.govt.nz and search “risk mitigations table”.



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Step 3: Ongoing engagement with suppliers

It is important that you continue to monitor and check that your supply chain is compliant after a contract is entered.

- › Businesses should put in place regular checks to make sure that suppliers' systems work and mechanisms signal potential issues.
- › Businesses should have a variety of reporting mechanisms combined with clear documented processes for managing issues that have been identified.

Work with your suppliers when workforce planning

You, with your suppliers, should adopt a joined-up approach to your workforce strategy with a shared understanding of needs, pressures and risks. You should place a special focus on potential impacts on the viability of individual sub-contractors or suppliers.

Working together should allow you to have a robust workforce plan and build resilience into your supply chain.

For organisations that want to go 'above and beyond' meeting **employment standards**, you could:

- › Work with your suppliers toward exceeding the provision of employment standards.
- › Take a leadership role by making sure your suppliers' entire labour supply chains meet employment standards.
- › Make sure that your suppliers' contractual arrangements are not so tightly defined in terms of cost that their workforce is not able to get fair remuneration.
- › Identify opportunities to empower workers.

Annual audits and spot checks

All the suppliers and areas of your own business that have been assessed as higher risk must continue to be monitored through:

- › Annual audits and surprise spot checks – these can help to make sure that your business and suppliers continue to be aware of the importance of compliance and identify any areas which need improvement.
- › When issues are identified, work with your supplier or part of your business to put in place systems and processes to remediate and further prevent these.

This will make sure issues are resolved and future non-compliance issues do not occur.

Employee issues phone line

This is a phone line for confidential employee issues. It is a helpful tool that can give your organisation early warning of potential issues. Please note:

- › It shows your stakeholders and employees that ethics are important to your business.
- › It provides a confidential way for employees to present new issues.
- › It can also serve as another platform of reporting a concern in situations where an employee has previously brought an issue to a supervisor and not gained any support for action.
- › It can also help in identifying other business concerns.

Businesses can either set-up their own phone lines, or work with their industry associations or a third party to create and maintain a phone line.

When using a phone line you must make sure that you have clearly documented processes for managing any claims. If employees lose confidence in actions or there is a lack of actions taken in response to issue(s) raised by them, then they will stop using the service.

Employee surveys

Many industries are now using employee surveys to seek feedback from workers in their supply chains. Please note:

- › The use of technological solutions, such as smartphones, has made it easier and more cost effective than ever to communicate with workers.
- › Compiling the data from surveys can highlight irregularities, which may need further investigation. It can also show levels of worker satisfaction.
- › Once your business or industry is confident with high quality employee feedback data, it may give your business a market advantage.





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More information

For detailed guidance you are advised to read “**Combating forced labour: A handbook for employers and business**” (2015 edition), or visit www.ilo.org and search for the title.

This handbook provides guidance material and tools for employers and business to strengthen their capacity to address the risk of forced labour and human trafficking in their own operations and in global supply chains.

There are seven booklets in the series:

1. Handbook for employers and business – **Booklet 1 Introduction and Overview**
2. Handbook for employers and business – **Booklet 2 Employers’ Frequently Asked Questions**
3. Handbook for employers and business – **Booklet 3 Guiding Principles to Combat Forced Labour**
4. Handbook for employers and business – **Booklet 4 A Checklist and Guidance for Assessing Compliance**
5. Handbook for employers and business – **Booklet 5 A Guide for Taking Action**
6. Handbook for employers and business – **Booklet 6 Tips for Taking Action**
7. Handbook for employers and business – **Booklet 7 Case Studies**

Glossary

Labour rights are broader than employment standards covering how all workers (employees, contractors and workers in supply chains) are treated.

Management systems are the framework of policies, processes and procedures an organisation uses to make sure that it can fulfil the tasks required to achieve its objectives. The presence of such management systems should make it easier to implement a management system for employment standards’ compliance.

Employment standards are just some of the minimum employment rights. They are specifically defined in section 5 of the Employment Relations Act 2000 that states*:

“Employment standards means any of the following:

- › the requirements of any of sections 64, 69Y, 69ZD, 69ZE, and 130 of the Employment Relations Act 2000 (*employment agreements, breastfeeding, rest and meal breaks, wage and time records*)
- › the provisions of the Equal Pay Act 1972 (*equal pay*)
- › the minimum entitlements and payment for these under the Holidays Act 2003 (*annual holidays*)
- › the requirements of sections 81 and 82 of the Holidays Act 2003 (*holiday and leave records*)
- › the minimum entitlements under the Minimum Wage Act 1983 (*minimum wage*)
- › the provisions of the Wages Protection Act 1983 (*wages, salaries and other remuneration*).”

*Note: words in italics have been added for clarification.

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