



Changing the world
of work for good

Linking employment charters to procurement

Opportunities and challenges

September 2022

Contents

Executive summary	3
Introduction.....	5
Overview of employment charters	5
Charters and procurement.....	7
Using charters to encourage procurement (including subcontracting) through local supply chains	7
Incorporating charters into procurement to improve employment standards.....	8
Enabling factors.....	13
Challenges	16
Conclusions and ways forward.....	19
Recommendations.....	20
Appendix – further reading.....	24

Executive summary

Employment charters have emerged as an important means of securing commitment to good work standards, notably among employers. As charters have become established, innovative approaches to linking them to public procurement have emerged.

There is strong justification for contracting authorities to make charter compliance a criterion for accessing funding and involvement in procurement processes. It can provide a compelling financial incentive for suppliers to adhere to good work practices, notably among those who would not otherwise be inclined to meet charter standards. It can help contracting authorities to ensure that procurement furthers their own strategic objectives around quality local employment, social value and economic development. It can also strengthen public trust in spending decisions, thereby improving the reputation of public authorities.

This briefing explores how charters have been linked to procurement in practice and the enabling conditions that have made this possible. These include individual 'champions' – notably elected officials; innovative procurement teams who are committed to putting social value objectives into practice; strategic engagement between contracting authorities and trade unions; active use of the enabling aspects of the legislative and regulatory framework; and providing support to employers to implement charter standards.

Key challenges are also explored, including the capacity and priorities of procurement and charter teams; concerns around legal challenge; and ensuring consistency and compliance once charter implementation has been formalised in a public contract.

Real-life examples are presented to demonstrate the legal and practical feasibility of incorporating charters into procurement, and to demonstrate how challenges have been overcome.

We conclude that integrating employment charters into procurement is entirely possible. The priority now is to accelerate progress towards putting this into practice on a wider scale. Detailed and evidence-based recommendations on how to further this agenda are provided. Critical elements include:

- Fostering broad-based commitment among key stakeholders to good work and understanding of how procurement can help to achieve it.
- Building knowledge on the legal and practical feasibility of integrating charters into procurement processes.
- Facilitating charter compliance, including by supporting employers to meet charter standards and providing comprehensive resources for charter development, implementation, monitoring and evaluation.

- Engaging with trade unions to develop and implement charters as well as to support monitoring of charter compliance to ensure that employment-related clauses in public contracts are not breached.
- Creating an enabling national policy environment, including through the Westminster Procurement Bill and Social Partnership and Public Procurement (Wales) Bill.

Introduction

Employment charters have emerged as an important means of securing commitment to good work standards, notably among employers. At the same time, innovative steps have been taken to integrate charters into public procurement as a means of ensuring that public contracts, and money, support strategic goals around the achievement of good work.

This briefing explores how charters have been linked to procurement and the enabling conditions that have made this possible, as well as key challenges and how they have been overcome. It draws on desk research and discussions with people involved in both charters and procurement. Given the legal specificities involved the main focus is on England, although examples from Wales and Scotland are used to provide illustration where relevant.

Real-life evidence is presented to demonstrate the legal and practical feasibility of incorporating charters in procurement. The briefing concludes by laying out critical pathways to scale-up and build-on successes to date, with tailored recommendations to contracting authorities, the Westminster government, those involved in charter development and implementation, and trade unions.

Overview of employment charters

Charters are voluntary initiatives which set out employment standards for employers, aim to change business practice to deliver good work, and give credit to those employers that adopt them.¹ They often provide advice and guidance for employers, employees, trade unions and local authorities, among others, to evaluate and improve employment quality.² They may also be referred to as a fair/decent work pledge, convention, agreement, framework or code.

Employment charters are often referred to as 'soft power' tools which help fill gaps in national-level statutory employment standards by drawing on established good work guidelines to establish a locally and/or sector-specific framework to address decent work deficits.³ Some also promote socially responsible business activities not directly relating to their own workforce, such as engagement with local supply chains, community volunteering or environmental protection.⁴

Charters generally incorporate the dimensions of Good Work identified by a working group on job quality convened by the Royal Society of Arts and Carnegie UK, spanning terms of employment; pay and benefits; job design and nature of work; social support

¹ Hughes et al. (2017) [Good jobs in Greater Manchester: the role of employment charters](#). Inclusive Growth Analysis Unit.

² Cao et al (2022) The Midlands Good Work Charter: Advancing employment policy and regional innovation in post Covid Midlands. Presentation at Keele University, 29 June 2022.

³ Johns et al. (2019) [Decent work: Harnessing the power of local government](#). IPPR North.

⁴ Hughes et al (2017)

and cohesion; health, safety and well-being; work-life balance; voice and representation.⁵ Yet the exact criteria included in each vary to reflect the different needs of the workforce in different places or sectors, and as a result of the often-extensive consultation processes (and compromises) informing their development and implementation.⁶ For example, not all require businesses to meet the Real Living Wage (RLW), and equality, diversity and inclusion are features of some.

Dickinson (2022) provides an overview of charters in place to date, including:

- Those developed by English Mayoral Combined Authorities, e.g. the Greater London Authority (2018), Greater Manchester Combined Authority (2019) and North of Tyne Combined Authority and West of England Combined Authority (both in 2022).
- Those developed by specific localities: e.g. Birmingham City Council's Birmingham Business Charter for Social Responsibility⁷, and Salford City Council's living wage charter.⁸
- Devolved country administration-led initiatives, e.g. Scottish Business Pledge and Welsh charter on ethical supply chains.
- Charters developed for particular labour market groups: e.g. Business in the Community's (BITC) Race at Work Charter⁹; the Disability Employment Charter¹⁰;
- Sectoral-level charters, including those developed by trade unions, such as the UNISON Ethical Care Charter¹¹ and the Unite the Union Construction Charter.

There are a range of factors which can help the development of charters, including political / Mayoral backing (notably through a manifesto commitment); information-sharing and support from those who have already been involved in developing and implementing charters; support and backing from a range of organisations (such as employers, the TUC and trade unions, the Chartered Institute of Personnel Development (CIPD), the Federation of Small Businesses (FSB) and the Advisory, Conciliation and Arbitration Service (ACAS); and the extensive involvement of a wide-range of stakeholders during their development, design and monitoring to foster buy-in and continued engagement.¹² Similarly, key determinants of charter success have emerged, including continued political commitment and high-level leadership within

5 Dobbins (2022) [Good Work: policy and research on the quality of work in the UK](#). House of Commons Library.; Irvine et al. (2018). [Measuring Good Work: The final report of the Measuring Job Quality Working Group](#). Dunfermline: Carnegie UK Trust/RSA.

6 Dickinson, P. (2022) Review of Employment Charters in the English Mayoral Combined Authorities, ReWAGE, Universities of Warwick & Leeds.

7 See [Birmingham Business Charter for Social Responsibility](#).

8 See [City Mayor's Charter and Living Wage](#).

9 See [Race at Work Charter](#).

10 See [The Disability Employment Charter](#).

11 UNISON (Nd) [The Ethical Care Charter](#).

12 Dickinson (2022).

local authorities; sustained funding to support sign-up, adherence and monitoring; a strong communications and outreach strategy; and ongoing engagement of key stakeholders including trade unions and employers' organisations. Further sources of information on charter development, implementation and impact can be found in the Appendix.

Charters are a relatively new way to secure quality work and as such many remain iterative, with those involved on a journey towards identifying their optimum form and implementation mechanisms. Nonetheless, their use as a tool to develop locally relevant good work frameworks is likely to continue to gather momentum as devolution processes continue across the UK.

Charters and procurement

As charters have become established, innovative means of linking them to public procurement have emerged. There is strong justification for contracting authorities making charter compliance a criterion for accessing funding and involvement in procurement processes. It can provide a compelling financial incentive for suppliers to adhere to good work practices, notably among those who would not otherwise be inclined to meet charter standards, which can also offset the costs to employers of implementing a charter.¹³ It can help contracting authorities ensure that procurement furthers their own strategic objectives around quality local employment, social value and economic development. It can also strengthen public trust in spending decisions, thereby improving the reputation of public authorities.¹⁴

Charters have been linked to procurement in two main ways: 1) by encouraging contracted organisations to procure and/or subcontract through local supply chains, and 2) incorporating charters into procurement to improve local employment standards. These are considered in turn.

Using charters to encourage procurement (including subcontracting) through local supply chains

'Supply Chains and local impact' is frequently included as a category within charters, with companies signed up to the charter making commitments including seeking quotes from local businesses and suppliers, ensuring timely payment of suppliers and supporting local partnership and co-operation. According to the IGN Good Work Indices,¹⁵ charters containing one or more of these criteria include:

- Birmingham Business Charter for Social Responsibility

¹³ Dickinson (2022)

¹⁴ OECD (2022) [Integrating responsible business conduct into public procurement supply chains: Economic Benefits to Governments](#)

¹⁵ IGN (2020) [IGN index of fair employment charters](#).

- Croydon Good Employer Charter
- North of Tyne Good Work Pledge
- Scottish Fair Work Convention and Scottish Business Pledge

Some contracting authorities explicitly reference their own actions in this regard. For example, Preston City Council's Fairness Charter furthers the local wealth building agenda underpinning the 'Preston model', by 'keep[ing] value and wealth in the Preston economy by sourcing our goods and services in the area and applying social value criteria to all our procurement and contracting practices'.¹⁶ Procurement spending with Preston-based organisations rose from 5 per cent in 2012/13 to 18 per cent in 2018, representing an increased spend of around £70 million in the Preston economy.¹⁷

Incorporating charters into procurement to improve employment standards

In recent years devolved authorities at different levels have taken steps to incorporate charters into procurement as a means of promoting and improving employment standards.

Scotland and Wales have seen national-level initiatives emerge. In Wales, the 'Code of Practice for Ethical Employment in Supply Chains' was developed by the Workforce Partnership Council, a tripartite social partnership structure of trade unions, employers and the Welsh Government. The code, first published in 2019, lays out the 12 commitments expected from recipients of public money to deliver goods and services, which span the elimination of illegal and unethical employment practices and false self-employment, implementation of the living wage, and non-use of zero-hours contracts, among other areas.¹⁸ To supplement this, non-statutory guidance has been produced on issues including blacklisting and implementation of the Real Living Wage.¹⁹

The Social Partnership and Public Procurement (Wales) Bill, introduced in the Senedd in June 2022, will also create the conditions for greater well-being to be achieved as a result of Wales's £6.5 billion annual procurement spend.²⁰ It will require public bodies to produce procurement strategies which state how they will deliver towards the Well-being Goals (as defined by the Well-being of Future Generations (Wales) Act 2015),²¹ and mandate the inclusion of model clauses covering workforce matters in high-value

¹⁶ Preston City Council (Nd) [Preston's Fairness charter](#)

¹⁷ Centre for Local Economic Strategies [CLES] (2018) [Wealth for all: Building new local economies](#).

¹⁸ Welsh Government (2021) [Ethical employment in supply chains: code of practice, guidance and training](#).

¹⁹ Ibid.

²⁰ Welsh Parliament (2022) [Social Partnership and Public Procurement \(Wales\) Bill](#).

²¹ Legislation.gov.uk. [Well-being of Future Generations \(Wales\) Act 2015](#).

(£2.5m+) construction projects and the outsourcing of public services, effectively putting the two-tier code on a statutory footing.

In Scotland the Fair Work Convention, in place since 2015, brings together employers, trade unions and academics to promote and advocate for decent work and to advise Scottish Ministers in this area.²² Accompanying guidance on fair work procurement requires public bodies to ensure that procurement promotes fair work and that working conditions are taken into account during quality and cost assessments, and that suppliers demonstrate that all workers engaged in delivering public contracts experience fair work practices.²³

We turn now to consider sub-national examples from England.

Case study one: Southwark Ethical Care Charter (SECC)

In recent years Southwark London Borough Council has been a leader in incorporating employment charters into its procurement and contract management. Its 2019 Fairer Future Procurement Framework (FFPF) outlines a requirement for contracting organisations to meet the first (foundation) level of the London Mayor's Good Work Standard, with accreditation to the higher levels of the standard 'encouraged'.^{24,25} It also states support for the Unite Construction Charter, directing contractors to 'review' the Charter to 'support ethical employment practices on Southwark construction sites.' The FFPF also invokes the Public Services (Social Value) Act 2012, stating that it will 'go beyond the narrow focus of the legislation and consider what social value can be delivered during the development of all procurement strategies' to support the 'the social, economic or environmental wellbeing of Southwark and its residents' (see the FFPF for more detail).

Going further still, the FFPF also reiterates Southwark Council's ongoing requirement that contracting organisations comply with the Southwark Ethical Care Charter (SECC). This approach has been recognised as exemplary practice in procurement – in 2020 Southwark Council won a UK National GO Excellence in Public Procurement Award

²² Fair Work Convention (Nd) [The Fair Work Convention](#).

²³ Scottish Government (Nd) [Public sector procurement](#).

²⁴ The FFPF 'sets out how the council will use its procurement to support the delivery of the Borough Plan and Fairer Future Commitments and the processes and practices that are needed to do this' and 'the values that inform the procurement of goods, works and services for high value contracts. For procurement below £100k officers will have regard to the resources available to smaller providers which may bid for lower value contracts.'. See <https://www.southwark.gov.uk/assets/attach/101779/Fairer-Future-Procurement-Framework-January-2022.pdf>.

²⁵ Mayor of London (Nd) [The Good Work Standard \(GWS\)](#).

(social value category) for having embedded the SECC in the re-commissioning of Care at Home Services.²⁶

In late 2013 Southwark Borough Council adapted the Ethical Care Charter developed by the trade union UNISON²⁷ to develop the SECC, which stipulates the requirements the council has of home care providers. Key provisions in the SECC relating to employment standards include occupational sick pay schemes and training for care workers, and a stipulation that 'zero hour contracts will not be used in place of permanent contracts for care workers.'²⁸ Care commissioning documents published by Southwark Council confirm that the SECC features throughout its procurement process, with tender documents including a stipulation around compliance with the SECC and award notices confirming that successful bidders meet these requirements.²⁹

Suppliers are required to agree to implement the SECC in their tender submission, which later becomes a contractually binding commitment. Suppliers are audited for compliance during the contracting stage and negotiation about priority aspects of the charter to implement often takes place, with support provided by the Council to enable providers to implement more challenging areas. Sick pay and trade union recognition and engagement are often among the last points of the charter to be adopted and are often put in place after the contract is in place. Compliance is then monitored by the contract management team. The Council also has an ongoing, open dialogue with the care sector through regular provider forum meetings, giving opportunity for discussions around the Council's strategic objective of ensuring good working conditions as part of the overall health and care system, and to collaborate and share ideas around what good charter implementation looks like.³⁰

An independent evaluation confirms several positive outcomes of the adoption of UNISON's Ethical Care Charter by Southwark Council. A move away from zero-hours contracts was enacted by setting a target for providers to offer 'Guaranteed Hours Contracts' (GHCs) for at least 16 hours per week for 70 per cent of homecare workers, although uptake by existing workers was low (less than 20 per cent). During a monitoring period from July 2015 to June 2016 staff turnover reduced overall, an increase in qualified staff was identified, and staff groups reported feeling more valued and their work recognised. Implementing occupational sick pay proved challenging, with cost and administrative burden cited as reasons for low implementation by providers.

²⁶ Southwark Council (2020) [Southwark Council wins excellence in procurement award for ethical care service provision](#)

²⁷ UNISON (Nd) [The Ethical Care Charter](#).

²⁸ Southwark Council (Nd) [Southwark Ethical Care Charter \(SECC\)](#)

²⁹ Southwark Council (2021) [Gateway 2 – Contract Award Care at Home and in the Community for Children & Young People](#).

³⁰ Direct communication with Southwark Council official for this briefing, August 2022.

Critically, aside from mandating adherence to the SECC in its procurement, Southwark Council put in place strong institutional mechanisms to ensure the success of the SECC: adequate funding was made available for its implementation through corporate budgets in addition to existing adult social care budgets, and compliance has been monitored through KPI-based frameworks and staff surveys undertaken by contracted care providers.³¹

In February 2022 Southwark Council agreed a Residential Care Charter, which has been endorsed by UNISON.³² This charter has been built into all subsequent residential care procurement processes, and the Council is offering support and some flexibility to enable providers to comply – for example facilitating union recognition by brokering meetings between the supplier and trade unions and allowing some time during the inception phase of the contract for trade union relations to become formalised.³³

Case study two: Birmingham Business Charter for Social Responsibility

Birmingham City Council's Business Charter for Social Responsibility is a set of guiding themes adhered to by the Council itself to deliver social value.³⁴ Key employment-related principles include:

- **Employment:** supporting employment opportunities for local residents and access to council employment and skills services
- **Good employers:** adherence to the council's living wage policy, recognition of rights of freedom of association, commitment to health and wellbeing of employees, promotion of diversity and inclusiveness, no use of exploitative zero-hours contracts.
- **Ethical procurement** in own operations and within their supply chain.
- **Environmental protection** in all activities.

Some contractors and grant recipients are expected to adopt the charter, with signatories required to develop an action plan specifying how they will improve the economic, social, and environmental wellbeing of the locality. Compulsory signatories must submit an action plan within their tender return with the actions specified 'relevant to the contract'. Key social value questions are included in the tender process to highlight most relevant aspects of the charter.³⁵ A tiered approach to charter commitments was put in place, with contractors and grant recipients subject to thresholds as outlined in Figure 1:

³¹ Moore (Nd) [An Evaluation of UNISON's Ethical Care Charter](#).

³² Southwark Council (2022) [Southwark first council in the country to protect all care home staff with new charter - Southwark Council](#).

³³ Direct communication with Southwark Council official for this briefing, August 2022.

³⁴ Birmingham City Council (Nd) [The Charter and policies](#)

³⁵ Hughes et al (2017); Hurrell et al. (2017) [Local employment charters: case studies from the UK](#).

Figure 1: A tiered approach to charter commitments for contractors and grant recipients³⁶

	Tier 1 Charter does not apply	Tier 2 Light touch application tailored by contract or grant type	Tier 3 Fully consider Social Value and all action plan measures
	Contract value or grant value as appropriate		
Contracts for Services	<£200k	£200k to £750K	Over £750K
Contracts for supply of Goods	< £1m	£1m to £5m	Over £5m
Contracts for execution of Works	< £1m	£1m to threshold in Article 4(a) Directive 2014/24/EU*	Over threshold in Article 4(a) Directive 2014/24/EU*
Grants	< £200k	£200k to £750K	Over £750K

Analysis of the charter shows it is well-integrated into Council activities and there is strong motivation to commit to the charter among businesses set to gain through being awarded a contract or grant. Institutional factors contributing to its success include high-level political and business buy-in, and dedicated resources to support the charter’s management.³⁷

Case study three: Salford City Mayor's Charter for Employment Standards

Salford’s employment charter was launched in 2013, and contains three pledge categories which signatories are required to adhere to:³⁸

- **Investing in the local workforce:** creating training and employment opportunities for Salford people.
- **Being an equal and inclusive employer:** delivering and supporting workforce equality.
- **Setting the standard:** adopting excellent working practices and conditions – including paying or working towards paying staff the Living Wage Foundation Living Wage as their minimum wage; using ethical employment contracts and decent working conditions; and policies to improve health and wellbeing and support staff retention.

Salford City Council made a concerted effort to link the charter to its procurement. The Council worked with the with Salford Clinical Commissioning Group to develop collective guidance and undertook a review of legal advice.³⁹ Following this, they began

³⁶ Source: Hurrell et al (2017).

³⁷ Ibid.

³⁸ Salford City Council (Nd) [City Mayor's Charter and Living Wage](#)

³⁹ Johns et al. (2019)

to apply the Social Value Act in combination with the charter to encourage contractors to pay the living wage. As Johns et al. (2019: 20) explain:

'Because the charter includes a living wage commitment, and the charter is referenced in invitations to tender as a key component of social value, Salford is able to include the living wage as part of the evaluation of bids. The council reinforces this in a number of ways: it references the living wage in its procurement strategy, promotes the living wage, the city mayor's employment charter and its social, economic and environmental objectives in all bidder-facing, procurement-related information. This enables Salford to incorporate the living wage in the procurement of services, goods and works – including in social care.'

Independent analysis of the Salford charter confirms it is strongly linked into procurement and commissioning processes, and the City Council has made significant effort to ensure the charter is a meaningful quality mark for good employment standards by requiring evidence of delivering on the charter commitments for accreditation. However, this has meant that relatively few employers have attained this status, including because some components are perceived to be difficult to evidence – such as the prohibition on the use of zero-hours contracts. Other challenges have included securing dedicated resources to support employer engagement, monitoring and evaluation.⁴⁰

We now turn to a brief consideration of the enablers and challenges that have emerged when incorporating charters into procurement with the aim improving employment standards.

Enabling factors

Individual 'champions' and committed procurement teams

The strongest determinant of the successful integration of good work frameworks into procurement processes is committed leadership, including individual 'champions' – notably elected political leaders, as has been the case in Southwark Council and Salford City. Relatedly, commitment among procurement officials to embedding social value and good work principles is critical, with the inclusion of good work goals in the corporate objectives of the procuring organisation assisting them in this task.⁴¹

Interaction between officials engaged in commissioning and procurement and trade unions

The experience of the UNISON Ethical Care Charter illustrates how a good working relationship between unions and local government procurement officials can help

⁴⁰ Hurrell et al (2017)

⁴¹ Harrison and Edwards (2018) [Making Procurement Work for All](#). Carnegie UK.

facilitate the use of charters as a benchmark for good work in procurement. Where this worked well, local UNISON branch officials worked with commissioners and politicians to embed higher employment standards in line with the charter, including by revising and restructuring existing contracts, and activists and organisers used public meetings to hold politicians accountable for using contracting to improve quality of care and carer working conditions.⁴²

Legal and regulatory framework

The UK legal and regulatory framework mandates public authorities to consider social value in procurement, including decent work standards. As Johns et al. (2019) detail, various aspects of the current legal and regulatory framework - taken together - create an enabling environment in this regard, with key provisions including:

- The 2012 Public Services (Social Value) Act, which requires public authorities to consider, at the pre-procurement stage, 'how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area' (3,a).⁴³
- Regulation 70 of the Public Contracts Regulations 2015, adds specific reference to employment terms, including that 'Contracting authorities may lay down special conditions relating to the performance of a contract, provided that they are, (a) linked to the subject-matter of the contract within the meaning of regulation 67(5), and (b) indicated in the call for competition or in the procurement documents. [...] Those conditions may include economic, innovation-related, environmental, social or employment-related considerations.'⁴⁴
- Section 17(11) of the Local Government Act 1988, which facilitates compliance with the duty to comply with the 2012 Social Value Act, thereby paving the way for 'the terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces' (Local Government Act Section 17, 5(a)) to be taken into account by contracting authorities.
- The Local Government Act 1999 which introduced a best value duty, thereby significantly expanding the scope for including employment-related outcomes in procurement.
- Since January 2021 'In-scope organisations' (Central Government Departments, their Executive Agencies and Non-Departmental Public Bodies) have been required by procurement policy (PPN 06/20) to implement the 'social value model' of

⁴² Johnson et al (2021) '[Raising the bar? The impact of the UNISON ethical care campaign in UK domiciliary care](#)'. *Transfer: European Review of Labour and Research*. 2021;27(3):367-382.

⁴³ Legislation.gov.uk (2012) [Public Services \(Social Value\) Act 2012](#).

⁴⁴ Legislation.gov.uk (2015) [Public Contracts Regulations 2015, Regulation 70](#).

procurement, with a minimum weighting of 10% of the total score to be applied for social value in procurement, although a higher score can be applied if justified.⁴⁵

In addition, Public Sector Equality Duty (PSED), which came into force in April 2011, obliges public authorities to tackle discrimination and promote equality, including in public procurement. Yet knowledge on the impact of the PSED in practice when applied through procurement processes remains limited, notably around the extent to which it has affected company behaviour towards employees.⁴⁶ Similarly, despite workforce equality featuring in several charters, evidence of the impact of these equalities criteria remains limited. We suggest that the PSED provides an important legal mandate to secure progress in charter equalities provisions, given the obligation it places on public authorities to advance equality through procurement.

Importantly, the Westminster Procurement Bill being debated in Parliament at the time of writing will provide a new legal framework for procurement in England. 'Public benefit' is currently included in the Bill as a core objective of procurement, which according to the government encapsulates social value considerations.⁴⁷

As discussed above, Salford City council used the Social Value Act and its Employment Charter together to encourage contractors to pay the living wage and included this in contract bid evaluation.

While not specifically relating to an employment charter, legal advice received by Liverpool City Council is worth mentioning, as it found that employment terms could be included in procurement to enable compliance with best value duty. As a result, the Council makes a case-by-case assessment of compliance with the guidance and includes justifications for this from the pre-procurement business case stage onwards as a Specific Procurement Consideration to demonstrate the council's belief of conditions being necessary, expedient or proportionate to contract subject matter. This has led bidders to be asked for information on pay policy and commitment to living wage, fair employment practices, no inappropriate use of zero-hours contracts and learning and development opportunities, among other aspects of decent work, to be included in tender documentation.⁴⁸

Commitment to putting social value into practice

Local authorities interpret and enact social value in different ways, with many outlining their approach to social value within their procurement framework. Government

⁴⁵ Cabinet Office (2020) [Procurement Policy Note PPN 06/20 – taking account of social value in the award of central government contracts](#).

⁴⁶ E. K. Sarter & Emily Thomson (2020) '[Fulfilling its promise? Strategic public procurement and the impact of equality considerations on employers' behaviour in Scotland](#)'. *Public Money & Management*, 40:6.

⁴⁷ See UK Parliament [Procurement Bill \[HL\]](#); Cabinet Office (2020) [Green Paper: Transforming public procurement](#).

⁴⁸ See Johns et al. (2019) for full detail of this case.

guidance states that social value can be included as criteria in the procurement process, though with some limitations, and that criteria should be transparent and non-discriminatory, awarded by a body independent of the supplier, and be sufficiently advertised during the whole procurement which – as the Salford City Council case shows – can enable the inclusion of employment charters.⁴⁹ Importantly, the guidance stipulates that bidders cannot be excluded for not having achieved a particular label, such as an employment charter accreditation, and should be scored during tender evaluation as if they have attained the relevant charter criteria if they provide relevant evidence.

Supporting employers to join and implement charters

Providing support and accompaniment to employers to sign up to and implement charters emerges as an important means of ensuring their standards are met. Diverse forms of support are provided by some charter teams even when not linked to procurement – for example the Greater Manchester Combined Authority charter team has developed guidance, direct support and other information materials including a podcast.⁵⁰ Support from contracting authorities has proved essential during procurement and contract management processes to ensure compliance with all aspects of charters, notably around elements perceived as more difficult to achieve such as trade union recognition.

Challenges

Capacity and priorities of procurement and charter teams

The same long-standing concerns among procurement officials around the operationalisation of the good work aspects of social value also appear to come into play when charters are proposed as the main framework through which to raise employment standards through procurement. These include:⁵¹

- Perceptions among procurement professionals that influencing work quality is outside the remit of procurement.
- Concerns that despite legal provisions to further social and ‘added value’ considerations, price (to procurer and supplier) remains the overriding emphasis of procurement, and perception of this being incompatible with furthering good work given ever-decreasing budgets.
- Pressures on capacity in procurement departments which limit room for creativity and ability to innovate to navigate hugely complex procurement systems and processes.

⁴⁹ Johns et al. (2019).

⁵⁰ See: <https://www.gmgoodemploymentcharter.co.uk/podcast/>.

⁵¹ Harrison and Edwards (2018) [Making Procurement Work for All](#). Carnegie UK.

Similarly, the site of responsibility for charter development and implementation within authorities varies. For example, some have dedicated units while others operate as part of a wider business support function. This can shape the level and nature of resources available to ensure charter success as well as the experience and priorities of charter team officials.⁵²

These factors have led to a disconnect between the aspirations of politicians around charters and their translation into procurement. However, union officials involved in charter initiatives highlight that presenting successful examples of how political aspiration has been realised in practice can help to further progress.⁵³

Concerns around legal challenge

Evidence around hesitation among procurement officials to incorporate employment standards into procurement points to lack of clarity or shared understanding around what is legally possible in relation to 'value add' or good work elements, as well as a lack of consensus around the means of legal enforcement of contract provisions around employment.⁵⁴ Similar considerations come into play around linking a charter-based employment standards framework to procurement, including (perceived) challenges about basing procurement on aspects of employment standards contained in charters that are not otherwise legally enforceable. Avoiding the potential for legal challenge remains a key preoccupation of public procurement teams, and contracting authority representatives more widely.

This challenge has been dealt with in various ways. In some cases, those developing charters have sought advice on legally enforceable labour standards and based the charter on these elements, as happened with the Unite Construction Charter.⁵⁵ However, this approach is not unanimously endorsed by all of those involved in charter development given that exceeding statutory minimum labour standards is a foundational objective for many.

Another approach is for those involved to seek legal advice and carefully tailor the procurement strategy and process to comply with the legal framework, as discussed above. The aforementioned examples of where this has taken place show that charter provisions which raise the bar higher than statutory employment standards can and have been successfully incorporated into procurement. Moreover, those involved have been recognised and rewarded for their innovation – as the prize awarded to Southwark Council Excellence in Public Procurement demonstrates.

Furthermore, some have highlighted that the risk is low in practice as contracting authorities who have included living wage policies in procurement strategies have not

⁵² Dickinson (2022)

⁵³ Direct communication with Unite official involved in the Unite Construction Charter for this briefing, June 2022.

⁵⁴ Harrison and Edwards (2018) [Making Procurement Work for All](#). Carnegie UK.

⁵⁵ Ibid.

been subject to legal challenge.⁵⁶ As one representative of Southwark Council explained, *'Nervousness about going above the legal minimum is not an issue in-house. We are clear what we expect and if people want to get contracts they have to come on board with that. Southwark Council is known for our charter and it's part and parcel of doing business with us.'*⁵⁷

Ensuring consistency and compliance

Formally integrating charters into procurement processes is not the end of the story, and ongoing effort and support is required to ensure consistency in the application of relevant provisions and compliance with contracts awarded. Challenges stem from the frequent division in responsibility within contracting authorities for procurement and contract management, which can lead to weak enforcement of the commitments made by contractors during procurement.⁵⁸

As discussed above, a key strength of the UNISON Ethical Care Charter is liaison between trade unions and local government procurement officials to agree an approach to good work procurement. At the same time, not all reps and members are fully informed about, or feel confident in trying to influence, procurement processes, and some find it challenging to monitor charter compliance once agreements are reached given competing priorities and resource constraints.⁵⁹ This highlights a need for ongoing support and information for local union representatives and members.

Evidence from the Scottish Fair Work Convention also points to significant challenges. Statutory guidance on procurement for fair work has issued along with non-statutory sector-specific guidance, for example in the construction industry. In 2022 a report into the application of fair work in the sector by the Construction Industry Inquiry Group (CIIG) identified challenges in practice,⁶⁰ including:

- Although fair work criteria are routinely built into contracts in line with the guidance there remains significant disparity among contractors and contracting authorities in the way the principles are interpreted and applied.
- The system relies on scoring of fair work during assessment stage, but there is no single scoring system used across contracting authorities, and overall fair work weightings can be as low as 2% (with an average of around 5%).
- Little evidence of monitoring, audit or follow-up by contracting authorities to ensure implementation commitments made by contractors during tendering.

⁵⁶ Johns et al. (2019)

⁵⁷ Direct communication with Southwark Council official for this briefing, August 2022.

⁵⁸ Direct communication with University of Manchester academic for this briefing, July 2022.

⁵⁹ Direct communication with UNISON representative for this briefing, June 2022.

⁶⁰ Fair Work Convention (2022) [Building Fair Work into the Construction Industry - Fair Work Convention Construction Inquiry Report 2022](#)

Detailed recommendations made to improve this situation, including ensuring that fair work weightings are not lower than 10% of the contract; mandatory fair work training for project commissioners and managers overseeing construction contracts; regular guidance reviews to ensure inclusion of collectively bargained rates in procurement contracts; effective contract management to ensure that fair work commitments made at the framework and/or tender stage are delivered in practice; and that all contracting authorities should be signatories to a Fair Work Charter collectively agreed with employers and trade unions.

Conclusions and ways forward

Charters are a relatively new means of setting out what good work looks like, and their use as a tool to raise the bar on employment standards looks set to continue to gather momentum as devolution processes continue across the UK. This briefing has evidenced that charters have successfully – and innovatively – been integrated into procurement processes by contracting authorities, thereby ensuring that public contracts, and money, support strategic goals around the achievement of good work.

Charters are ostensibly a voluntary, ‘soft power’ tool, developed in partnership with a wide range of key stakeholders including trade unions, employers and local authorities, and which aim to give support and recognition to good employers. Making adherence to charter standards a precondition of procurement can reward these good employers by facilitating their access to public contracts. It can also play an important role in encouraging sign-up among employers who would not otherwise be inclined to improve the working conditions they offer – particularly in the absence of strong national employment legislation.⁶¹

The case for integrating charters into procurement is clear. The priority now is to accelerate progress towards putting this into practice.

The evidence presented in this briefing suggests that several key elements need to be in place. This includes fostering broad-based commitment to good work and understanding of how procurement can help to achieve it among key stakeholders – including politicians, procurement officials, trade unions, employers and those involved in charter development. It also involves building knowledge of how charters can help meet the obligations laid out in the current social value legal framework, as well as demonstrating the legal and practical feasibility of including charters in procurement. It should also include recognising and valuing innovation and progress, as well as highlighting success to inspire others.

Finally, the Westminster Procurement Bill and the Social Partnership and Public Procurement (Wales) Bill are currently under development. This is therefore a critical moment to create an increasingly enabling national legislative framework so that procurement can help deliver good work into the future.

⁶¹ Dickinson (2022)

We conclude by laying out specific recommendations for contracting authorities, those involved in charter development and implementation, and trade unions.

Recommendations

For contracting authorities:

- Enable procurement and contract management teams to engage in charter development, implementation and monitoring and include a requirement to comply with relevant charters in all procurement strategies and documentation. This includes clearly indicating that employment standards are relevant to procurement and contract performance in all pre-procurement and tender documentation and ensuring mechanisms to ensure that bidders can demonstrate compliance with charter standards even if not a signatory to the charter itself.
- Embed good work standards as outlined in relevant local or sectoral charters as a strategic priority in all corporate strategies (e.g. industrial strategies, economic development plans, skills programmes, local labour agreements).
- Build evidence and information to support the inclusion of charter employment standards into all procurement processes, such as guidance to procurement officials on how social value and procurement legislation and the Public Sector Equality Duty (PSED) enable the inclusion of charter standards in procurement.
- Create spaces for contracting authorities to share information, learn from and recognise successful experiences on how charters have successfully been integrated into procurement and contract management to improve employment standards. This should also focus on best/promising practice around the most challenging areas, such as securing trade union recognition and collective bargaining, eradicating zero-hours contracts and paid sick leave.
- Appoint 'charter champions' in procurement and contract management teams to raise awareness and support learning.
- Enable procurement/contract management, charter, equalities and legal teams to jointly develop resources and tools to build knowledge around legal and practical approaches to achieving charter objectives through procurement. This could include information for organisations likely to engage in procurement processes on how to comply with charters as well as tools for procurement officers, such as model wording on charter-related employment standards to include in procurement-related documentation (e.g. pre-procurement, tender and contract documents).
- Ensure dedicated, comprehensive and sustained resources for the development, implementation and oversight of charters and their governance/secretariat. This should include sufficient budget for monitoring, evaluation and enforcement of the implementation of charter commitments made during tender and contracting, and

ongoing engagement with key stakeholder groups to support monitoring, including trade unions and employers.

For the Westminster government:

The TUC wants to see the Westminster Procurement Bill support a more strategic and intelligent approach to public procurement that leverages the purchasing power of the public sector in support of employment standards throughout supply chains, jobs, skills and economic development. As outlined in our recent Parliamentary briefing, the Bill must ensure that procurement supports strategic national and local priorities, including quality employment, and have strong transparency, oversight, exclusion and remedy.⁶² To create an enabling environment for the integration of charters into procurement, the Bill must:

- Allow contracting authorities flexibility to set and implement their own strategic priorities and means of supporting good work such as charters, including where these exceed national statutory minimum standards.
- Clearly define 'public benefit', including specific reference to good work as a key component of social value as part of the public benefit.
- Require compliance with the core provision of Social Value Act 2012, by requiring contracting authorities to 'improve the economic, social and environmental well-being of the relevant area', with good work referenced in the Bill as a key means to ensure this in practice.
- Ensure social value is taken into account in 'most advantageous tender' criteria and does not have to be directly related to the subject matter of the contract.
- Include a clear provision for tenders to be evaluated from a wide point of view, not solely that of the contracting authority.
- Require transparency of all public contracts through a Domesday Book statutory register of all public contracts, to include performance and the outsourcing of services.

For those involved in charter development and implementation, including charter secretariats:

- Involve procurement officials from relevant contracting authorities as critical stakeholders from the initial stages of conceptualisation and development of charters, then ensure their participation in the governance/advisory/secretariat function (as applicable to that charter) as the charter is implemented.

⁶² TUC (2022) The Procurement Bill – Committee stage briefing. Available on request.

- Help identify 'charter champions' within procurement teams to build understanding of charters, spearhead the incorporation of charters into procurement, and help identify support and training needs among procurement officials.
- Develop training and development tools to build knowledge around the legal framework and practical approaches to achieving charter objectives through procurement. Key audiences include procurement teams and wider stakeholders involved in the charter, including organisations likely to engage in procurement processes.
- Work with procurement teams and legal advisers to develop toolkits, including model wording on charter-related employment standards to include in procurement-related documentation (e.g. pre-procurement, tender and contract documents).
- Work with procurement teams and trade unions to monitor and ensure compliance of charter-related commitments by contracted organisations, and to help understand and document the overall impact of charters.

For trade unions:

- Lobby local politicians and contracting authorities to secure commitments to develop charters and mandate their implementation through procurement and public contracts.
- Engage in charter consultation and development processes to ensure trade union priorities are articulated and reflected in charters - notably decent pay and conditions, trade union recognition and collective bargaining.
- Influence the Procurement Bill to ensure it creates an enabling environment for the integration of charters into procurement (see above).
- Support workplace campaigns asking employers to sign up to and fully implement charters.
- Develop information and tools to support union reps and members employed in organisations tendering for public contracts to ensure that compliance with charter standards is included in public contract tenders.
- Support reps and members to carry out monitoring of charter compliance to ensure that employment-related clauses in public contracts are not breached, notably where charter compliance forms part of a tender or contract held with a public authority by their employer or the contracted organisation of a supply chain within which they work.⁶³
- Advocate for transparency of public contracts through the creation of a Domesday Book - a statutory, publicly available database including contract details, company

⁶³ For example, this may include developing tools similar to the [UNISON Ethical Care Charter Compliance Checklist](#) for use in the workplace.

information, employee remuneration, employment policies and contract performance.

Appendix – further reading

Procurement and employment standards

- Johns et al. (2019) [Decent work: Harnessing the power of local government](#). IPPR North.
- Harrison and Edwards (2018) [Making Procurement Work for All](#). Carnegie UK.
- Fair Work Convention (2022) [Fair Work in Scotland’s Construction Industry - The Fair Work Convention](#)

Development and implementation of employment charters

- Dickinson, P. (2022) Review of Employment Charters in the English Mayoral Combined Authorities, ReWAGE, Universities of Warwick & Leeds (*includes a comprehensive list of charters in place to date*).
- IGN (2020) [IGN index of fair employment charters](#).
- Hughes et al. (2017) [Good jobs in Greater Manchester: the role of employment charters](#). Inclusive Growth Analysis Unit.
- Hurrell et al (2017) [Local employment charters: case studies from the UK](#).
- Moore (Nd) [An Evaluation of UNISON’s Ethical Care Charter](#).
- Johnson et al (2021) '[Raising the bar? The impact of the UNISON ethical care campaign in UK domiciliary care](#)'. *Transfer: European Review of Labour and Research*. 2021;27(3):367-382.

Procurement and social value

- Guides produced by the National Social Value Taskforce:
<https://www.nationalsocialvaluetaaskforce.org/guides-and-papers>