Tool 1: A Guide to Corrective Action & Systems Improvement Planning

Forced labor and human trafficking are crimes under international human rights law and in most countries around the world. A case of this abuse discovered in the supply chain – among the worst forms of exploitation in the world of work – will demand immediate corrective action on the part of the brand, its supplier and the broker involved. Abuse of this kind will always be treated as a major breach of code compliance.

Corrective action will need to be comprehensive and systematic, involving both short and long term strategies. It should be focused on the needs and well-being of the trafficking victim(s) first and foremost, and involve key stakeholders such as victim service providers, health care professionals, and other public or civil society organizations, wherever necessary. This is a clear case where brands and their suppliers should strongly consider joint multi-stakeholder engagement in the best interests of the workers concerned.

IMMEDIATE ACTION

If a case of forced labor or human trafficking is identified in the supply chain (for example as a result of a social audit or another means of assessment), it is essential that the brand respond immediately and unequivocally. This should involve an immediate investigation and site visit by brand representatives, a clear identification of the workers affected, and a full understanding of the nature of the abuse. The brand will need to determine the extent and form of the problem before it can institute the full protective measures that will be required.

It will be necessary for the brand to act quickly to remediate the problems that have occurred and to reverse the cycle of abuse. Workers may need to be paid back wages; excessive recruitment fees may need to be reimbursed; and passports may need to be returned. Whatever the nature of the abuse, the brand will need to monitor this process closely to ensure that comprehensive corrective action is taken. To help with this process (and to ensure a full and timely response), it may be necessary to draw up a plan of action – a corrective action/performance improvement plan – that identifies priorities, responsibilities and timelines for each of the actors involved: the brand, supplier and broker.

At the center of the brand's response may be the need to consider repatriation for migrant workers. These workers – if they have suffered deception and abuse in the recruitment and hiring process – will have the right to return to their country of origin, if they desire. They may also require important assistance in reintegration into local labor markets and their communities of origin. A key element in ensuring the success of remediation efforts and a full transition for the migrant worker out of forced labor is the transition of that worker into free and fair employment.

In Focus

Nike's Action Against the Abuse of Migrant Workers in the Supply Chain

In July 2008, an Australian news channel reported that a garment factory in Malaysia producing t-shirts for Nike was employing hundreds of migrant workers in unacceptable conditions. These conditions included overcrowding in dormitories, unhygienic toilet facilities, passport retention and the garnishing of workers' wages to pay for work permits.

Nike's immediate response was to investigate. It confirmed many of the reported conditions and found serious breaches of its own code of conduct. The company met immediately with factory management, and required a series of actions to resolve the violations. The following steps were taken:

- *Workers were provided free access to their passports;*
- *All wage deductions made for work permits were stopped, and an installment plan was established to pay workers back what they had already paid;*
- *Dormitory conditions were improved;*
- *A system was established to reimburse migrant workers for the recruitment fees they had paid; and*
- *The factory committed to pay the full repatriation cost of any worker affected by the violations.*

ADDRESSING ROOT CAUSES: FROM CORRECTING PROBLEMS TO PREVENTING THEM

To fully address an issue like forced labor, it isn't enough to take immediate and short-term measures like these, as important as they are. It is also essential to consider the longer-term actions that should be taken to ensure that the problem does not recur.

The brand will need to consider a few things. First, how is it that forced labor and human trafficking are present in the facility in the first place, and do they exist elsewhere in the brand's supply chain? Second, what needs to be done to ensure that these problems are solved and the brand is no longer at risk?

To answer these questions, it will be necessary to look beyond the supplier in question and the specific case of abuse. The brand will need to take a thorough look at its own systems and protocols, policies and assessment procedures, and other aspects of its social responsibility program to determine the root causes of what went wrong and where. As part of this, it may be advisable to conduct a thorough review and risk assessment across the supply base.

Whatever the nature of the abuse, a review of this kind will lead to stronger policies and procedures, and move the brand away from piecemeal, reactive engagement towards proactive and preventive engagement. Responding in this way and developing new protections for migrant workers to promote fair hiring and recruitment, will promote a cycle of continuous improvement that will benefit both the brand and its supplier.

Further guidance on taking a step-by-step approach to corrective action is provided in the next tool: Developing a Strategy for Corrective Action & Systems Improvement Planning. Review it to learn more about analyzing the problem, identifying root causes and brainstorming possible improvements.

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In Focus

From Corrective Action Plans to Systems Improvement Planning

In cases where a specific problem has occurred, it will be important for the brand to develop a Corrective Action Plan to ensure that remedial action is effective, timely and organized, and involves all the key players. In other cases, where no problems have been identified but where a potential for risk is present, a brand may nevertheless wish to take a proactive approach and conduct preventive action planning. In this case, the company may wish to take the necessary steps to develop a strategy for taking preventive action before problems occur. This means the brand will be prepared to meet a problem head on, should one occur in the supply chain.

LONG-TERM ENGAGEMENT: TACKLING COMPLEX CAUSES

Corrective action taken to address a specific incident of forced labor or human trafficking is likely to be immediate and time-bound. The brand will seek to identify the problem and its root cause(s) and address it quickly, working with its supplier and the broker in question.

For some “red flags” of forced labor, this is an appropriate strategy. The company can work through the problem directly, address the key issues, develop new policies and procedures, prohibit bad practice and thereby ensure greater protection for migrant workers. In other cases, however, problems are too complex for a “quick fix” approach and will demand a more nuanced and long-term strategy. In these cases, the brand may need to look beyond its own operations and those of its suppliers to address broader, industry-wide or even nation-wide concerns. This will involve tackling the fundamental causes of workplace or recruitment-based problems, and necessitate a multi-stakeholder or partnership approach. The following case from the Gap illustrates longer-term thinking in developing systems solutions.

In Focus

Tackling the Fundamental Causes of Child Trafficking in India

In October 2007, Gap faced allegation in a UK-based newspaper that a subcontractor making clothes destined for GapKids was using “slave” children in India. The report described conditions of long hours of unwaged work and children sleeping on the factory rooftop.

Gap investigated the report, confirmed the allegations, and reacted swiftly to implement a series of corrective actions to protect the children involved. It initiated a thorough review of its own policies and procedures, putting in place new safeguards to prevent similar violations from occurring in the future.

Gap also took a longer term view of the problem. It initiated a program to address the fundamental causes of child trafficking in the garment sector in India, collaborating closely with government, other brands, suppliers and civil society groups. Along with supporting multi-stakeholder awareness raising events in the country, Gap led the way in establishing a multi-stakeholder Think Tank in July 2008 to promote public private partnerships to prevent and combat human trafficking.

A broader vision and strategy is needed to tackle the complex and diverse manifestations of forced labor and human trafficking in the supply chain effectively and sustainably. The solution to the fundamental causes of these problems lies beyond the reach of any single company or stakeholder. Broader engagement on a national or industry-wide basis, with peer companies, public policy actors and civil society can help brands and other business actors engage more effectively to root out these problems from their own supply chains and from economies around the world.

For more guidance on engaging stakeholders and public policy actors, review the following tools provided elsewhere in the toolkit: **Encouraging Multi-Stakeholder and Multi-Brand Engagement – A Guide to Public Policy Advocacy**

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