



# **Brand Guidance for Responsible Sourcing Dialogue**

Transforming engagement with suppliers – from 'risk-shifting' to 'risk-sharing'

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# Table of Contents

<b>Introduction</b>	<b>1</b>
About this guidance	1
<b>Responsible sourcing dialogue</b>	<b>2</b>
What is sourcing dialogue?	2
Why sourcing dialogue matters for HREDD	2
Sourcing and social dialogue	2
Current practices	3
What is responsible sourcing dialogue?	3
Key characteristics of responsible sourcing dialogue:	4
How – Preconditions	5
<b>Integrate sourcing dialogue in HREDD</b>	<b>7</b>
HREDD step 2	7
HREDD step 3	7
Prequalification	8
Onboarding	8
Responsible disengagement	8
HREDD step 6	9



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# Introduction

## About this guidance

New mandatory HR(E)DD legislations in Europe and beyond are expecting companies to move away from 'risk shifting' (i.e. the unloading of risk, liability and responsibility from brands onto suppliers) – and towards 'risk sharing' and cooperation between brands and suppliers to respect workers human rights. Fair Wear has long advocated for a shared responsibility approach between brands and suppliers and considers responsible sourcing dialogue as precondition towards setting up strong partnerships and meaningful engagement with suppliers. Through responsible sourcing dialogue, brand and supplier set the HREDD-proof terms and conditions of doing business, which allows them to build a strong collaboration for the whole due diligence process and make other HREDD interventions more impactful.

This document provides practical guidance to brands for conducting responsible sourcing dialogue – both in the pre-sourcing engagements, and throughout the business relation. This guidance is accompanied by the Tools for Sourcing Dialogue, which offers templates and tools; by doing so, it positions brands to transform their sourcing dialogue. It is a specification of the Fair Wear HREDD policy references to sourcing dialogue, and it operationalises “Principle 2: Equal Partnership” of the Common Framework for Responsible Purchasing Practices (CFRPPs).

This guidance is a specification of and links to:

- Fair Wear's HREDD policy, and relevant Brand Performance Indicators
- Fair Wear's Brand Guidance on Freedom of Association and Collective Bargaining
- The Common Framework on Responsible Purchasing Practices (CFRPP)
- The Responsible Contracting Project's Supplier Model Contract Clauses (SMCs)

# Responsible sourcing dialogue

## What is sourcing dialogue?

Sourcing dialogue is made of the exchanges between a brand (or buying agents/intermediaries) and its supplier during the procurement of products and/or services. It encompasses the initial, pre-sourcing conversations before placing the first purchase order with a supplier, as well as the ongoing dialogue within existing business relations. Sourcing dialogue consists of both verbal conversations as well as information sharing in writing. In this sense, the entire brand-supplier business relationship is upheld by sourcing dialogue. Several brand departments are involved at different stages of the business relationship; and each department may oversee communications with suppliers around a specific set of topics.

## Why sourcing dialogue matters for HREDD

As meaningful HREDD cannot happen without dialogue, sourcing dialogue is a prerequisite for brands conducting their due diligence. It is a crucial part of preventing, mitigating and remediating potential and adverse impacts. Dialogue and information sharing is a basic necessity for knowing who you are doing business with and under which terms and conditions. For example, sourcing a new factory needs to meet expectations to assess risks and inform decision making. Moreover, if a brand provides long payment terms, manufacturers need to pay out for materials, wages, and overheads well before they receive payment, which results in financial instability and imbalance of risk on workers. If the supplier is facilitated into providing feedback to the brand without fear of retaliation during the ongoing sourcing dialogue, they may raise the issue and the two parties may come to a shared solution that mitigates or ideally prevents the impact on the supplier and on workers. The absence of sourcing dialogue is inevitably bad for business; a business relationship that is based on trust and mutual commitments, makes supply chains more resilient, less vulnerable to disruptions and ultimately contributing to longer term quality and stability.

## Sourcing and social dialogue

The absence of sourcing dialogue is not only bad for business. Typically, workers have been at the receiving end of risk-shifting (from brand to supplier), in the form of human rights violations. It is difficult, if not impossible, for workers to organize and claim their own voice in workplaces where work is unsteady due to unpredictable brand orders, or where prices paid by brands undermine any hope of wage increases for workers. This is particularly true in workplaces where trade unions and collective bargaining agreements do not exist. If brands really seek to increase workers' voice in the garment

industry, responsible sourcing dialogue (and action!) is their best bet. For this reason, a true *risk sharing* approach – a meaningful human rights due diligence approach – to supply chain production must include workers in the equation, by enabling an environment where freedom of association and collective bargaining are possible. That is why **sourcing and social dialogue need to be taken into tandem in all strategies** – so that risks are not shifted from brand/supplier onto workers, and so that workers can exercise their rights.

Initiatives like ACT, the International Accord, Multi Company Bargaining Agreements, represent an evolution of social dialogue to include brands in negotiations for workplace improvements. In such models, social dialogue and sourcing dialogue align and even merge. Fair Wear encourage brands to participate in these industry-leading efforts wherever possible.

### Current practices

Sourcing dialogue as is regularly conducted with suppliers presents these limitations:

- It happens through different interlocutors (sourcing/purchasing, CSR, technical teams), since brands are internally compartmentalised and each team may be driven by divergent goals. For example, a buying team may have to get the lowest price, while the CSR team may have to work towards fair labour costing.
- It often does not include two-way transparent and clear shared commitments to Human Rights Due Diligence, responsible purchasing practices and social dialogue. For example, the focus of sourcing and purchasing departments, when interacting with suppliers, tends to be only on quality and prices.
- Rather than a dialogue, often these exchanges take the form of unidirectional request for information and documents as well as of commitment to business terms, Codes of Conduct, or other requirements, from the brand to the supplier. For example, a brand may conduct compliance checks on the supplier, without sharing about how they conduct their own due diligence. During price negotiation, a brand never shares about gross profit margins, while a supplier may be asked to.

### What is responsible sourcing dialogue?

Responsible sourcing dialogue aims at overcoming these limitations. It can happen only when brand and supplier collaborate as partners, treat each other as equals in negotiations, and share financial risks and liability. Spoken words are not enough, though. These commitments should be stipulated in

written agreements with contract clauses that are negotiated between the two parties and should be reinstated throughout the business relationship.

Regular sourcing dialogue commonly focusses on prices, timelines, and quality. On the other hand, **responsible sourcing dialogue** may contain these topics, but **must go beyond**. It is a way for both parties to know what to expect from the other side – not only in commercial terms, but also when it comes to long-term roles, responsibilities, and commitments to human rights and environmental improvements. It involves mutual, transparent two-way information-sharing. Brands can use the Tools for Sourcing dialogue to learn how to conduct their sourcing dialogue responsibly.

For example, a supplier not only needs to be informed about what order volume will be placed and what the payment terms are, but also what happens and how is responsibility (including financial) shared in case (not limited to):

- The brand cancels the purchase order after the raw materials were bought by the supplier? (or other investments were made upfront, such as human resources, etc)
- A grievance is raised through an external grievance mechanism?
- The supplier cannot pay workers' wages or severance pays due to financial losses?
- Inflation is rising and prices (and workers' wages) needs to be increased too?
- An assessment or audit shows the need for a workplace training?

Responsible sourcing dialogue implies these **terms and conditions are negotiated and set jointly**, as opposed to imposed by one party.

### Key characteristics of responsible sourcing dialogue:

- 1** It is based on a shared responsibility approach which means a) that brands acknowledge that their purchasing practices have an influence on suppliers' ability to provide decent working conditions and b) taking financial responsibility as a brand for improvements. Brands can use the [Purchasing Practices Initial Assessment Tool](#) by the Common Framework for Responsible Purchasing Practices (CFRPPs) to review their purchasing practices.
- 2** It takes the form of two-way dialogue brand/supplier. Brands should have systems in place for suppliers to give feedback on the brands practices regularly, in a safe way and receive updates what actions were taken in response. Brands can use the [Supplier engagement briefing](#) by the CFRPPs as a reference.
- 3** It requires alignment between different departments within the brand (and their intermediaries) on the direction of top leadership. Brands can use the [Procurement Mapping](#)

[Exercise](#) by the CFRPPs to map their purchasing practices and understand if there is alignment among departments.

- 4 Social dialogue and sourcing dialogue *together* are the most efficient and effective way to deliver respect for human rights and good working conditions in supply chains. Here is why: Research shows that the best predictor of human rights adherence in workplaces is the existence of freedom of association (FoA) and collective bargaining.<sup>1</sup> Brands can read the Brand Guidance on FoA for concrete actions they can implement to enable FoA in their supply chains.

#### How – Preconditions

- Engage with suppliers with a collaborative attitude, treat them as equal partners in negotiations
- Two-way information sharing: not just assessing supplier's ability to uphold HREDD, but also sharing how the brand performs on their HREDD (e.g. Fair Wear Performance Check or other external assessments of brand practices), and of brand's written commitments
- Two-way feedback: do not just assess supplier performance, but also ask for feedback about brand purchasing practices
- Enable an environment for freedom of association and social dialogue to truly include workers in the sourcing dialogue outcomes
- Invest on long-term business relations for a stronger basis for sourcing dialogue
- Conduct risk scoping and risk assessment and use the findings to inform sourcing dialogue
- Use the outcomes of the sourcing dialogues to inform sourcing decisions and further conversations with suppliers
- Support sourcing dialogue with the use of written contracts. Brands can read the Tools for Sourcing Dialogue and Responsible contracting resources.
- Not just words, but action: put in practice your sourcing dialogue into Responsible Purchasing Practices

To put into practice the commitments to respect human rights stipulated in the Responsible sourcing dialogue, brands need to integrate them into binding written agreements, as well as apply them in the day-to-day, into concrete sourcing actions and responsible purchasing practices (RPPs). RPPs encompass design and product development, planning and forecasting, contracts, technical specifications, order placement and lead times, cost and price negotiations, payment terms, as well as the underlying behaviours, values and principles of purchasers which impact suppliers and ultimately

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<sup>1</sup> Kuruvilla, S., 2021, Private Regulation of Labour Standards in Global Supply Chain.



workers lives. [The Common Framework for Responsible Purchasing Practices](#) is a reference point for companies working to improve their purchasing practices.

### From dialogue to writing to practice

The shared commitments brand and supplier agree to through the Responsible sourcing dialogue cannot hold verbally only...

They need to be:

- ➔ Put black on white into contracts.
- ➔ Put into practice through responsible purchasing practices.

# Integrate sourcing dialogue in HREDD

## HREDD STEP 2

### Risk scoping

During the risk scoping, brands need to identify whether their business model or sourcing model increases the likelihood of human rights risks. This includes a review of their purchasing practices, and of the way they conduct sourcing dialogue. For example, if only the sourcing or buying team is involved in the pre-sourcing dialogue with a new supplier, chances are that the topics of labour costing or freedom of association are not discussed. This means that the sourcing dialogue is not responsibly conducted. The Tools for sourcing dialogue provide guiding questions for self-assessing the way brands conduct their sourcing dialogue.

### Risk assessment (production location)

Fair Wear's Know Your Supplier tool [forthcoming] and risk assessment results can serve as input to sourcing decisions and sourcing dialogue. For example, if a preliminary risk assessment shows that in a supplier there are no factory-based trade union nor worker committees, this information can be used to discuss with a new supplier brand's commitment to freedom of association. Brands can use Pre-sourcing Templates 1 and 2 for agenda items to use in pre-sourcing dialogue with new suppliers, before placing the first purchase order; and the "Template for ongoing sourcing dialogue" for agenda items to use with current suppliers, before deciding to place additional purchase orders.

For new suppliers, full onsite assessments should not be used to determine whether to start a business relationship or not. For existing suppliers, brands are encouraged use factory assessments but not as 'sourcing tools', to determine whether they should continue working with a factory. In all cases, once an onsite factory assessment is conducted, brands are expected to follow up and support the factory improving working conditions.

## HREDD STEP 3

### Cease, prevent or mitigate harm through purchasing practices

Brands need to seek supplier and/or worker representatives feedback on brand's purchasing practices and their impact on working conditions through sourcing dialogue. Brands can use the [Supplier](#)

[engagement briefing](#) by the CFRPPs to learn how to engage suppliers for feedback; and can use the Tools for Sourcing Dialogue's Template for ongoing sourcing dialogue for agenda items to discuss.

## Production location action plan

When implementing a production location action plan, brands should engage with factory management, including when tracking progress. Brands also needs to be in regular contact with factory management and worker representatives/local unions (where appropriate) to discuss workplace conditions, possible human rights risks, progress on human rights and to take appropriate action when a production location risk profile changes. Brands can use the Tools for Sourcing Dialogue's Template for ongoing sourcing dialogue for agenda items to discuss with factory management.

## Onboarding of new supplier

### Prequalification

When conducting a prequalification assessment of a potential supplier, and before placing the first purchase order, brands need to engage with supplier management in a sourcing dialogue to ensure the potential supplier is aware of the brand's commitments and expectations and the findings of the assessment. Brands can use the Tools for Sourcing Dialogue's Pre-sourcing dialogue templates 1 and 2 to carry out this dialogue.

### Onboarding

At the start of a business relation, brands should onboard their suppliers and workers. Based on the outcomes of the risk assessment and pre-sourcing dialogue, brands are encouraged to add other topics to the onboarding of workers and management. For example, if the country risk scoping shows high risks of forced labour in the country or region, but factory management does not seem aware of this risk (or denies its existence), the awareness raising activities can focus on how to recognise and prevent this risk at the workplace.

### Responsible disengagement

When disengaging from a production location (only as a last resort), Fair Wear expects member brands to do so responsibly. Brands should discuss with management how disengagement might change the human rights situation on the ground. In dialogue with the supplier, brands need to determine a phase-out plan of production orders with a clear timeline.

## **HREDD STEP 6**

### Remedy

When providing remedy, brands need to engage with affected stakeholders in the determination of remedy, and/or ensure that affected stakeholders have been appropriately engaged, as well as to follow up with preventive and mitigating actions agreed through dialogue with factory management.