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# The role and impact of employment charters and procurement by subnational authorities to achieve good work standards

A report prepared for Policy Support Fund
By

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### **Table of contents**

G	lossary		II
Li	st of Ta	bles and Figures	iii
1.	Intro	duction	1
	1.1.	Introduction	1
	1.2.	Background and context	1
	1.3.	Methodology	5
	1.4.	Structure of the report	7
2.	Ove	rview of Local Authority Procurement	9
	2.1.	Introduction	9
	2.2.	Local authority procurement strategies	9
	2.3.	Good work dimensions included in procurement strategies	.10
3.	Loca	al authority and stakeholder views on procurement and good work	.13
	3.1.	Introduction	.13
	3.2.	Local Authorities	.13
	3.3.	Stakeholder Perspectives	.18
	3.4.	Summary	.19
4.	Con	clusions	.21
5	Refe	erences	. 25

### Glossary

ACAS Advisory, Conciliation and Arbitration Service

C&PCA Cambridgeshire & Peterborough Combined Authority
CIPD Chartered Institute of Personnel and Development

EDI Equality, diversity and inclusion

GLA Greater London Authority

GMCA Greater Manchester Combined Authority

LAD Local authority district

MCA Mayoral Combined Authority

NLW National Living Wage RLW Real Living Wage

SME Small and medium sized enterprise

SYMCA South Yorkshire Mayoral Combined Authority

TOMs Themes, Outcomes and Measures
WMCA West Midlands Combined Authority
WYCA West Yorkshire Combined Authority

### **List of Tables and Figures**

### **List of Tables**

Table 1: Selected MCAs	7
Table 2: Annual procurement expenditure	. 13
Table 3: Good work dimensions	. 15
Lists of Figures	
Figure 1: Dimensions and levels of the MCA Charters	5
Figure 2: Good work dimensions included in local authority procurement related documents	11

### 1. Introduction

### 1.1. Introduction

From marketisation of public services to a decline in union membership and a growing prevalence of precarious and atypical forms of employment, over the past few decades, the world of work has undergone important changes (Howe, 2017). Marketization has decoupled the provision of contracted out services from provision pertaining to the public sector, which, in Europe, is commonly characterised by rather strong trade unions, centralised bargaining, and low wage dispersion. The new context of marketization and public contracting of services from different providers, has led to more fragmented structures and a lower density in trade union membership in contracted services (Schulten and Brandt, 2012). Not surprisingly, marketisation has furthermore generated negative implications for working conditions and wages and contributed to "exacerbate the vulnerable position of workers employed in...lowwage service segments" (Grimshaw et al., 2014: 1). Alongside but not unrelated to this development, precarious and atypical forms of employment (that is employment whose conditions do not align with the standard model of employment) have grown considerably over the past few decades. This has been witnessed in a growth of so-called zero hour contracts, agency work and self-employment (Taylor, 2017). Embedded in a broader shift towards regulation as a mode of governance, public procurement has gained importance as a tool for the regulation of labour and promoting decent wages and working conditions (Sarter, 2022). At the same time, particularly in England, employment charters bear the promise to contribute to upholding or promoting decent working and wage standards (Dickinson, 2022).

### 1.2. Background and context

### 1.2.1. Procurement

Public procurement, the purchasing of goods, works and services by public sector organisations, is crucial for safeguarding the availability of goods for public entities, for warranting the delivery of services and delivering public works projects. It also is an important market. In 2019, 32% of government expenditure in the UK was directed towards the purchasing of goods, works and services. Rather unsurprisingly given the importance for government spending, public procurement also represented a considerable share of GDP, namely 13%. Nearly two thirds (65%) of total government procurement spend (excluding social security funds) was thereby generated by central government and about one third (35%) by sub-central entities (OECD, 2021). Not least in the light of its economic importance, public procurement has been labelled "one of state and governments' most important jobs." (Potoski, 2008: S58)

Public procurement is regulated at different levels. The Government Procurement Agreement (GPA), a plurilateral agreement aims to open public procurement markets in and of the signatory states. To date, 48 WTO member states, including the UK, are part of this framework and a further 35 are observers. The GPA set principles and obliges members to open, fair and transparent competition (WTO, 2023). When the UK was a member of the European Union, it was furthermore bound by European primary and secondary law, which provided a legal framework for public procurement. Since leaving the EU, the UK initiated a process of reforming its public procurement law, a process, which (in July 2023) it is still undergoing. In addition to public procurement law, a range of UK legal regulations impact public procurement, among which the Public Services (Social Value) Act requires public bodies that contract services, which are not contracted within a framework

agreement, to consider how it can promote the social, environmental and economic wellbeing of the locality. Further, with public procurement being a function of public bodies, the requirements to consider equality regarding protected characteristics set out in the Public Sector Equality Duty apply. The Social Value Model provides further inputs, among others relating to employment equality, skills and training (Government Commercial Function, 2020). None of these, however, relate to good work.

The legal framework is not the only factor that determines the outcome of public procurement processes. As with any policy, the implementation of public procurement policies is a major shaping force. While policies set a framework, they also leave important concepts and parts to be defined and operationalised in the implementation, thereby affording discretion to make choices that determine policy outcomes to those implementing a policy (among others, Hill and Hupe 2002; Sabatier and Mazmanian 1980). Research on the implementation of sustainable public procurement, the area where most empirical research has been carried out on the inclusion of non-economic aspects in public procurement, highlighted a range of factors that facilitate the successful implementation, including the existence of a legal impetus, knowledge of concepts and of policies, economic, i.e., financial aspects, broader organisational attitudes as well as commitment of and support from management and resource constraints (Brammer and Walker 2011; Grandia et al., 2013; McCrudden 2012; Sarter, 2023). External pressure and stakeholder engagement has also been shown to provide important impetus for including social aspects in particular (Wright and Conley, 2018).

Over the past few years, interest in the social impact of public procurement practices on work and employment has grown. On the one hand, research has investigated the impact of marketization of services on working conditions and wages in contracted out services, indicating negative implications. Most importantly, marketization has been argued to contribute to a deterioration of wages and working conditions, higher workloads, and a greater sense of insecurity (among others, Campbell and Peeters 2008; Dube and Kaplan 2010; Engström and Axelsson 2010; Flecker and Hermann 2011; Vrangbæk, Petersen, and Hjelmar 2015). On the other hand, it has been argued that strategically using public procurement holds the potential to promote social (policy) goals and "render a market more social for equal levels of spending" (Hartlapp, 2020: 69). Public procurement practices have been shown to have important implications for working conditions in wages, particularly in contracted services, such as adult social care, where the scope of providers "is narrow and close to being determined by the external environment" (Rubery et al., 2015: 768). In the light of the importance of public procurement practices for shaping working conditions and wages, several countries aim to strategically use public procurement policies and practices as a lever for promoting working standards internationally as well as domestically.

Given the increasingly evidenced negative implications of marketization and the realisation of the contribution that strategic public procurement can make to promoting positive social outcomes – coupled with a broader trend towards regulation as a mode of governance (Majone, 1997; 1994) – policymakers have taken an interest in using public procurement as a policy tool. Amongst other considerations, such as providing employment and training opportunities for disadvantaged and marginalised groups, public procurement's potential to act as a lever for regulating labour and promoting decent working conditions, and good or 'fair work', has received growing attention in a variety of countries. Focussing on labour in international supply chains, different countries, among which the Netherlands or Germany for instance, adopted a proactive approach to promote the compliance with working and human rights standards (Melissen and Reinders, 2012; Sack and Sarter, 2022).

With a dedicated view on domestic labour, a range of countries adopted approaches to strategically use public procurement to improve job quality. In Australia, for instance, governments at the national and sub-national level explored the use of strategic public procurement "as a means of promoting compliance with desired labour practices" (Howe and Landau, 2015: 577). In Germany, a range of sub-national *Länder* (federal states) adopted procurement-related minimum wages in the longstanding absence of a general minimum wage (Sack and Sarter, 2018). These procurement-related minimum wages predated the introduction of a general minimum wage and have persisted since its inception. While the importance of public procurement as a tool for the regulation of labour is increasingly acknowledged (among others, Howe and Landau, 2015; Jaehrling et al., 2015; Ravenswood and Kaine, 2015; Sarter, 2022).

In Great Britain linking public procurement and good, decent, or fair work is gaining importance. Particularly in Cymru and Scotland promoting 'fair work' and the use of public procurement to do so, has become an important part of the policy agendas of the devolved governments (Mamode, 2023). In the absence of a national strategy to ensure adequate standards for work, sub-national entities in England have or are considering turning to public procurement as part of their mechanisms to promote good work standards within their areas (Dickinson, 2022). One example of this trend, which has attracted attention, and is rather well acknowledged for its approach, is Greater Manchester (Johnson et al., 2023).

In addition to public procurement and its growing strategic use as a lever for promoting good work standards, employment charters are becoming an increasingly prominent feature in the world of regulation of work and employment.

### 1.2.2. Good work

Good work is positioned as a route for enhancing productivity, innovation and inclusive labour markets. Much work has taken place around good work; how it can be defined, measured and achieved. The Taylor Review (Taylor Review, 2017) provided a national focus for discussions of good work and included a seven point plan. The Government responded to the report (HM Government 2018a) and produced its Good Work Plan (HM Government 2018b) later in the year. Whilst an Employment Bill was included in the 2019 Queen's Speech, it has not been included in subsequent Queen's Speeches. In December 2021, the Government said a Bill would be forthcoming but no further progress has been made. It was anticipated that this Bill would include measures to promote good work.

Whilst having no legislative responsibility for good work, a number of regions within England have developed policies to promote Good Work or Fair Work through Mayoral Combined Authorities (MCAs) (Dickinson, 2022). With increasing regional devolution and the UK Government's 'levelling up' agenda, there is much current policy development at the subregional level of government in terms of skills, productivity, wellbeing and job quality on the back of their devolution deals. These policies are being developed based on local needs

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<sup>&</sup>lt;sup>1</sup> In Scotland and Cymru, the relevant concept is fair work. In Cymru, the Fair Work Commission proposed to define fair work as "where workers are fairly rewarded, heard and represented, secure and able to progress in a healthy, inclusive environment where rights are respected." (2019: 2) In Scotland, the Fair Work Convention (2023) understands the term as "work that offers all individuals an effective voice, opportunity, security, fulfilment and respect. It balances the rights and responsibilities of employers and workers."

or 'place'. Consequently, a range of practice and emphases are emerging across the MCAs. Charters<sup>2</sup> are examples of 'soft regulation', which seek to persuade and encourage employers to offer better jobs, as opposed to 'hard' regulation underpinned by legislation, such as the National Minimum Wage (NMW).

To date five MCAs (including the Greater London Authority [GLA]) have launched a Charter promoting Good Work, Fair Work or similar. Furthermore, West Yorkshire Combined Authority (WYCA) is in the final stage of developing its Charter. In each of these MCAs, the development of a Charter has been a manifesto commitment in the successful Mayor's election campaign.

Many of the Charters are rooted in prior work on the inclusive growth agenda which was being developed in a number of MCAs in the last half of the 2010s. Inclusive growth and Good/Fair Work/Employment share a number of tenets such as decent pay, inclusion, health and wellbeing, and training and development. Evidence suggests that most people currently work in good jobs but the proportion declines for those in low wage/low skill occupations and sectors, those in lower socio-economic groups and young people (CIPD, 2019; Dobbins, 2022; Warhurst et al., 2022). Charters, therefore, are an attempt to assist such groups of people to 'share' in the benefits of economic development and growth.<sup>3</sup>

Figure 1 shows the dimensions of the six MCA Charters and the levels of commitment. All of the MCA Charters have a number of dimensions that relate to the dimensions of good work outlined by the Carnegie/RSA working group (Irvine et al., 2018). Each dimension has a series of conditions that must be met to satisfy the criteria within each dimension. For example, one of the criteria for flexible working is that full- and part-time workers must have the same working conditions.

The term 'Charter' is used in this review as a common term to label the charters/standards/pledges in the MCAs regions.

<sup>&</sup>lt;sup>3</sup> For example, see <a href="http://www.oecd-inclusive.com/champion-mayors/mayor/champion-mayor-andy-burnham/">http://www.oecd-inclusive.com/champion-mayors/mayor/champion-mayor-andy-burnham/</a>

Figure 1: Dimensions and levels of the MCA Charters



Source: Warwick IER

There are variations between the Charters' focus and content reflecting the importance of place and different places' needs, and as a function of the extensive local consultation. There are also a number of common features across all of the six Charters, in part because of the sharing of information. The experiences of the early adopters – GLA and GMCA – and the initial work that they undertook has benefitted the development of the more recent Charters. This sharing of information is a practice that MCAs are keen to continue as they begin to consolidate the implementation of their Charters and work on further developments, such as evaluation (Dickinson, 2022).

Accreditation offers a basic incentive by enabling employers to offer themselves as a good employer. Soft incentives such as networking opportunities, publicity and toolkits and signposting to relevant services may also encourage take-up. Harder incentives may yet be developed including offering access to procurement contracts (as now in GMCA) or to skills funding to businesses that sign up, this is currently a key point of discussion.

It is still early days and the impact of the Charters on regional work and employment has not and cannot yet be evaluated. Whilst the numbers of employers signed up to Charters may be relatively small, the number of workers that they employ is significant as they tend to be large employers.

### 1.3. Methodology

This project combined two methods, content analysis of publicly available documents and semi-structured interviews.

Firstly, a document review of published procurement and related policies for each local authority included in the sample. This entailed an initial web search of each local authority's websites for procurement policies, strategies and plans. The analysis is based on procurement documents which are publicly available on local authorities' contracting and other web pages. The latest documents were accessed. Where procurement policies, strategies or plans were identified, these were manually coded against the Carnegie/RSA dimensions of good work (see above) and analysed. The authors did not review local authority contracts or similar documents, or other requirements such as outcome measures, that might be available to contractors which enter the procurement process and tender for business. Such documents and information may provide more detail on good work dimensions and further research may consider exploring procurement practices based on this information.

Secondly, interviews with procurement leads and stakeholders in each local authority areas. The interviews covered strategic approaches to procurement and good work, and relationships with other local authorities and the MCA.

Research was undertaken across a sample of four of the nine MCAs. These were selected according to their political leadership, whether they were a rural or urban area, and whether they had a Good Work Charter. One MCA had a charter (GMCA), one did not (WMCA)<sup>4</sup> and two had held internal discussions about developing one (C&PCA and SYMCA).

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<sup>&</sup>lt;sup>4</sup> However, while WMCA does not have a charter and is not working on one, attempts to create a broader one, that focusing on a regional approach that exceeds the remit of the Combined Authority are ongoing. There is also a Midlands Engine (covering the East Midlands and West Midlands Region), the Midlands Engine's Board includes local authority representatives as well as those form other organisations. See <a href="https://midlandsengine.org/work-with-us/midlands-good-work-charter/">https://midlandsengine.org/work-with-us/midlands-good-work-charter/</a>

**Table 1: Selected MCAs** 

MCA	Geographi cal area	Party	Urban or rural	Good work charter	Local authorities
Cambridgeshire & Peterborough (C&PCA)	East of England	Labour	Rural	Have considered	Cambridgeshire; Cambridge East; Cambridgeshire; Fenland; Huntingdonshire; Peterborough; South Cambridgeshire
Greater Manchester (GMCA)	Northwest	Labour	Urban	Yes	Bolton; Bury; Oldham; Manchester; Rochdale; Salford; Stockport; Tameside; Trafford; Wigan
South Yorkshire (SYMCA)	Yorkshire and Humberside	Labour	Urban	Have considered	Barnsley; Doncaster; Rotherham; Sheffield
West Midlands (WMCA)	Midlands	Conservative	Urban	No	Birmingham; Coventry; Dudley; Sandwell; Solihull; Walsall; Wolverhampton

Interviews were sought with all local authority procurement leads in each of the 28 local authorities. The interviews explored which employment related stipulations procurement policies included (if any), the underlying reasons why employment-related aspects are included (or not) and the impact that employment charters have on procurement policies at local level. Interviews were also undertaken with relevant staff in the respective MCAs.

Interviews were also sought with a range of stakeholders including trade-unions, employers, employer representative organisations and relevant others such as the Advisory, Conciliation and Arbitration Service (ACAS), the Chartered Institute of Personnel and Development (CIPD), and large anchor institutions (such as NHS Trusts and universities) were relevant (e.g. where there was a local anchor institution alliance).

In all 30 interviews were completed, these included: procurement leads covering 19 local authorities, and 14 subregional stakeholders. In the latter group most of the respondents were trade unions representatives, no employer representatives responded to our requests for an interview.

Interviews were not recorded and transcribed, rather they were written up by the interviewers. Any direct quotes of respondents are taken from interviewer's notes.

### 1.4. Structure of the report

 The remainder of the report is divided into three sections: Section 2 contains an overview of local authority procurement practices based on a review of publicly available published procurement related documents;

- Section 3 reports on interviews with local authority procurement leads and stakeholders;
- Section 4 provides the main conclusions.

### 2. Overview of Local Authority Procurement

### 2.1. Introduction

This section provides an overview of local authority procurement policies. This is based on: an initial web search of each local authority's websites for procurement policies, strategies and plans; where identified a coding of procurement these documents using the Carnegie/RSA dimensions of good work (see above).

### 2.2. Local authority procurement strategies

A web search was undertaken for each of the 28 local authorities included in the sample. This was usually the procurement section of the council's website, for example, https://www.cambridge.gov.uk/procurement-and-contracts.

All local authorities had dedicated procurement web pages and these were searched for whether the local authority had a good work charter, or any other stated policies relating to dimensions of good work (e.g. Social Value policies).

Some of the websites provided a value of their procurement spend. The total of those 11 local authorities that did provide a value was £1.9 billion. This was an average procurement spend of £174 million, ranging from £7 million to £400 million. If these figures are representative of all of the 28 councils' spend, the total value of these contracts would be worth just under £5 billion.

Two local authorities had their own employment charter, and these were both based in Greater Manchester – Oldham<sup>5</sup> and Salford<sup>6</sup>. Birmingham has a Business Charter for Social Responsibility<sup>7</sup> which has some of the dimensions of a good work charter such as fair pay, freedom of association, health and wellbeing, and diversity and inclusiveness.

Paying a fair wage is the good work dimension most frequently mentioned in procurement policies, this happens in 12 local authorities. However, this is not always the Real Living Wage (RLW) but sometimes includes the National Living Wage (NLW) which is a statutory requirement<sup>8</sup>. 'Living wages' are not necessarily stated in procurement policies but can be specified in terms and conditions.

Local authorities are much more likely to have social value policies linked to their procurement processes. These are often derived from the social value commitments the local authority itself makes. The Social Value Act requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits. It is therefore wider than employment related benefits. It does not compel bidders to meet these

7

https://www.oldham.gov.uk/info/200146/strategies\_plans\_and\_policies/1303/oldham\_s\_fair\_employment\_charter

<sup>5</sup> 

<sup>&</sup>lt;sup>6</sup> https://www.salford.gov.uk/your-council/city-mayor/city-mayor-s-charter-and-living-wage/the-employment-standards-charter-categories-and-pledges/

https://www.birmingham.gov.uk/info/50209/birmingham\_business\_charter\_for\_social\_responsibility/18 28/the charter and policies

<sup>&</sup>lt;sup>8</sup> Currently the RLW is £10.90 per hour (set in September 2022) compared to £10.42 for the NLW (set in April 2023).

requirements, and this is apparent from local authority approaches. Often local authorities will have social value scoring attached to tenders, where bidders identify social value contributions they will make (if successful) and this is part of the award decision. Local authority social value requirements for contracting purposes are usually specified in a stated procurement policy but this is not always the case. For example, in one instance the council had a social value policy which related to its own behaviour but only referenced the 2012 Act on its procurement pages and no other details.

A small number of local authorities also included non-wage dimensions of good work, such as, hours, contracts, freedom of association and wellbeing. These were mainly Greater Manchester local authorities, although Birmingham and Sheffield also included them as well.

### 2.3. Good work dimensions included in procurement strategies

This section analyses local authority policy statements in more detail (for the methodology see above). It identifies which dimensions of good work are included in the various policies, strategies and other stated requirements relating to procurement.

Of the 28 local authorities, 19 had stated policies relating procurement which included any of the eight good work dimensions<sup>9</sup> (Irvine et. al., 2018). In total there were 37 different policies with some local authorities having more than one policy or strategy relating to procurement. Ten local authorities had two or more. Most (15) had 'social value' in their title, whilst ten were included in procurement documents. Good work dimensions were also included in 'ethical' procurement documents. The remainder included: employment or business charters; Modern Slavery, living wage policies, and broader place strategies.

### 2.3.1. Good work dimensions included in procurement related documents

Fourteen of the 19 local authorities with stated policies referred to one or more of the good work dimensions. If these were included, then most local authorities included at least half of them. Three local authorities included six or seven dimensions, but none included all eight.

Figure 2 shows which of the good work dimensions were included in local authority related procurement documents. Seven of the eight were included in at least one document, all dimensions except for relationships at work (which also tends to be absent from most MCA good work charters).

Diversity and inclusion; pay and benefits; job design and the nature of work; and, health and wellbeing were the dimensions most referred to.

10

<sup>&</sup>lt;sup>9</sup> There are seven dimensions from the study: Pay and benefits; Contracts; Work–life balance; Job design and the nature of work; Relationships at work; Employee voice; and Health and wellbeing. In addition, Dickinson 2022 included Diversity and inclusion because it was often a feature of MCA Good Work Charters.

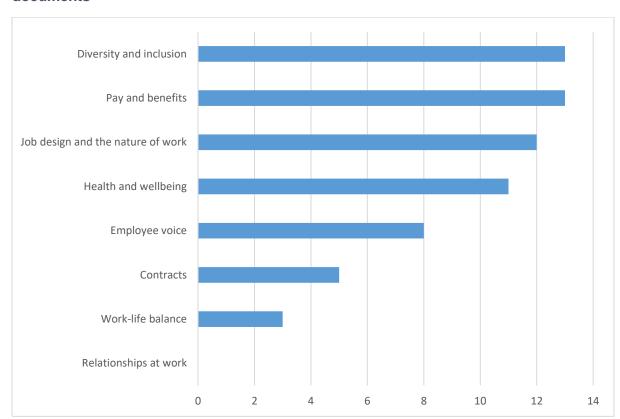


Figure 2: Good work dimensions included in local authority procurement related documents

Source: Warwick IER, analysis of local authority procurement documents

A more detailed review of the documents shows that in relation to the Carnegie/RSA dimensions:

- Pay and benefits. Local authorities mostly refer to pay rather than other benefits. The RLW is referred to in ten of the procurement related documents. Most of the local authorities 'encourage' contractors to pay the RLW. Four local authorities make reference to their own position as a RLW employer and encourage contractors to do the same. Three local authorities refer to the NLW (although this is a legal requirement) and one has an 'expectation' that contractors will pay a 'fair wage'.
- Diversity and inclusion. There are few common approaches to Equality, Diversity and Inclusion (EDI) in procurement documents. There is little definition of what EDI means or involves, and which aspects contractors should develop. Ten local authorities refer to EDI generically whilst three identify disability, gender and ethnicity specifically. Where specific EDI groups are identified, there are various references to: the EDI ownership of the organisation, pay gaps and employment rates. Across the various documents there was little consistency in references to EDI, for example, documents referred to a wide range of operationalisation of EDI: taking account of equalities legislation; undertaking equality impact assessments; undertaking EDI training; monitoring EDI in the workplace; EDI in contractor's supply chains; 'promoting' EDI; and, EDI hiring and training requirements.
- Job design and the nature of work. References to this dimension entirely related to training and skills development, in most cases relating to jobs delivering the specific

contract, but in others more generally. Four local authorities specifically mentioned apprenticeships.

- **Health and wellbeing.** There were a range of local authority approaches. Some local authorities referred broadly to 'good' health and safety practices and policies. A small number referred specifically to staff wellbeing, with one mentioning mental health.
- Employee voice. This specifically referred to trade union membership, or freedom off
  association in one instance. In most courses it recognised the right to join a trade
  union, but in one case it referred to a ban on blacklisting trade union members, and
  whistleblowing policies in another.
- **Employment Contracts.** Five local authorities included references to employment contracts, in the main these were limiting zero-hour contracts.
- Work life balance. Three local authorities referred to work life balance. It was defined differently, one encouraged flexible working whilst another wanted contractors to ensure working hours are 'not excessive'.

This review of procurement related documents shows that most local authorities with such documents include several of the good work dimensions in their procurement documents. However, there are a wide range of approaches to defining and securing the good work dimensions. Some dimensions – pay and benefits, job design and the nature of work, and employee voice, and contracts – are more tightly defined and specified. Other dimensions – diversity and inclusion, and health and wellbeing – have varying definitions and requirements for contractors.

### 3. Local authority and stakeholder views on procurement and good work

### 3.1. Introduction

This section is based on interviews with 16 local authority (LAD) procurement officers (usually the head of procurement in the local authority), and external stakeholders, mostly trade union representatives.

### 3.2. Local Authorities

### 3.2.1. Overview

The local authorities in this study account for a range of average spends in annual procurement. The lowest reported annual spend was £100 million and the highest was £1.2 billion. The table below presents the range of responses. The majority of participating LADs spend between £250 and £500 million annually through procurement. Outside of capital expenditures, social care (adult and child) was reported to account for the largest share of these procurement spends.

**Table 2: Annual procurement expenditure** 

Annual Spend (ranges)	Number of LAD		
£ 100-249 Million	2		
£ 250-499 Million	6		
£ 500- 749 Million	1		
£ 750+ Million	2		
IDK/No Response	1		

Source: Warwick IER, local authority interviews

Guiding these spends, large and small, are the procurement policies and strategies in operation within the various authorities. Every local authority reported that they either had a procurement strategy in place or were in the process of creating, updating or refining it (one had one, but it was expired). The pandemic, anticipated changes to national law, changing political views among elected leaders, and internal staffing turnover have all stymied some of these efforts to update and maintain active procurement strategies.

Although many of the individuals we spoke to reported participating in networks or collaborations to share best practice related to procurement, there were few who reported joint purchasing as a consistent feature. This was because, whilst there might be economies of scale, the nature of the service required was different even in neighbouring local authority areas. One respondent reported that they aim to find a balance between the desire for bespoke contracts and social values on the one hand, and participating in bigger collaborative contracts on the other, which allow multiple authorities to access the terms and benefit from economies of scale. The respondent further explained that a challenge for collaborations is that the needs, demographics, markets, and economic conditions of one area may be distinct from another with the result that their social value objectives, local spend needs, and outcomes are too distinct to make practical sense in joining a consortium. Independence enables their

procurement to be "more bespoke and in line with our needs and values". One exception to the rather low prevalence of consistent collaboration is STAR in Greater Manchester which is a public sector shared service managing procurement for four local authorities. It manages the procurement of all contracts above £25,000. A small number also reported using a shared tendering system or engaging with the Social Value Portal as examples of collaboration in their procurement.

### 3.2.2. Good work

During our interviews with policy and procurement leads, we asked if their authority has developed (or is considering developing) practices to promote good work. Responses to this query were mixed, also in terms of how this as interpreted. Some initially answered "No" but went on to describe the statutory mandates that are required, which relate to good work. Others reported "Yes" and likewise went on to report the statutory mandates for those who definitively answered yes. Many referred to the components of good work which are found within their Social Value Framework whilst others pointed to compliance with national regulations such as modern slavery and minimum wages. There are a small number of LADs who are pushing work standards above statutory minimums (see below).

The origin of these good work practices often came from politically elected leaders. For example, one interviewee explained that the council leader wanted to become a RLW and apply that to their contracts, so the procurement team adopted the policy. Likewise, good work through procurement was part of the manifesto of other elected leaders and adopted once these were in office. Other respondents reported that good work practices emerged from engagement with local businesses forums, chambers of commerce, and feedback mechanisms with current suppliers.

### 3.2.3. Procurement and good work

Many interviewees explained that they are interested in doing more than just encouraging the creation of local employment through the public purse. Instead, they focused on the creation of "good jobs", encourage good business practices, and furthering a vision of inclusive economic growth. A respondent explained that they believed the link between procurement and good work: "...is important but lost on some because some people think that a supplier moves into the area which means jobs. But it's about making sure it's a good job". Another explained that: "...what we need are good businesses giving good jobs and employment" in our region. Others expressed a desire to do more through good work, "...we need to go further, we've hardly scratched the surface".

The types of good work provisions put into the procurement processes in the local authorities varied from existing statutory regulations (minimum wage and modern slavery provisions) to seeking to build a movement and make shifts in the local labour market.

Table 3 provides the good work dimensions which local authority respondents identified as being in their procurement and tendering contracts. This reflects the dimensions identified from the review of procurement related documents in Section 2.

Most referred to national standards, such as the RLW, or relating to national legislative requirements e.g. Modern Slavery, Social Value, Health and Safety and the NLW.

**Table 3: Good work dimensions** 

Good work related Clauses or Conditions				
Modern Slavery				
Real Living Wage				
Social Value				
Health and Safety				
Minimum Wage				
Apprenticeships and Training				
Fair Tax				
Right to organize, trade union, or collective bargaining				
Increase employment				
Hire disadvantaged groups (e.g. prison leavers)				

Source: Warwick IER, local authority interviews

The RLW is the most common example cited of local authorities using procurement to push standards above statutory minimums. In some authorities the RLW was used as a blanket requirement applied to all contracts, other authorities applied it selectively or only utilised on a case-by-case basis, guided by service-specific considerations.

Importantly, the cost of requiring RLW among suppliers was a concern, particularly in procurement for the health and care sectors. One authority undertook a market assessment and determined they could not afford to require RLW because it would require an increase in the value of the contracts beyond its own budgets. In another authority where they had recently implemented RLW, they did so in a phased manner, recognising that the care sector would be particularly challenging and costly as the authority would have to increase its own expenditure to help cover the costs of paying the RLW on their care contracts .

Likewise, there was an expressed concern that introducing new standards related to good work (or other in other policy areas e.g. Net Zero) could disadvantage small and medium sized businesses in their area and invite large national providers instead. As one respondent explained, the: "...big boys and girls are good at this, smaller businesses see it as a barrier. So trying to work out how to encourage and commend versus mandating is something we currently working on". One authority chose to use the Social Value Portal's Themes, Outcomes and Measures (TOMs) framework to achieve their goals expressly because they believed it would reduce the burden on small and medium sized enterprises (SMEs). As one respondent explained, using the TOMs allowed them to tailor each contract to the needs of the community and local businesses.

In many instances, the good work clauses or components were not mandated but commended. In other words, bidders would be commended for complying with something like the RLW, but not excluded from the process if they did not. A major reason for this was due to legal uncertainty and the potential of a legal challenge were a concern among many

interviewees. One respondent simply said that: "...legal limitations prevented more action" on good work through procurement. Another explained that the legal risks and uncertainty meant they were proceeding "softly softly" as they sought to introduce more good work standards to the procurement process.

Before and after implementing these good work related procurement policies, some authorities often engaged with local stakeholders and business groups. Many consulted with chambers of commerce and forums in which they could engage with local small businesses who may be interested in tendering with the authority. However, only a couple of authorities mentioned engaging directly with local trade union representatives. As procurement policies changed, at least four of the authorities offered training and engagement workshops to help businesses adapt. Two authorities mentioned that they tried to communicate well in advance of any change, so that suppliers had plenty of time to understand and make changes to their own business practices.

As a result of legal risk aversion - which kept many good work elements as optional in the tendering processes - and communication and support for businesses (once these changes came into place), local authority respondents reported that there was very little negative reaction from suppliers. One explained explicitly that the: "...legal risk appetite buffeted the reaction of suppliers". And another said that pre-market training and support for businesses, coupled with careful messaging, prevented negative pushback from suppliers.

Some respondents reported that small and medium enterprises did find good work stipulations to be a burden to overcome and may have discouraged some bidding. Another explained that even before the good work conditions were included, many local SMEs found the tendering process to be too bureaucratic and that the authority needed to try and change this perception and offer more support. But they also pointed out that many industries already comply with much of the good work dimensions, especially when they are national legislation (such as the NLW), or in high paid sectors such as construction where average pay rates are already above the RLW.

An area the researchers were keen to explore were the approach of local authority's procurement practices and the existence of a Good Employment Charter at the MCA level. Only one of the MCAs currently has a Good Work Charter-GMCA. Local authorities in Greater Manchester did stand out from the others in the breadth of their good work dimensions covered in their procurement policies, and in their willingness to test the boundaries of procurement stipulations. Greater Manchester local authority procurement documents ask bidders about six different dimensions of good work. Contractors who are signed up to the GMCA's Good Employment Charter can skip those questions entirely and receive full marks. Other bidders have to explain how their businesses are complying, if at all, with the dimensions that are in both the Charter and the local authority's procurement documents. As of earlier this year, some of these six dimensions of good work have moved from "commended" to "required" in their processes.

### 3.2.4. Evaluating the Impact

When asked if including good work practices in procurement has improved working conditions in their region, the most common response was "yes, but I can't evidence it." One respondent said that it was a slow process, but they believed it was having a positive local impact and another said, 'it's too soon to tell'. However, there were some examples of improving standards. Two stakeholder respondents cited the same example for changing sick pay

practices in the construction sector, mentioning firms changing their policies to day-1 sick pay as a direct result of their engagement with the Charter. Another respondent from Greater Manchester explained that there is anecdotal evidence that the Charter is having an impact on work and employment, but that it was difficult to determine how much is real change versus giving a badge to employers who are already doing these practices.

As assessing the impact of practices depends on knowledge, which can be gained through evaluation and monitoring, participants were furthermore asked if they monitored or evaluated the impact of their procurement's good work related clauses, only two respondents indicated that their authorities did so. Both of these reported through the Social Value Portal and could report the monetised value of the Social Value created<sup>10</sup>. One of those was able to report that over half of their spend was local spend, which is reported monthly.

Insufficient resourcing was the cited reason for not having more monitoring or evaluating of their impact. One respondent explained their team had no capacity for monitoring or evaluating and that they had: "...consistently raised this concern".

One respondent expressed a dissatisfaction with reporting the impact of their work simply in pound figures. They explained that they would much rather be able to report back on the number of good jobs created, the number of prison leavers employed, etc. because: "...we know what a difference that makes". Another respondent echoed this saying that they have a pound figure for the social value, but that they needed to do more and drill down to see the legacy impact of their work.

### 3.2.5. Local Authorities Relationships to the MCA

The procurement and policy leads we interviewed had a diverse set of experiences in relationship to their local MCA. Many said that while there was collaboration and networking and sharing of practices between authorities in their area, often these were done by others, not the procurement leads. Local authority respondents in other regions of the country than GMCS did not report any substantive interaction with their MCAs. One was not aware of any discussions taking place at the MCA level regarding good work. Another reported that their MCA was looking at non-Charter means for achieving similar outcomes. In some cases, low engagement with MCAs was due to change over in staffing. Formal and informal relationships can be developed but then break down if a staff member leaves. In addition, political changes at the top due to local elections and political group changes were also cited as making some of these collaborations a challenge.

Participants from authorities within Greater Manchester were all signed up to the GMCA's Charter and spoke positively about it. One explained that while GMCA has crafted a number of statements of principles which all local authorities have agreed to in principle, they are not mandated by this. Each authority can choose to implement (or not) in ways that fit their local needs. This means that the different legal risk tolerance, political perspectives, and market needs still create a diversity of practices as relates to good work through procurement.

Respondents in areas where the MCA did not have an employment charter said that they were open to the idea of an employment charter but with some important caveats around the implementation. One explained that while they were supportive of the idea of a Good Work

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<sup>&</sup>lt;sup>10</sup> The Social Value Portal is a national mechanism for local authorities, and other organisations, to identify social value dimensions, indicators and metrics and a method of capturing their value see <a href="https://socialvalueportal.com/">https://socialvalueportal.com/</a>

Charter, they would encourage leaders to consider the implementation of such actions. They explained: "I'd encourage them to think about following through in action, what does it mean practically? Because it needs to be monitored". This was echoed by another respondent that explained the challenge will be in implementation and they questioned whether procurement is the best means to achieve these good work objectives. Another explained that any such action is welcome but that it needs to strike a balance between market needs and the capacity of providers that are SMEs on the one hand and the included criteria on the other.

### 3.3. Stakeholder Perspectives

### 3.3.1. Relationships to the MCAs

Stakeholders were interviewed in all regions and had varying levels of engagement with their respective MCAs. Respondents from Greater Manchester all had direct engagement with the MCA and its Charter, including being present or past board members. As such they were heavily involved, most from the beginning as the Charter developed, for example, providing practical and technical support to the board. In other areas, stakeholders were aware of charter discussions within the MCA but reported few discussions between the MCA and local authorities.

Some areas have anchor institution forums which bring together large local employers such as local authorities, hospitals, and higher and further education providers. In some of these there are discussions to increase local spend, develop better local employment, and achieve other collective benefits such as low carbon economic development. This has led some organisations to jointly discuss their respective procurement strategies. Furthermore, as the social work and health agendas are increasingly integrated, there are reflections between health services and local authorities (as social care providers) over their respective procurement and employment processes and practices. Where such forums exist and discussions take place, they were knocked back by the pandemic (because both health service and local authority staff were focused on pandemic priorities) and have now only just started to re-emerge.

In Greater Manchester, there was uncertainty about the impact of the Charter on procurement policies within the region. Some explained that it was unclear what was in place in the various local authorities, for example, they did not know how any of the Charter dimensions were weighted in the evaluation of tenders. Another simply said that the impact was: "...not as much as we would like." The legal uncertainty was cited as a barrier to greater impact. One respondent explained: "...the law is a barrier, people are erring on the side of caution because they do not want to push the boundaries."

The Greater Manchester Good Employment Charter is the only MCA charter to have been evaluated. The Interim Report<sup>11</sup> was published in May 2021, 17 pandemic filled months after it was launched in January 2020. The evaluation reports that over 200 employers (representing over 200,000 employees<sup>12</sup>) have signed up. Most employers reported that they had experienced at least one improvement in employment practice as a result of the Charter.

https://www.mmu.ac.uk/media/mmuacuk/content/documents/business-school/decent-work-and-productivity/GM-Charter-Evaluation-Interim-Report-June-2021.pdf

<sup>&</sup>lt;sup>12</sup> The GMCA Charter website reports more than 500 employers have signed up with a combined workforce of 500,000.

### 3.3.2. Linking Procurement and good work

Stakeholders in Greater Manchester described linking procurement to good work as a movement; a process of consistently pushing the standards higher. But there was also realism mixed into these responses as respondents explained "charters can't do everything."

In those regions without a Charter, respondents expressed hesitancy about following the charter approach. One respondent in particular mentioned that although their mayor was keen on promoting good work, they were unsure about the instrument of a charter and seemed to prefer other ways of promoting good work.

When we asked stakeholders why they were engaged in this work linking good work and procurement, many saw this as one of many levers that can be pulled in the wider drive to improve job quality.

"Procurement is a way to improve standards" and is just "one part of a tapestry of approaches." Another explained that although they wanted to see legislative change to improve working standards, they did not see this happening in the short term and they and their organisations were instead focusing on other "levers" to pull such as procurement. One bluntly explained that "with a hostile national government, relationship with local areas are better" options to trying to improve job quality.

Some stakeholders thought that trade union recognition was the key, as the presence of trade unions drives up employment standards within a sector or employer. In this context, it seems important to remember that trade unions were among the stakeholders interviewed.

Stakeholders had important insights when asked about suppliers' reactions to introducing good work clauses into the procurement processes. Sectoral differences highlighted the challenges in different industries. For example, whilst construction companies already pay high wages and has a number of good working practises in many of its major firms, the care sector was highlighted as a particular challenge. The limited government funding for care also meant that the size of contracts could not simply be increased to cover living wage requirements. And the third sector was cited as one which found it difficult to meet conditions of good work. Unique funding and budgeting processes meant many in the third sector would struggle to pay living wages or meet standard-employment contract requirements. Complicated paperwork and application processes were cited also as a particular challenge for SMEs.

However, some stakeholders believed that businesses are positive about good work practices as they impact on business metrics, such as productivity, and benefit recruitment and retention. One stakeholder said that companies are "reading the room" and realize that the direction of travel is towards improving work standards. Whilst there might be employer pushback it is up to organisations to decide whether they tender or not: "...you're not asking them to apply for public funding."

When asked to reflect on the impact of all of these efforts on good working practices in their regions, one stakeholder explained that there is "plenty of will, but no teeth" to actually move the level of working conditions. In the current economic climate, some local authorities are wary of putting off employers willing to invest in their areas.

### 3.4. Summary

There is a lot of interest and discussion around the potential for linking good work standards to public procurement in the public sector. However, local authorities are taking distinct

approaches while often trying to meet similar aims. There seem to be three levels of engagement around good work: Those authorities who simply require bidders to comply with national minimum standards (e.g. minimum wage, modern slavery); those who seek to elevate standards in a small subset of areas (e.g. encouraging RLW); and those who are seeking broader change to the labour market through procurement policy (e.g. provisions across several good work dimensions, and mandating the RLW).

Barriers to progress include under-resourced procurement departments with little capacity to effectively monitor and evaluate new initiatives, and work on common aims with neighbouring authorities and MCAs. A key concern are legal risk appetites which prevent authorities from pushing the boundaries on what can be requested in a procurement policy. Concerns about unfair advantages and disadvantaging SMEs was another barrier to introducing new good work approaches into procurement practices.

### 4. Conclusions

Based on the interviews, the review of procurement policies and other documents within the LADs and MCAs in this study, a number of cross-cutting themes emerge.

### Good work is commended, not required

Where local authorities have incorporated good work measures into their procurement policies and practices, these are rarely mandated and instead are commended or encouraged. This is driven primarily by strategy and legal uncertainty and concerns about sectoral differences, costs, and impact on SMEs in their local areas.

Although many stakeholders expressed a belief that the power of the public purse can be used to improve working conditions, many understood the limitations that prevented the mandating of good work. As one respondent in Greater Manchester explained, they have been 'slow to weaponize' the Charter. Another explained that this is about moving 'softly softly' in order to build momentum, educate and inform local businesses, and build momentum.

The Spring 2023 revisions to the GMCA procurement policy is an example of jurisdictions proceeding cautiously towards stronger good work requirements. In March, the GMCA agreed to only contract with organisations who have signed up as supporters (the minimum level of commitment) of the Charter and a guarantee that workers involved in the contract are provided working provisions that are in line with the charter including sick-pay from day-1; minimum working hours; flexible working; and staff training opportunities. These will be required within one year of the contract being awarded (rather than businesses having to prove they comply from the time of application). Although all constituent local authorities have agreed in principle to the employment charter and its link to procurement, these decisions are not binding, and local authorities may choose to implement as they see fit. It is too soon to tell how many LADs will follow the MCAs lead and link their procurement spend to the Employment Charter in Greater Manchester.

### Legal risk and uncertainty limits what LADs are willing to try through procurement

There is substantial uncertainty around the legal limits of what is possible to implement through procurement while competing with legal frameworks and fair-trading requirements. This is compounded by a longer process of legal reform, which created uncertainty about future provisions and is yet to be resolved. One interviewee explained that good work provisions are encouraged and not mandated in their authority because there is concern about possible legal challenges, but that the new law under consideration may increase their flexibility.

Because there are grey areas in what provisions (good work or otherwise) a local authority or other public sector organisations can incorporate into their procurement practices, there are different interpretations and levels of risk to set the standard. One respondent explained that each council in their MCA has its own legal team, and each of those teams will have different 'risk appetites'. Some will be more willing to risk legal challenges and mandate good work in their procurement policies, others will not. This was echoed by another respondent who explained that their legal team is 'nervous' so they don't push harder on implementing mandates into procurement.

Although policy leaders and stakeholders have identified procurement and public spending as a major lever for influencing wages and working conditions, it is unclear where those legal limits are found.

There is also a policy vacuum around good work at national level which MCAs and some local authorities have tried to fill. Little progress has been made since the Taylor Review and the Government's initial response to it, despite promises of legislation. This means that there is little coherence in definitions, metrics and measures of success for good work even for relatively straightforward dimensions such as pay and benefits. This is much less the case in Greater Manchester, the only one of our case study areas with a Charter. In the GMCA area there is a much more coherent approach within and between local authorities, and with the MCA around good work and its inclusion in procurement practices.

### Resources and staffing limit capacity to do more.

In our study, a near universal observation by stakeholders and representatives from the LADs was that there are significant resource and staffing limitations in local procurement offices. These resource and staffing constraints hinder their ability to do more towards the policy aim of promoting good work. Further, the landscape of who is involved is "ever-changing" and that it may be a challenge to get in touch with LAD respondents because of their staffing levels<sup>13</sup>. Within the interviews conducted, this was echoed in multiple ways. Staffing restrictions were identified as a reason why better monitoring and reporting of procurement was taking place in some LADs and MCAs and not others. The loss of staff and difficulty hiring was identified as a challenge in creating new strategy documents and daily operations. Limited staffing capacity also limits the ability of procurement officers in different sub regional authorities to work together to develop aligned approaches and processes across MCA areas. The lack of resources thereby contributed to suboptimal implementation outcomes, which seems to align with previous findings on the importance of adequate resources for the successful implementation of social public procurement practices (Walker and Brammer, 2009).

Linking procurement to good work dimensions, particularly around pay and benefits, would often require LADs to increase the value of the contract. Two LADs pointed to this as a challenge that needed addressing. In one, the good work provisions were phased in to allow the council and suppliers time to meet the new higher costs associated with requiring the RLW, a finding that aligns with previous studies that point to the impact of economic considerations and viability for sustainable public procurement practices (Walker and Brammer, 2009).

A serious skill shortage in procurement was also noted. This was made more challenging by the relatively higher pay rates in the private sector due to pay constraints in local government. This has led to higher levels of staff turnover in local authorities. COVID-19 and austerity have increased these challenges. During the pandemic staffing priorities shifted and long term procurement strategy planning was put on hold. And limited local budgets mean there is often little room for increasing capacity and replacing staff.

### Gaps between policy aims and practical realities

Through the interviews with both stakeholders and procurement and policy leads, it became apparent that there is often a gap between policy aims and practical realities of implementing social value through public procurement. These 'implementation gaps' (e.g., Hill and Hupe, 2022) are manifested in a disconnect between policy and political leaders, and procurement teams; and between local authorities and regional governance.

<sup>&</sup>lt;sup>13</sup> Local authority respondents were asked why they could not participate. Lack of time, staff unavailable due to sick leave, recent and staff changes were most frequently cited.

Speaking about the challenge of addressing local deprivation, one stakeholder explained that 'it can't all be pinned on the charter' while a procurement lead stated that 'it's not all down to procurement'. No single approach will be able to singlehandedly address the challenges of improving working conditions in a local labour market.

Implementing the existing good work provisions within LADs procurement policies was a challenge, but they can be achieved. As one policy respondent explained: "It is all very difficult to implement and monitor. Our procurement colleagues were initially like oh this is too complicated. But we took them on a journey to explain the power of the pound. And eventually they got there. And we will continue to be on this journey."

Local authority respondents said that policies and strategies needed to be drafted in consultation with those that would implement them. One procurement lead explained that policy objectives and procurement policies had been drafted with little consultation amongst their procurement colleagues. When it came to implementation some original aspirations could not be met and so the policy needed to be adjusted.

Resource constraints (see above) were mentioned in multiple interviews as a reason for the gap between political aims and practical realities. This lends further support to the importance of economic considerations and resources for successful implementation as highlighted for instance by Walker and Brammer (2009).

Finally, balancing multiple, and at times conflicting political aims, is a challenge. A number of interviewees alluded to the challenges of incorporating good work while also supporting local SMEs to benefit from the power of local public spend. It was believed that many SMEs would have difficulty complying with new requirements related to good work and may therefore drop out of the competition. However, these concerns were often countered with outreach and training events for SMEs interested in bidding.

### Political backing is important

Sub national authorities do not have legislative powers in the area of employment. So, if they are wanting to develop better work practices and conditions in their areas they have to resort to 'soft' (e.g. voluntary charters) or 'harder' (such as procurement) mechanisms. All such interventions incur costs so political commitment is required. Linking procurement and good work at a local authority level depends on the political leadership of the local authorities. There is very little cross-authority working.

MCA Good Work Charters have not been introduced in areas where it was not included in the successful Mayor's manifesto. Similarly, LAD respondents that have been at the forefront of linking procurement and good work, are in those areas where there has been an explicit or implicit policy drive from elected leaders.

In Greater Manchester there has been coherence in political ideology and drive at both MCA and local levels, with employment charters existing at both levels. This coherence has enabled LADs to work together to develop a combined procurement system, as well as linking in good work requirements at the local and MCA levels. Currently, a contractor signing up to the GMCA Employment Charter will automatically meet LAD good work requirements. This provides consistency across sub national authorities and also for suppliers who contract in more than one area.

In other areas, there is much less, or an absence of, joint working on procurement, good work and linking the two. In South Yorkshire there is the most political coherence of the three non-

charter MCAs. SYMCA has the most recently elected mayor and has discussed whether it should develop a good work charter, but it was not a mayoral commitment. Any initial discussions between the sub national authorities in the area of good work and procurement were stymied by the pandemic. Whilst there is some cross-authority working on some procurement contracts, there is only limited awareness on what others are doing on linking good work with procurement.

While in C&PCA and WMCA there is no coordinated work undertaken on good work and procurement, individual authorities, particularly in the WMCA area were developing approaches to using public procurement as a tool for promoting good work.

Our study therefore suggests that political support is important for creating and sustaining consistent practices of linking public procurement and good work. This is a finding that aligns with previous research that highlighted the importance of a legal impetus, political support and commitment of and support from management as crucial for successfully implementing sustainable public procurement practices (Brammer and Walker, 2011; Grandia et al., 2013; McCrudden, 2012).

### **Final conclusions**

There is an increasing focus and amount of work being undertaken to increase the local value of LAD spend. The focus is usually on social value and increasing spend going to local suppliers. But increasingly there are attempts to secure improvements in local employment conditions and practices through linking good work dimensions to local authority procurement.

The biggest challenges to these efforts is the lack of policy coherence and resource constraints. At a national level, whilst social value and good work are identified as Government commitments, there have been delays in legislation to both the procurement and employment aspects of this. Without these, sub national authorities - MCAs and LADs - are wary of the extent of how far they can go in including stipulations in their contracting processes. Where there has been the greatest political coherence, in Greater Manchester, both the MCA and local authorities have been able to make the greatest strides in linking good work conditions to local procurement. The lack of resources, particularly in terms of staffing, posed challenges for the successful implementation, including in particular the monitoring, of social public procurement. Our findings thereby seem to support previous findings that point to the importance of political commitment and leadership and resources (e.g., Brammer and Walker 2011; Grandia et al., 2013; Walker and Brammer, 2009) and extend these particularly to practices of linking public procurement and good work.

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