



# GUIDANCE DOCUMENT SOCIAL PROCUREMENT & HUMAN RIGHTS DUE DILIGENCE

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Foundation FSSC

The Netherlands

Website: [www.fssc.com](http://www.fssc.com)

## **TRANSLATIONS**

Please be aware that in the case of translations of the FSSC 24000 Scheme or Guidance documents, the English version is the official and binding version.

## **DISCLAIMER**

The information in these guidance documents is intended to assist with the interpretation, implementation, and auditing of the requirements contained in the PAS 24000. While this information addresses and is consistent with these requirements, it is not intended to add to, subtract from, or in any way modify them.

The requirements in the PAS 24000 need to be viewed from a systems perspective and should not be considered in isolation, i.e., there can be an interrelationship between the requirements in one clause with the requirements in other clauses.

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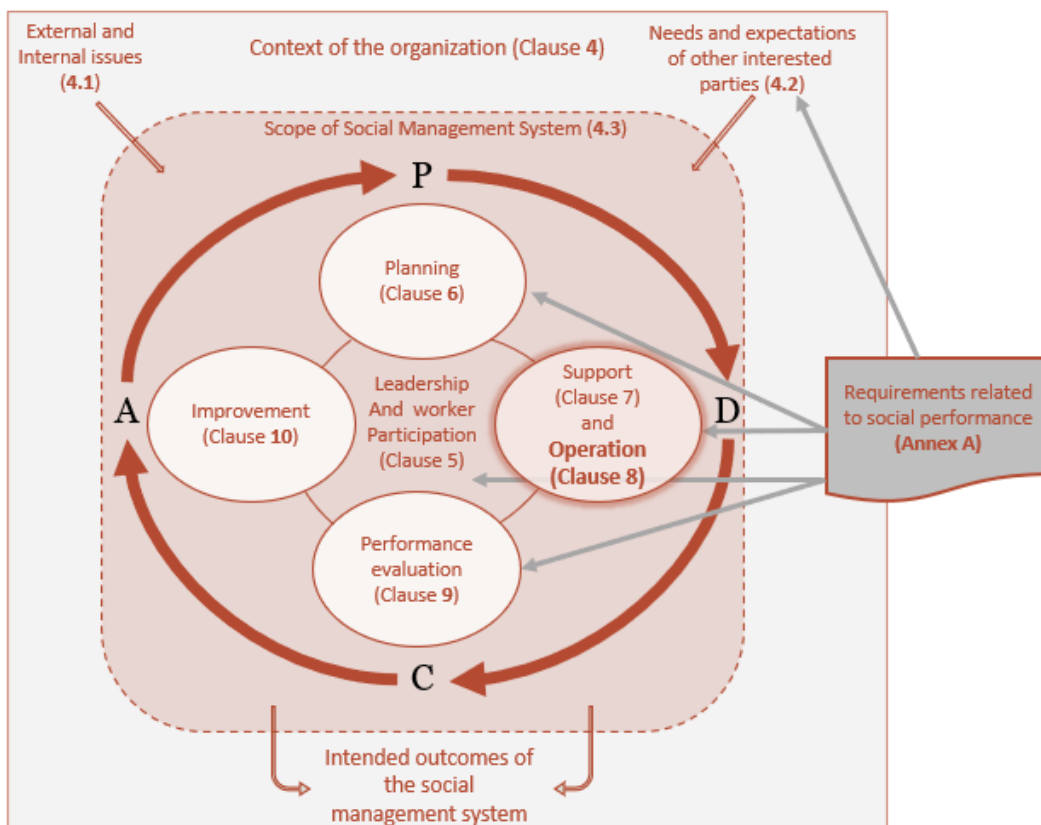
# 1. INTRODUCTION

The intent of the requirements on social procurement (8.1.3) is to control processes, products, workforce, and services that are delivered by a provider. Providers could include associate companies, suppliers, labor agencies, or someone the organization is outsourcing to.

Subclause 8.1.3 is closely related to clause A1.4 in the Annex of PAS 24000, which aims to avoid adverse human rights impacts directly linked to the organization’s operation, products or services and to prevent or mitigate any adverse human rights impacts in its business relationships, even if the organization has not contributed to those impacts.

The core of the PAS 24000 is a Plan-Do-Check-Act (PDCA) cycle, which describes the requirements for due diligence processes in the social area. Subclause 8.1.3 holds close relation with the assessment of risks and opportunities of the social impact of an organization’s own operation, which is required in subclause 6.1 Planning, the Plan step of the PDCA-cycle.

While this guidance focuses only on the due diligence and social procurement of providers, the methodology described may be used for the assessment of risks and opportunities of the own operation as well.




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*“Respect yourself, and others will respect you.”*  
Confucius

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## 2. EXACT WORDING OF THE REQUIREMENT

### PAS 24000: 8.1.3 SOCIAL PROCUREMENT

The organization shall ensure that externally provided processes, raw materials, ingredients, products, packaging materials, or services that are relevant to the SMS are controlled and conform to the (applicable) requirements of this document.

*NOTE Requirements for performance are specified in Annex A.*

### PAS 24000: 5.4 CONSULTATION AND PARTICIPATION OF WORKERS

The organization shall emphasize the consultation of non-managerial workers on the following:

- d. 6 determining applicable controls for outsourcing, procurement, and contractors (see 8.1.3).

### PAS 24000: A.1 HUMAN RIGHTS POLICY

The SMS shall ensure that the requirements in Table A.1 are satisfied.

**Table 1 - Requirements for a human rights policy**

1	A risk inventory is made of human rights issues.
2	No adverse human rights impacts are caused by the organization's activities. Any such impacts that occur are addressed.
3	No adverse human rights impacts are contributed to by the organization's activities. Any such impacts that occur are addressed.
4	<p>A human rights due diligence process is established, implemented, and maintained to identify, prevent, mitigate and account for how the organization addresses its impacts (including the impacts of its providers) on human rights and on processes enabling the remediation of any adverse human rights impacts caused by the organization or to which it contributes.</p> <p>This due diligence process aims to avoid adverse human rights impacts directly linked to the organization's operations, products or services and prevents or mitigates any adverse human rights impacts in its business relationships, even if the organization has not contributed to those impacts.</p>

## 3. IMPLEMENTATION

To ensure that externally provided processes, raw materials, ingredients, products, packaging materials, or services that are relevant to the SMS are controlled and conform to the (applicable) requirements (including the requirements of the Annex), the organization should implement a due diligence process. Due diligence focuses on actual adverse effects or potential adverse effects (risks) related to the social impact of the organization. It is an ongoing risk management process to identify, prevent, mitigate and account for how an organization addresses these adverse impacts.

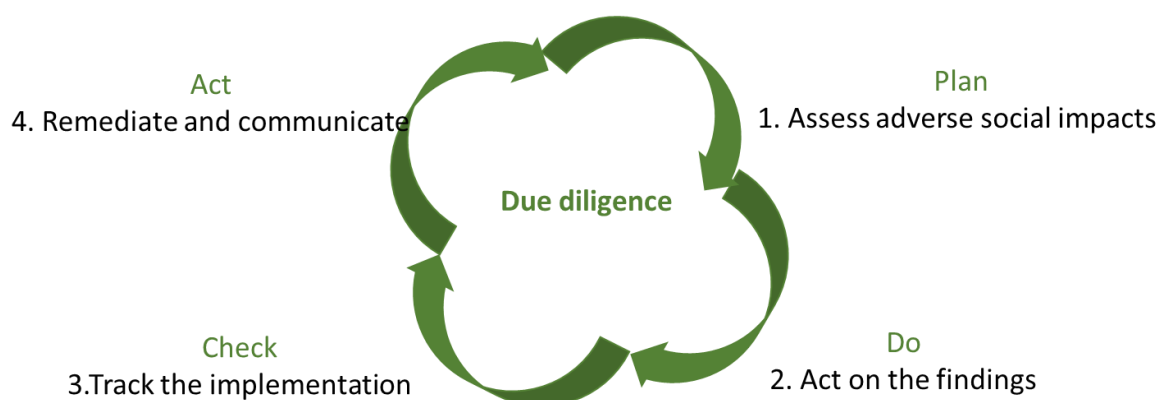
In addition to this due diligence process, the organization should implement a contingency procedure for those cases where the organization must, on short notice, use a new provider of materials or services to ensure business continuity.

Organizations can identify the risks of social issues in their supply chain or business relationships by looking for differences between the requirements of the Scheme and their social policy on the one hand and the circumstances associated with their providers on the other.

### 3.1 DUE DILIGENCE PROCESS

To ensure that all externally provided processes, raw materials, ingredients, products, packaging materials, or services relevant to the SMS are controlled, the organization should implement a Plan-Do-Check-Act (PDCA) cycle within their procurement process, which consists of

1. Plan: assess the actual and potential adverse social impacts of its providers,
2. Do: integrate and act on the findings,
3. Check: track the implementation and results,
4. Act: remediate and communicate about how impacts are addressed.

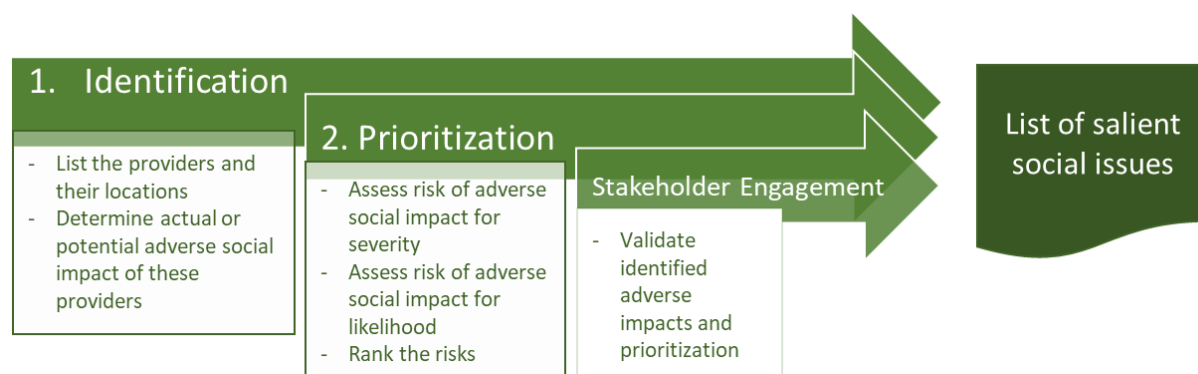


The organization should implement this due diligence process to ensure the adverse social impact of its providers is continuously dealt with in a way appropriate to the nature of its operations, risks, and scope (see clause 4. Context of the organization).

#### 3.1.1 ASSESSMENT OF ADVERSE SOCIAL IMPACTS

The organization should:

1. Identify the adverse social impact of their providers by determining:
  - a. the different providers directly or indirectly involved in the supply chain and business relationships,
  - b. the actual and potential adverse social impact of (the behavior of) these providers.
2. Prioritize the adverse social impact by
  - a. determining the risk, e.g., severity and the likelihood of occurrence, of the adverse social impact,
  - b. ranking the risks of the adverse social impact.



## AD 1A. DETERMINE THE DIFFERENT PROVIDERS DIRECTLY OR INDIRECTLY INVOLVED IN THE SUPPLY CHAIN AND BUSINESS RELATIONSHIPS

List (changes in) the providers of externally provided processes, raw materials, ingredients, products, packaging materials, or services, and their locations.

## AD 1B. DETERMINE THE ACTUAL AND POTENTIAL ADVERSE SOCIAL IMPACT OF (THE BEHAVIOR OF) THESE PROVIDERS

1. List the topics to be assessed, mentioned in the Scheme requirements (and more specifically in the Annex to the standard, e.g., Human rights, labor conditions, working hours, business ethics, OH&S), and other topics relevant to your organization arising from the organizational policy.
2. Assess per provider the actual and potential adverse impact on these topics listed above. The involvement or consultation of workers, trade unions, leaders of the local community, or other stakeholders through a team-based impact assessment workshop, for example, will increase the engagement of workers and the credibility of the assessment.
  - a. First, gather information to understand high-level risks of adverse impacts related to the sector (e.g., products and their supply chains, services, and other activities), geography (e.g., governance and rule-of-law, conflict, pervasive human rights adverse impacts), or enterprise-specific risk factors (e.g., known instances of corruption, misconduct, implementation of standards for social performance);
  - b. Assess the provider's profile and management, in combination with the workforce profile and the commercial relationship the organization has with the provider;
  - c. Ask the provider to fill out questionnaires and to agree to audits, 'supplier support visits,' or collaborative assessments;
  - d. Include tailored approaches to specific risks and consider how these risks affect different groups, such as applying a gender, young worker, or migrant perspective in the identification of possible adverse social impact;
  - e. Evaluate own data gathered through the business relation, audits, or other sources from known actors;
  - f. Where gaps in information exist, consult with relevant stakeholders and experts;
  - g. Consider information raised through early warning systems (e.g., hotlines) and grievance mechanisms.

Information on risks can be obtained from different sources, like the ILO, other UN Agencies, the World Bank (e.g., the worldwide governance indicators (<https://databank.worldbank.org/source/worldwide-governance-indicators>), the World Benchmarking Alliance, specialist research agencies and commercial risk data providers. Industry

and issue-specific multi-stakeholder initiatives, as well as government agencies, can help provide information to assist in evaluating risks and appropriate action in particular countries or on certain topics too, for example, Transparency International (e.g., Corruption Perception Index

[https://www.transparency.org/en/cpi/2021?gclid=EAIaIQobChMII\\_CP2PDU9wIVK4xoCR1kiQmsEAAYASAAEgLtbPD\\_BwE](https://www.transparency.org/en/cpi/2021?gclid=EAIaIQobChMII_CP2PDU9wIVK4xoCR1kiQmsEAAYASAAEgLtbPD_BwE)) or the CSR risk checker of MVO Netherlands (<http://www.mvorisicochecker.nl/en>)

## AD 2A. DETERMINE THE RISK, E.G., SEVERITY AND THE LIKELIHOOD OF OCCURRENCE, OF THE ADVERSE SOCIAL IMPACT

Assess per actual or potential adverse social impact the severity and the likelihood by taking the following into account:

The impact on people should be the center of the process. Risk to people is relevant in two ways:

1. The relevant severity is the severity of the impact on people rather than on the business;
2. Severity has a greater weight than likelihood so that severe risks to people should always be prioritized for attention.

The UN Guiding Principles define severity by its scale, scope, and remediability. The table below explains these concepts with some examples:<sup>3</sup>

**Table: Understanding severity**

Dimensions	Definition	Examples	
		Potentially less severe	More severe
Scale:	How grave or serious the impact would be	A 14-year-old helping out behind the counter in the family store	A 10-year-old child working in artisanal mining
Scope:	How widespread the impact would be (i.e., how many people would be affected)	One or two individuals	A whole community
Remediability:	How hard it would be to put right the resulting harm	A worker is fired on a discriminatory basis but can be promptly reinstated with appropriate compensation, apologies and guarantee of non-repetition	A worker contracts an incurable disease due to a lack of appropriate health and safety measures

Source: Shift, Oxfam, and Global Compact Network Netherlands, “Doing Business with Respect for Human Rights: A Guidance Tool for Companies,” 2016.

An impact can be severe even if it would only apply to one of the above dimensions of scale, scope, and remediability – it does not need to be severe against all three.



In addition to severity, organizations also should consider likelihood: how likely is it that the impact exists or will occur? This means that the operational context of the provider and the provider's effort to effectively manage human rights risks should be taken into account. The following table gives some examples of both elements of likelihood:<sup>3</sup>

**Table: Understanding likelihood**

Several factors can make negative impacts more likely in a particular country context, such as:	The following factors can increase or decrease the likelihood of negative human rights impacts arising through a company's business relationships:
Existence and enforcement of national laws and regulations	Whether their policies address respect for human rights
Conflicts between national laws and international human rights	Whether they have effective processes for meeting their responsibility to respect
Social customs and practices	Their record for upholding or breaching human rights
Presence of corruption	Their practices with regard to corruption
Presence of conflict	Whether they are in conflict with local stakeholders

Source: Shift, Oxfam, and Global Compact Network Netherlands, "Doing Business with Respect for Human Rights: A Guidance Tool for Companies," 2016

By ranking the adverse human rights issues in these dimensions, the organization identifies the most salient social issues in its supply chain:

"Salient issues are those social issues that are at risk of having the most severe and likely (actual or potential) negative impact on people."

## **AD 2B. RANK THE ADVERSE SOCIAL IMPACT ISSUES OF THE ORGANIZATION'S SUPPLY CHAIN**

Where should the organization focus its attention? Most organizations can be involved with a large number of actual or potential impacts and, due to legitimate resource constraints, will need to decide which ones to focus on first. If it is necessary to prioritize social impacts for attention and action, then organizations need to do so by focusing on the severity (and risk) of harm to people.<sup>3</sup> Secondly, to be as effective as possible, the organization could rank the providers based on the significance of the core business.

Rank the identified actual and potential adverse social impact issues in the following order:

1. Highest impact
2. Highest likelihood
3. Biggest significance for the core business.

Prioritizing severe impacts for attention does not mean that low-severity impacts should remain unaddressed. Some may be relatively easy to address or require few additional resources, in which case there is no reason for the organization not to proceed to deal with them. In all these cases,

the organization should make an informed decision on what issues it will take action on and which it will not.

The result is a prioritization of social impacts, which might be used as input for stakeholder consultation, that could help to make the prioritization more robust and an organization's choices more credible.

### 3.1.2 INTEGRATE AND ACT ON THE FINDINGS

Based on the prioritization of social impacts, the organization can start mitigating actual or potential adverse impacts in the order of highest priority by taking the following steps:

1. Develop and implement plans to seek to prevent or mitigate actual or potential adverse social impacts of the prioritized social impacts starting with the most salient issues. The involvement of the organization with the adverse impact (either the organization contributes or is linked to the adverse impact) should be considered in developing the plans to implement the proper preventive or mitigation measures<sup>3</sup>.
  - a. Consult the workers who work together or maintain the relationship with the relevant provider, to develop appropriate plans in cooperation with the provider(s) to prevent or mitigate identified adverse effects within reasonable and clearly defined timelines, using qualitative and quantitative indicators for defining and measuring improvement.

For example, the organization may:

- i. Partner with providers to develop and implement corrective action plans that are time-bound and result-oriented.
- ii. Provide technical guidance to providers – for example, in the form of training, management systems upgrading, etc.
- iii. Facilitate participation of providers in broader sector-wide initiatives or regional initiatives to prevent impacts.
- iv. Facilitate linkages of providers with local service providers.
- v. Facilitate access to financing for the provider to help implement corrective action plans, for example, through direct financing, low-interest loans, guarantees of continued sourcing, and assistance in securing financing.

Resources that might be helpful in defining qualitative and quantitative indicators to measure improvement can be found, for example, at the Danish Institute for Human rights (<https://www.humanrights.dk/projects/human-rights-indicators-business>) or the Shift Project ([The Indicator Design Tool - Shift \(shiftproject.org\)](http://TheIndicatorDesignTool-Shift(shiftproject.org)))

- b. Use the organization's leverage or consider ways to build additional leverage with the provider, including, for example, through outreach from senior management and through commercial incentives to address the impact. To the extent possible, cooperate with other actors to build and exert collective leverage (see decision tree in annex 1)
- c. Identify the 'moment of traction' in the business relation to exercise leverage, like<sup>3</sup>:

- i. Contract negotiation
    - ii. Licensing agreements/renewal
    - iii. Setting qualification criteria for bidding processes
    - iv. Periodic reports on the implementation of a service or plan of action
    - v. Renewal of service agreements
    - vi. Points when services or products require maintenance
    - vii. Disbursement of funds
    - viii. Monitoring or auditing requirements
    - ix. Provision of technical or advisory assistance
    - x. Processes for investigating complaints and grievances.
  - d. Seek to build leverage into new and existing business relationships, e.g., through policies or codes of conduct, contracts, written agreements, or use of market power.
2. Appropriate responses to risks associated with providers may, at times, include:
  - a. Continuation of the relationship throughout the course of risk mitigation efforts;
  - b. Temporary suspension of the relationship while pursuing ongoing risk mitigation;
  - c. Disengagement with the business relationship either:
    - i. because of the severity of the adverse impact or
    - i. after failed attempts at mitigation, or
    - ii. where the organization deems mitigation not feasible.

A decision to disengage should take into account furthermore:

- i. the extent to which the company has tried to use leverage and/or has run out of options for building further leverage;
    - ii. whether or not the relationship is a crucial one for the company (meaning, does it provide an essential product or service for which no reasonable alternative exists);
    - iii. whether there would be other potential adverse social impacts as a result of ending the relationship.
3. The plans should detail the actions the organization will take, as well as the expectations of its provider to prevent and mitigate potential (future) adverse impacts.
4. Keep records of the agreed actions, expectations, and timelines to track implementation and results. A supplier monitoring program is often used for recordkeeping.
5. Keep records of any justification of the (limited) plans, actions, and expectations to understand the rationale in future iterations of the due diligence process and to respond to changing circumstances.

### **3.1.3 TRACK THE IMPLEMENTATION AND RESULTS**

When actions, expectations, and timelines have been agreed upon with the various providers, the organization should track the implementation and results.

Tracking the implementation and results should be based on the agreed actions, expectations, and timelines and can be done by periodically requesting a progress report from the provider. Provider progress is most easily recorded in the same program as the actions are recorded.

The organization should carry out periodic assessments of business relationships to verify that agreed actions are being pursued or to verify that adverse impacts have actually been prevented or mitigated. Verification can be done by looking at a series of inputs, including:

- assessment data (signed codes of conduct, self-assessment based on questionnaire, audit reports, certifications, etc.),
- details of the complaint and grievance mechanisms, and
- stakeholder feedback.

When using assessment data, the organization should evaluate whether the appropriate social impact is assessed in the report. Stakeholder feedback can be obtained through multi-stakeholder initiatives, NGOs, multi-stakeholder and industry associations, and international organizations such as the International Labor Organization (ILO).

Tracking is a moment in time when it is particularly important to integrate the perspectives of involved stakeholders or those with credible insight into the performance of the provider. A collaborative approach involving both the provider and local communities in the joint monitoring of the organization's social performance efforts helps build trust in the results of the tracking process.

The organization might identify adverse impacts or risks that may have been overlooked in the past due diligence processes through the tracking and verification of agreed actions. These adverse impacts or risks should be included in the future, and feedback and lessons learned should be included in the organization's due diligence process to improve the process and results in the future.

### **3.1.4 REMEDIATE AND COMMUNICATE**

When the organization determines through tracking and verification that it has caused or contributed to adverse effects, it should address such effects by providing or cooperating with their remediation. The organization should comply with the law and seek out international guidelines on remediation where available and where these are not available, consider a remedy that would be consistent with that provided in similar cases.

Finally, as part of its external communications (subclause 7.4), the organization should communicate relevant information about its due diligence policies, processes, and activities to identify and address actual or potential adverse effects, including the findings and results of those activities. Communication should at least be on its most salient social issues and the organization should think about how to best reach affected stakeholders through its communication.

## **3.2 CONTINGENCY PROCEDURE**

For those cases where the organization must, on short notice, make use of a new provider of materials or services to ensure business continuity, the organization should include minimum requirements for evaluating these providers in their contingency procedure. This evaluation should ensure that social performance still conforms to specified requirements. These specified requirements should prevent the introduction of new salient social issues.

The organization should:

- Assess the potential adverse impacts per material or service category to identify the minimum requirements to which the providers of different material or service categories should comply in case of contingency;
- Identify the most efficient evaluation method per requirement. This could include, for example, but is not limited to:
  - a high-level risk assessment of the provider
  - an evaluation of whether the provider has been involved in incidents in the past five years
  - a signed code of conduct
- Include these minimum requirements and evaluation methods in the contingency procedure;
- Determine appropriate actions in case of not meeting the minimum requirements by a potential provider (see 3.1.2 Integrate and act on the findings);
- Ensure new providers are added to the list of providers, which is input for the due diligence process.

## 4. AUDITING

FSSC 24000 imposes a number of requirements on organizations in relation to social issues in the supply chain, with specific references to externally provided processes, raw materials, ingredients, products, packaging materials, and services. As explained in the introduction of the standard, the objective is to ensure that workers are treated fairly and are provided with a safe working environment that is not detrimental to their health and is in compliance with relevant statutory and regulatory requirements.

The organization must ensure that its providers meet requirements set out in the standard through a due diligence process.

Auditors should examine the approach an organization has taken to:

1. Assess, based on risk, the adverse impacts of its providers;
2. Act on the findings of the impact assessment;
3. Track the implementation of actions defined to mitigate the adverse impacts;
4. Remediate and communicate about how impacts are addressed.

Where an organization has prioritized the mitigation of certain impacts, auditors should examine to which extent the requirements of subclause 8.1.3 have been fulfilled and the criteria used for this prioritization.

These may include:

- The inputs used for the prioritization;

- The measures are taken to ensure that all actual or potential adverse social impacts are taken into account in the procurement processes;
- Whether specific requirements for providers have been determined;
- Whether a record of providers that identifies its associated social impact and the agreed expectations and results of implementation and evaluation is kept;
- Supporting evidence that this is applied effectively and periodically reviewed (either at a set interval or on completion of a delivery or service).

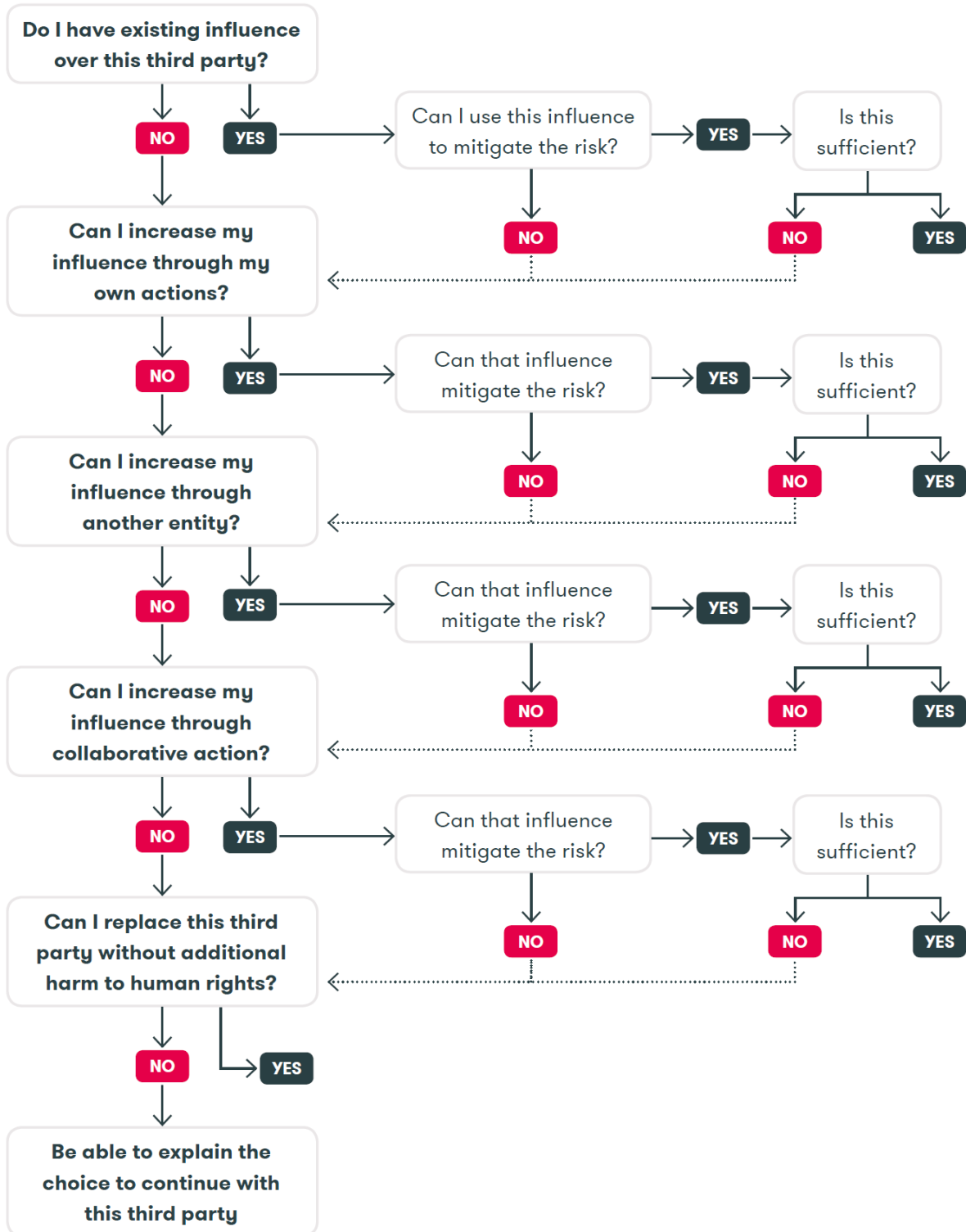
Auditors should examine whether the organization has a contingency procedure for procurement and how the organization ensures that providers have been evaluated prior to use and that social performance continues to meet the specified requirements.

The auditor should note that the organization has to determine the extent of documented information needed to provide objective evidence of the application of the due diligence process. There is no specific requirement in FSSC 24000 on how to document (the results of) the due diligence process.

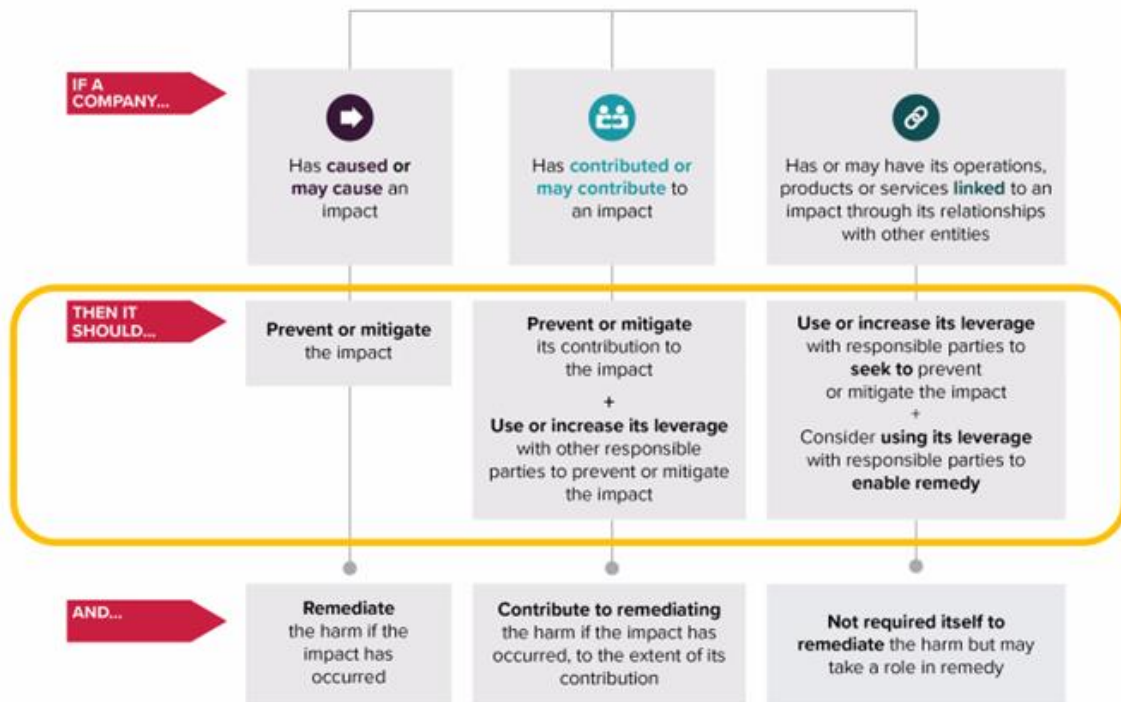
An organization's needs for, and the extent and type of, documented information will vary greatly due to the context of the organization, its size, culture, nature of products and services, applicable statutory and regulatory requirements, and/or customer requirements regarding the risks on products, etc.

## ANNEX 1 EXAMPLE OF A DECISION TREE THAT MAY BE USED FOR BUILDING LEVERAGE<sup>3</sup>

Figure: Decision tree for using and building leverage<sup>64</sup>



## ANNEX 2 EXAMPLE TO DIFFERENTIATE INVOLVEMENT OF THE ORGANIZATION WITH ADVERSE IMPACT



Source: Shift, Oxfam, and Global Compact Network Netherlands, "Doing Business with Respect for Human Rights: A Guidance Tool for Companies," 2016.



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