

Climate change and modern slavery in public procurement

Research Summary

January 2024

Authors: Dr Michael Rogerson, University of Sussex; Dr Johanne Grosvold, University of Bath;
Dr Kyle Alves, University of the West of England, Bristol



Photo: Ronald Candonga via Pixabay

Research by:



This is a summary of the report from the project entitled: *Intersecting sustainabilities: Protecting both people and planet in public sector supply chains*, based on research conducted by Michael Rogerson (University of Sussex), Johanne Grosvold (University of Bath), and Kyle Alves (University of the West of England, Bristol) in partnership with London Universities Purchasing Consortium (LUPC) and Unseen UK. The project was funded through an open call for proposals for research on the links between modern slavery and climate change by the Modern Slavery and Human Rights Policy and Evidence Centre (Modern Slavery PEC), which in turn is funded and supported by the UK Arts and Humanities Research Council (AHRC). The full report can be accessed on the Modern Slavery PEC website at modernslaverypec.org/resources/climate-change-modern-slavery-public-procurement.

The Modern Slavery PEC has actively supported the production of this Research Summary. However, the views expressed in this summary and the full report are those of the authors and not necessarily of the Modern Slavery PEC.

Findings

1. There is a lack of a legal mandate to tackle modern slavery and climate change in the public sector's operations and supply chains, meaning that resources are not made available within organisations to that end.
2. Public sector organisations are relying on data platforms for assurance on modern slavery and climate change risk management without meaningfully engaging with those platforms to understand what data they hold and what level of assurance they offer.
3. Public sector organisations are encountering potential cases of modern slavery and do not know how best to protect vulnerable individuals in those situations.
4. Public sector purchasing frameworks ask very little of suppliers around modern slavery risk management.
5. Firms that have poor labour rights records cannot be disqualified from public tendering.
6. Few public buyers have been taking advantage of existing worker rights monitoring mechanisms of which they are already members.
7. Public buyers lack awareness of the sustainability issues that are covered by framework agreements from which they procure goods and services.
8. Public buyers which are members of purchasing consortia could better assure against modern slavery risks by increasing the fees they pay to be members of those organisations.

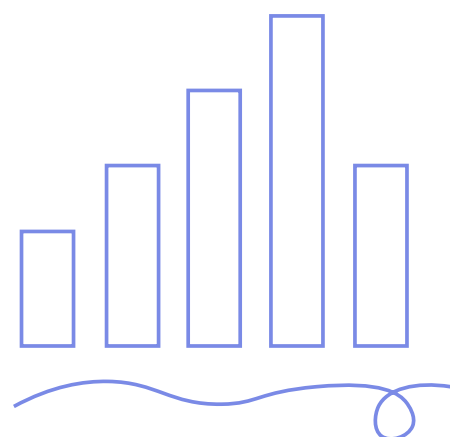
Background

Existing links between modern slavery and climate change are becoming clearer as the need increases for a just transition to a low-carbon economy. Increasingly, the impact of human made climate change is also forcing people who rely on primary industries to move or seek jobs elsewhere as changing climates makes their livelihoods unsustainable. The resulting human vulnerability lends itself to further exploitation and greater risk, a pattern which is seen both at specific sites and also in the broader context of climate change.

Yet, how organisations attempt to address these risks, either separately or simultaneously, is not understood in depth. In particular, the role of public procurement, which can be a powerful method for driving responsible behaviours into public and private operations alike, remains conceptually understood but under-investigated. Public buyers procure a very wide range of goods from laboratory equipment to food, clothing to machinery, depending on their organisation's role in delivering public services. As with private firms, public buyers are exposed to risks of buying goods made from child and forced labour and buying goods made from or on land that was previously rainforest, for example. Unlike private firms, however, public organisations, spending public money, have a duty to both get the best value for taxpayer money and to ensure that the reputation of the public sector is not endangered through association with such risks.

Methodology

We partnered with London Universities Purchasing Consortium (LUPC) and UK modern slavery charity Unseen UK to work with those organisations and, through LUPC, with public buyers, as well as their suppliers and risk management data platforms. We ultimately conducted over 70 hours of interviews and focus groups with 61 professionals buying on behalf of, and selling to, the public sector, and consultants, including people with lived experience of modern slavery, recruited and supported by Unseen. The aim of our interviews was to identify how public buyers and their suppliers understand and mitigate climate change and modern slavery risks in their supply chains.



Findings

1. There is a lack of a legal mandate to tackle modern slavery and climate change, meaning that resources are not made available within organisations to that end.

Our research shows that there is a lack of a clear mandate, both through legislation and government guidance, across the public sector to address the risks of modern slavery and climate change in operations and supply chains. Where organisations have taken measures to manage such risks, they are largely driven by individuals or very small groups of concerned employees working and organising, often beyond the remit of their role and with no extra resources, almost exclusively with little executive support from within their organisations.

2. Public sector organisations are relying on data platforms for modern slavery assurance without engaging with those platforms to understand what data they hold and what level of assurance they offer.

For information on the sustainability credentials and activities of their suppliers, public and private buyers alike rely largely on third-party data platforms which collect and make available supply chain data. We find across our interviews a lack of in-depth engagement with such platforms, which has led to a false sense of assurance across buyer and supplier organisations that modern slavery risks are actively managed in their supply chains.

3. Public sector organisations are encountering potential cases of modern slavery and do not know how best to protect vulnerable individuals in those situations.

Several of our participants had dealt with, or were dealing with, both potential and actual cases of modern slavery in their immediate operations (i.e. on their premises, rather than in their supply chains). These participants struggled, and continue to struggle as potential cases arise, to understand the various mechanisms in place which might support them and potential victims. There are several charities including Unseen UK and local police forces which can assist professionals in such circumstances, but respondents were not aware of protocols for reporting and supporting individuals.

4. Public sector purchasing frameworks ask very little of suppliers around modern slavery risk management.

Our research shows that framework expectations on suppliers are minimal with regard to modern slavery and climate change, and that there is substantial variability with regard to social value, which itself can (and sometimes does) include aspects of climate change and worker rights. We find, for example, that compliance with the UK Modern Slavery Act (2015), or even a commitment to comply soon, is sufficient to pass that section of the tender. Yet evidence suggests that over a quarter of organisations in scope of the Modern Slavery Act 2015 have yet to comply (and of those which do, many offer little evidence of action taken to mitigate risks to vulnerable people), meaning many firms are able to tender despite not meeting even the light-touch expectations of existing legislation.

5. Firms that have poor labour rights records cannot be disqualified from public tendering.

Our data show that firms which are known to have poor records on modern slavery and climate change cannot currently be disqualified from public tendering. Participants told us that companies are still winning public tenders, for example, despite not remedying known cases of modern slavery. In part this stems from the low requirements of suppliers with regard to modern slavery (see key finding 4). While recommendation 4 is intended to improve performance, however, we find that non-performance or failure to address known instances of modern slavery in supply chains requires greater sanction. Currently, firms can only be disqualified from public tendering if successfully prosecuted for their part in modern slavery cases, which is extremely rare.

6. Few public buyers have been taking advantage of existing worker rights monitoring mechanisms to which they are already members.

LUPC, along with all higher education procurement consortia, are members of Electronics Watch (an organisation working with public sector to protect workers in their electronic supply chains), which requires very little work from public sector buyers in order to provide a high level of assurance.

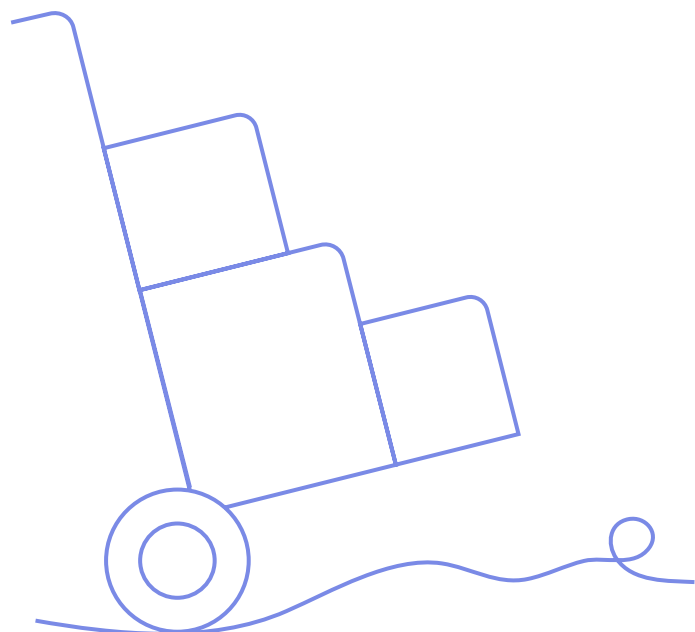
Historically, public buyers have been required to contact their electronics suppliers once they have purchased electronics to ask for the details of production sites. Details have then been passed to Electronics Watch, which is then able to act on that information by engaging with those sites to build relationships with worker groups involve monitoring organisations to assure working and other relevant conditions. LUPC has recently put in place a mechanism for ensuring that all purchases through its relevant frameworks are captured and lead to information flows to Electronics Watch to enable that organisation to build relationships with worker groups and monitor sites. However, we are aware that this is not standard practice across all consortia.

7. Public buyers lack awareness of the sustainability issues that are covered by framework agreements from which they procure goods and services.

As with data and assurance providers (see key finding 2), public buyers lack clarity on which responsible procurement issues are addressed in frameworks, how those issues are addressed, and, perhaps most importantly, what cannot be covered by frameworks. This has impacts on how members believe they are protected by framework agreements.

8. Public buyers which are members of purchasing consortia should better assure against modern slavery risk by ensuring their consortia adopt a robust supplier assurance and contract management programme, similar to the Supplier Due Diligence Tool (SDDT) used by LUPC.

This delivers an enhanced level of assurance for suppliers in their frameworks and supports suppliers in their responsible sourcing activities, including giving feedback and an improvements plan to work towards. Our research highlights the financial value offered to members by purchasing through framework agreements. For every £1 public sector buyers spend on LUPC membership, they saved £51 on purchases through LUPC frameworks in 2021/22 and £73 in 2022/23. By improving the assurance given to public buyers on the suppliers' activities, this should lead to increased confidence in them and an uptake in public buyers use of the frameworks. This would result in additional income for consortia to deliver these activities and further savings delivered by consortia in the public contracts they deliver.



Recommendations

For the UK Government

1. Implement a clear mandate across public institutions to address modern slavery and climate change risks in operations and supply chains.

In alignment with key finding 1, many of our participants stressed specifically that it would likely take the obligation for action for the resources required to become available. We therefore recommend that management of modern slavery and climate change risks moves beyond voluntary, private sector-focused reporting such as the TISC clause in the Modern Slavery Act 2015 and mandates specific action from public sector organisations. Rather than recommend these specifics, we suggest the Cabinet Office issue guidance based on principles-based governance regimes (such as the United Nations' Guiding Principles on Business and Human Rights³⁵) which demand adherence to codes of behaviour with over-arching goals, in advance of legislating.

2. Develop mechanisms known to actively manage modern slavery risks.

Of the third parties that participants mentioned in our interviews, and from our interviews with data platforms and assurance providers, Electronics Watch stood out as the only organisation which could provide evidence of protecting worker rights. Electronics Watch's model – outlined in key finding 6 – has proven beneficial. We therefore recommend that the Cabinet Office issue guidance, as a matter of public purchasing best practice, prioritising auditing and monitoring of production facilities at which IT equipment bought by public organisations should be an explicit requirement, through purchasing frameworks where available (i.e. where a framework exists for the specific product being purchased).

3. Build coherence between public sector bodies involved in addressing modern slavery.

Following from key finding 3 about the need for a coherent approach to intervention, we recommend that the Cabinet Office and Home Office Modern Slavery Unit create a set of guidelines for how and when potential instances of modern slavery can be reported is created to go alongside the government's Modern Slavery Assessment Tool⁴⁵ and that training for all public sector professionals is made mandatory at the point of hiring at least, and preferably made a regular requirement.

4. Strengthen public tendering requirements on separate weightings for modern slavery, climate change, and social value.

Social value is clearly an important aspect of public procurement, and one we believe can be enhanced through having separate, stringent requirements on modern slavery and climate change. We therefore recommend that the Cabinet Office, with advice from the Home Office Modern Slavery Unit, introduces clauses into public tender legislation which mandate explicit disclosure of action taken to identify and manage modern slavery and climate change risks in operations and supply chains. We recommend that these disclosures (adjusted for organisation size) are then scored against best practice, which can be developed as this recommendation is rolled out, so that, rather than a simple pass/fail section, modern slavery and climate change constitute issues from which positive, proactive action by suppliers can lead to advantage in public tendering.

5. Allow disqualification from public tendering for poor performance on modern slavery and climate change.

We recommend that the Cabinet Office issue guidance on how firms known to have failed to adequately address modern slavery in their supply chains can be disqualified from public tendering, while ensuring that firms admitting that modern slavery had been discovered in their operations and supply chains but had taken positive steps to address it are not unduly punished. It is therefore breaches of legislation and failure to address identified cases to which this recommendation refers. Please see the full report for recommended practical steps to achieve this.

For public sector purchasing consortia

1. Develop mechanisms for enforcing framework conditions.

Public purchasing consortia should work with Electronics Watch to develop mechanisms within frameworks for the automatic delivery of information to Electronics Watch when IT equipment is bought through a framework.

2. Increase clarity on action(s) (not) taken in responsible procurement.

We recommend that public purchasing consortia produce short communication documents with each new and renewed framework agreement which spell out the responsible procurement aspects of those agreements.

3. Identify supplier factories which have already been audited.

Across our respondents, but in particular with buyers, we found that the complexity of the supply chains they rely on for goods makes achieving a desired level of transparency of production and its human and environmental impacts extremely difficult.

While public buyers do not, and may not for the foreseeable future, have the resources or the expertise necessary for conducting their own supplier monitoring programmes, buying from factories audited by reliable organisations would enable public buyers to indirectly manage risks. We therefore recommend that purchasing consortia develop mechanisms for a three-stage process to adding supplier monitoring to its frameworks. First, purchasing consortia should engage with suppliers already on frameworks to understand which production facilities have already been subject to monitoring and to request evidence of audits and other ongoing action. Second, public sector purchasing consortia should add a requirement – scored on frameworks – for evidence of monitoring already conducted to be included with submissions to them by suppliers at tender stage. Third, public sector purchasing consortia could insist, where possible, that goods supplied through frameworks come from monitored facilities.

For buyers in – and suppliers to – the public sector

1. Engage in more depth with modern slavery risk beyond data assurance platforms.

Public sector organisations should be more active in managing modern slavery risk in their operations and supply chains. Direct operations issues are dealt with below in recommendation 10. Regarding supply chain risk management, public sector organisations should engage with their purchasing consortium and with data assurance platforms to better understand what risks are actually covered by the relevant platform(s) to ensure that the risks they believe are being managed are covered to the requisite level of confidence. Where platforms do not offer active risk management of vulnerable workers in supply chains, public sector organisations should seek to ensure, either individually or collectively, through other means, for example by identifying where their supply chains have already been, or are already being, audited.

2. Provide function-specific training for staff.

We found a lack of coherent processes for addressing identified potential instances of modern slavery (recommendation 3). Our data also demonstrate a lack of training on identification and appropriate responses to the identification of potential instances of modern slavery in both public sector and supplier organisations. The result is both that potential cases already identified are not being handled appropriately, with potential victims being moved (possibly by abusers) away from sites at which concerns have been raised, and also that there is a high likelihood that existing cases which could have been identified are being missed.

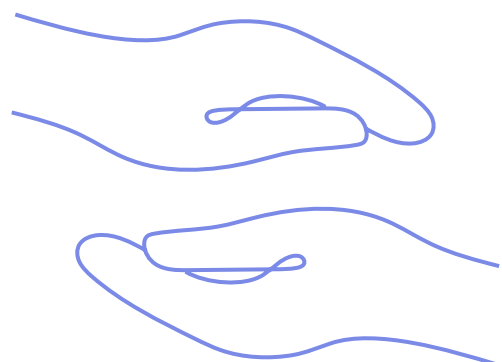
Different job roles with public sector organisations may encounter risks of modern slavery in different settings depending on the tasks they perform. While general training has been sufficient to raise awareness, those among our respondents who had encountered potential cases of abuse had not known how, in their specific roles, to identify cases or who to work with to understand whether abuses were occurring.

3. Increase spending with purchasing consortia.

The savings made through purchasing from framework agreements and the work done by LUPC on responsible procurement represent excellent value to resource-constrained public buyers. We recommend that, given the concern for modern slavery risks we find in our data, public buyers increase their funding of public procurement consortia to enhance and extend work done in managing modern slavery and related risks for members.

4. Complement purchasing consortia efforts with longer-term supplier relationships.

Although purchasing consortia play a key role in negotiating price, and managing sustainability risk, in public buying, we nonetheless find examples of public buyers which have actively managed modern slavery risk in their operations through building relationships with suppliers. We find evidence from some public buyers of direct supplier relationships enabling more rapid, evidencable change than waiting for renegotiation of framework agreements.

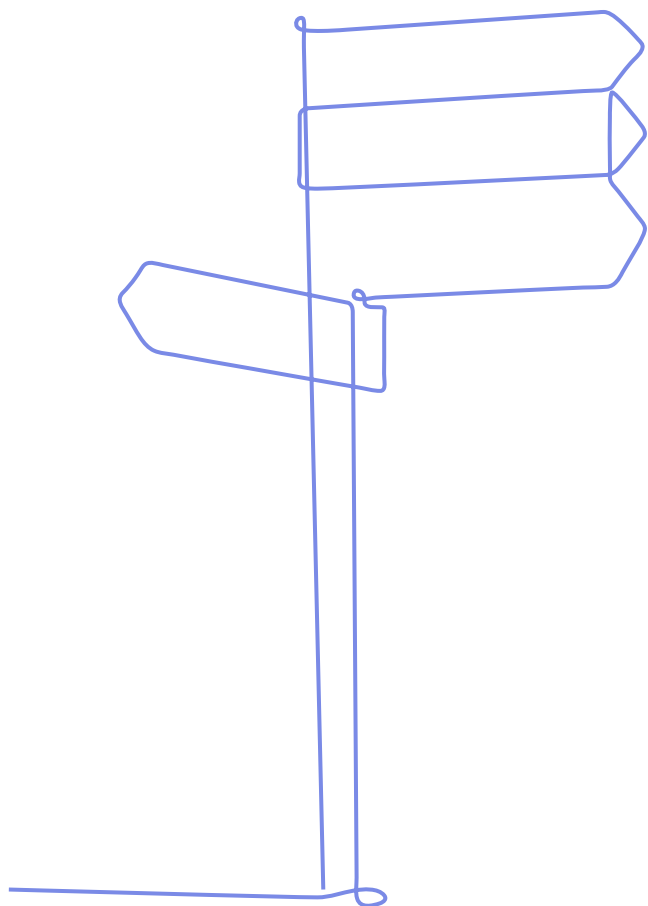


Areas for further research

Further research is required to explore how other areas of the public sector, including local authorities and NHS trusts in London and beyond, are managing modern slavery and climate risk in their procurement. Our research involves higher education, cultural institutions, and other London-based organisations to address modern slavery. Local authorities in particular have had their funding reduced significantly in the last 15 years, making resourcing modern slavery and climate change risk mitigation difficult.

Future research should also seek to engage people with lived experience of modern slavery in highlighting how particular areas of vulnerability in public sector operations might be addressed and where interventions may be most effective.

Finally, research into both the effectiveness of international legislation mandating due diligence for public sector bodies and the evaluation of effectiveness of supply chain measures to mitigate modern slavery and climate risks is needed.



MODERN SLAVERY & HUMAN RIGHTS

POLICY &
EVIDENCE
CENTRE

Led by the Bingham Centre

The Modern Slavery and Human Rights Policy and Evidence Centre (Modern Slavery PEC) was created by the investment of public funding to enhance understanding of modern slavery and transform the effectiveness of law and policies designed to address it. The Centre funds and co-creates high quality research with a focus on policy impact, and brings together academics, policymakers, businesses, civil society, survivors and the public on a scale not seen before in the UK to collaborate on solving this global challenge.

The Centre is a consortium of six academic organisations led by the Bingham Centre for the Rule of Law and is funded by the Art and Humanities Research Council on behalf of UK Research and Innovation (UKRI).

Our partners:



University of
Nottingham
Rights Lab



UNIVERSITY OF HULL | WILBERFORCE
INSTITUTE

The
Alan Turing
Institute



Arts and
Humanities
Research Council

The Modern Slavery and Human Rights Policy and Evidence Centre is funded and actively supported by the Arts and Humanities Research Council (AHRC), part of UK Research and Innovation (UKRI), from the Strategic Priorities Fund.

Modern Slavery and Human Rights Policy and Evidence Centre
c/o British Institute of International and Comparative Law
Charles Clore House, 17 Russell Square, London, WC1B 5JP

A company limited by guarantee
Registered in England No. 615025
Registered Charity No. 209425

office@modernslaverypec.org

www.modernslaverypec.org