

RESEARCH AND REPORTS

Devolution and employment standards

A recent research report¹ published by the University of Greenwich explores the extent to which administrations in Scotland, Wales, and England have been able to use powers devolved to them from the Westminster government to better employment standards. The research reveals that there is no single model delivering improvements in regional employment standards. Conducting six case studies, in four different regions of England, together with one in Scotland and one in Wales, it found that strategies adopted, and outcomes obtained, were a reflection of local labour market legacies, the nature and embeddedness of trade unions, the political will of the local administration and the resources that had been devolved to them. The research found that authorities have promoted fair or decent work firstly through local Charters and secondly through the procurement of local services. These strategies are suggestive of what can be achieved with trade union engagement and influence, but also of limitations that reflect the restrictions on the powers that the authorities have with regard to employment (save in the devolved settlement for Northern Ireland). Local powers are essentially voluntary and, in any case, there is caution about enforcing compliance.

1. INTRODUCTION

This research was conducted to investigate the existing powers of these devolved authorities, examining the policies that they have introduced and generating up-to-date insight into the impacts of devolution for workers locally. The aim was to identify key opportunities and constraints to furthering employment standards and decent work and was carried out by means

¹ McKay, S. and Moore, S. (2023) [Devolution and Employment Standards | Documents | University of Greenwich](#).

of a comprehensive literature review and 29 in-depth interviews with academics, high level officials in the devolved administrations and trade union officials in the case study areas.

Currently there are devolved governments in Scotland, Wales and Northern Ireland and in England devolved administrations have been established in Greater Manchester (2014), Liverpool city region (2015), Sheffield city Region (2015), West Yorkshire (2015), North of Tyne (2017), West Midlands (2015), Tees Valley (2015), Cornwall (2015), Cambridgeshire/Peterborough (2017), West of England (2016), Norfolk (2022), Suffolk (2022), York and North Yorkshire (2022) and East Midlands (2022). The majority of the English administrations are Mayoral Combined Authorities (MCAs) each with an elected mayor, although three of them, Norfolk, Suffolk and Cornwall involve a single local authority and one, the East Midlands, is a combined county authority. Areas devolved to the authorities may include local transport, housing, skills, and healthcare, with three principle aims of economic growth, better and more integrated public services and enhanced public engagement and accountability.

Separate to these devolution deals Greater London has acquired similar powers through its Greater London Authority and Mayor established in 2000.

In three of the four England case studies conducted for the research there was an elected mayor, who was perceived as a charismatic figure, and it was suggested that this focus on the individual meant that policies might stand or fall with that person. Yet all the existing mayors will face re-election within the next year or so, and there is no guarantee that they will either stand or win. Thus, the report suggests that the structures of devolution in place may not yet be sufficiently robust to withstand change at the top.

The research identifies, as a key explanation for the limited programmes delivered to date, the processes for putting devolution in place, which were more complex than anticipated and it has taken longer for the devolved authorities to embed themselves. English devolved authorities had

limited resources, relatively meagre staffing levels and were situated in regions with large-scale problems in terms of poverty, poor wages, and high levels of unemployment.

2. THE POLITICS OF DEVOLUTION

The report argues that the key gains from devolution are local administrations' better understanding of their populations and closer relationships with key local stakeholders. The case studies show that local administrations have engaged with key stakeholders, in particular, large and medium sized companies and trade unions, with a focus on health and safety and worker voice. The research found that the limited regulatory powers which the devolved authorities can utilise in relation to employment standards has directed them towards 'soft' measures, by way of Charters or Commissions of Enquiry. The Charters were found to have been successful in promoting the Real Living Wage (rLW)². But Charters could require an accreditation process that was resource intensive so that very few employers had become Charter members. An essentially voluntarist model meant that enforcement of Charter requirements was a challenge and the research found that officers in devolved authority administrations were hesitant in policing employers who had been accepted as Charter members, particularly if they were key suppliers of local services.

One consequence of devolution is that it has legitimated the role of trade unions and worker representation and, in some cases, revived tripartite relationships between governments, employers and unions. This is particularly the case in Scotland and in Wales where devolution has resulted in the establishment of commissions addressing pay, working conditions and representation in the workplace. Worker representation had been promoted through social partnership and to a lesser extent collective bargaining models. In England, with more limited powers and resources, authorities have promoted Charters that commit employers to minimum

² The rLW is currently (May 2023) £10.90 an hour, compared to £10.42 an hour set under the National Minimum Wage.

standards of employment, including in encouraging worker voice. While this has fallen short of imposing obligations on companies to collectively bargain with worker representatives, it does acknowledge that good employment is identified with the promotion and legitimation of worker voice. Looking specifically at initiatives brought about through the Charters, the research found that these acknowledge the importance of worker engagement and voice, but that this was generally not defined as union recognition and collective bargaining. Furthermore, there were no measures in place to bring workers themselves into the debate on employment standards. The research further suggests that in the context of tighter labour markets there might be more willingness by employers to sign up to these where they would allow them to be identified as 'good' employers and to attract workers.

The interviews with stakeholder respondents showed a frustration with the inability of the devolved administrations to define key terms such as 'social partnership' and 'fairness' and this arose because devolved authorities were wary of being challenged as having breached their existing powers, preferring to leave terms loosely defined. It meant however that it was more difficult to determine whether the processes promoted were meeting the requirements in relation to social partnership and fair work. In contrast some respondents felt that too much time was taken in attempting to define 'fair' or 'good work' and that there should be more focus on actual improvement.

3. TRADE UNIONS AND DEVOLUTION

Devolved authorities were found to engage with trade unions, both in the formulation of their devolution policies and in their application, with union representatives generally sitting on relevant bodies or boards. However, the research found that much of this engagement remained at a technical level only, falling short of engaging with workforces directly. Worker engagement and voice were rarely expressed as being the property of workers themselves, who consequently had mostly been absent from the discussion and implementation of devolution. The research

also raised questions about trade union capacity to deal with devolution. The stakeholder interviews expressed the view that trade unions had an insufficient number of people who could engage at the strategic level, as they were industrially focused, and there appeared to be the absence of a trade union vision as to what devolution could become and a range of positions expressed by different unions. At the same time devolution had brought benefits to trade unions in terms of their learning programmes. In Scotland and Wales Union Learning Funds had been continued and within most of the new devolved authorities in England, funds were being made available for trade union regional skills' and learning programmes. Furthermore, the focus on providing high levels of support to employers to fulfil Charter of fair work criteria was not matched by similar levels of support to trade unions pushing for union recognition and collective bargaining.

4. THE UNDER-UTILISATION OF POWERS

A key argument advanced throughout the research is that while devolutionary measures are identified as entailing the equal promotion of employer and worker interests, despite power differences, in practice there was greater tolerance within the devolved administrations, of the constraints that employers operated under. There was a strong desire to keep employers on board and this was seen as more important than in securing a higher level of compliance. It was sometimes perceived that a higher level of support was available to employers, compared to that offered to trade unions and workers. There was seen to be a pro-business mentality within the structures of administrations designed to maintain relationships with employers, leading to concessions, particularly regarding small and medium employers.

5. PROCUREMENT AND EMPLOYMENT STANDARDS

The research investigates whether procurement might be utilised by the devolved authorities as a way of promoting better employment standards. It finds that there is caution on the side of local authority officers in linking procurement to employment standards, due to their fears of a legal

challenge and belief that the law does not provide them with the power to compel suppliers to sign up to good work standards. Procurement specialists were often focused on the law and their statutory duties, and this overrode any political ambition to improve employment standards. As with employment Charters, the monitoring of contracts represented a challenge with local authorities engaged in hundreds, if not thousands of contracts, there was insufficient capacity to ensure compliance due to the hollowing out of in-house local authority staff and expertise.

While devolution has brought a focus on social care and the terms and conditions of a largely female workforce, overall, the research did not find that equality had been central to devolved policies, nor practices. While there was acknowledgement that pushing up standards can challenge the logic of contracting out, there also was no clear preference for public sector provision of services and a perceived equivalence in public and private provision.

6. CONCLUSIONS

The research suggests that economics are driving government policies, so that devolution may become part of a strategy to reduce public expenditure and deflect political responsibility. Overall, the key focus of the devolution deals has been to shift power to the regions, so that they can focus on economic growth, increasing jobs, skills, and employability. Getting people into work, and reducing reliance on benefits, are central to the work tasked to the devolved authorities and the research suggests that this can be at the expense of employment standards in existing jobs. As a strategy for raising standards, the research states that existing devolved powers are unable to replicate the changes that a progressive programme of employment rights for all would guarantee. In addition, the programme of devolution operates in a context where the floor of employment rights nationally is relatively low and is at further risk, through government plans to legislate to end all EU derived employment law. While it now seems that the plan to do this by the end of 2023 will not proceed, the research notes that current trajectory for employment rights is downwards.

Finally, the research questions the focus of the devolved administrations on low pay, suggesting that a minimum hourly rate is a criteria that large and medium sized employers can easily meet, but that it shifts attention from the principle of trade union recognition for collective bargaining that is essential to the improvement of wider terms and conditions and worker rights.

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