

Introduce sustainable supply chains to meet your ESG goals

An organisation's supply chain typically accounts for over ten times more emissions than its operations. Addressing the impact of the supply chain is key for any business that wants to reduce its impact on the environment.

We have seen a move in the market towards including sustainability and impact drafting in contracts to make improvements to supply chains and reduce environmental damage. Changes include provisions addressing specific issues like contractual net zero targets, or targets for reducing waste from manufacturing processes. Where an organisation is working with specific sustainability goals contracts can also include references to these.

It can be particularly difficult to enforce sustainability provisions as there is often no direct loss suffered by the non-breaching party. Where an agreement does not include tailored solutions to deal with breaches of sustainability provisions the only remedy available to the customer is often to terminate the agreement. Once a relationship with a supplier has been established, termination is a last resort so including bespoke provisions to address breaches of sustainability clauses helps avoid this.

Bespoke provisions could include escalating financial remedies for non-compliance, or obligations to take specific actions to mitigate any environmental damage caused. In some instances, it might be appropriate for financial remedies to be paid to third parties to mitigate any negative impact caused by breach of the agreement.

In our experience, taking a collaborative approach towards sustainability in a supply chain is often more effective than a one-size fits all approach and allows the parties to work together to address any stumbling blocks or breaches. It has the potential to improve outcomes for all the parties in the long term and makes it harder to ignore breaches of sustainability obligations. It is also more likely to result in the best outcome, save time and money, and build on existing relationships.



Case Study

We recently acted for a B Corp who were looking to embed sustainability in both their customer and supplier agreements. Our client wanted to ensure that their supply chain met its high standards and that their customers aligned with the values and mission of their business.

We drafted clauses which provided that where a customer acted in a manner which was contrary to our client's values and mission, the parties would work together to attempt to remedy the issues. Where the issues could not be resolved, or if the parties could not agree a way to remedy the issues, our client has a right to terminate the agreement. We also included provisions to ensure that any announcements and social media posts about shared projects were accurate and compliant with the Competition and Market Authority's green claims code.

In our client's subcontractor agreements, we included specific obligations to comply with our client's high standards of sustainability. This means that when our client makes commitments regarding sustainability, they are confident that these will be upheld by their supply chain.

Actions you can take:

- **Build sustainability into standard agreements** (for example for the supply of services). This could be through specific obligations like a net zero target, or supplier code of conduct terms which include softer obligations.
- **Include specific measurable goals** in larger contracts.
- **Work collaboratively to improve sustainability** in relation to a contract and detail how that would be applied in an agreement.
- **Consider choosing partners who share your goals** or build alignment with your values into your procurement practices.

Contact us



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