

# Responding to COVID-19 in the Liverpool City Region

## Coordinating Public Procurement: Drawing Closer in a Time of Distancing

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## Map of Liverpool City Region Combined Authority (LCRCA) boundary (in red) and constituent local authorities



Data sources: Westminster Parliamentary Constituencies (December 2018 - ONS), Local Authority Districts (December 2018), Boundaries (December 2018 - ONS) and Combined Authorities (December 2018 - ONS)

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## Key takeaways

1. Public procurement can do much in the short term to mitigate the economic impacts of the COVID-19 pandemic, in addition to playing a critical role in the longer term restructuring/ re-imagining of the Liverpool City Region (LCR) if underpinned by an approach centred on social value.
2. To successfully prioritise critical products and services across the City Region in response to COVID-19, heads of procurement and commissioning leads should look to coordinate public procurement efforts and aggregate data to reduce duplication and understand demand.
3. Furthermore, successfully rebuilding supply chains to address structural inequalities must overcome three critical challenges and their associated risks: a) identify 'risk to life' and 'at risk' suppliers across supply chains, b) coordinate a response to forecasting future capacity and demand, and c) adapting the longer-term social response to public procurement. An action agenda is articulated in this briefing in respect of each of these challenges.
4. A range of policy leads and other key stakeholders should undertake scenario development exercises to explore a range of plausible futures. These workshops can be used to identify critical uncertainties and surface assumptions, provoke debate, and reveal blind spots around possible ways to rebuild the local economy. Scenarios are a useful tool to build collective action for fundamental systemic change.
5. All decision makers need to act decisively in the short term to consciously rebuild a preferable economic system that recognises its intersections with health, education, transport, social, and ecological systems.

## 1. Introduction

Public procurement is playing a key role in the regional response to COVID-19. By ensuring immediate cashflow to suppliers, it can help to stabilise local supply chains. In times of 'business-as-usual', a host of operational issues and behaviours can prevent regional alignment (Meehan, Ludbrook, and Mason 2016). This crisis may provide an opportunity to reprioritise what is important. To do so demands going beyond our traditional understanding of cooperation. Public procurement regulation has flexed in response to the immediate crisis, but if we are to protect and support the public interest beyond the short term, we need to ensure that the momentum generated by the crisis continues to challenge how we buy in the LCR and beyond.

COVID-19 has temporarily widened the "Overton Window" that defines the spectrum of legitimate policy options available. More radical responses are deemed politically acceptable in the midst of the crisis. However, to build a preferable future, procurement must address systemic structural inequity and ensure we do not simply reproduce precarious conditions. Shaping this future is predicated on a collective and coordinated regional policy for structural change, and how long this window of acceptability remains open.

This briefing considers how public procurement can support the LCR response to COVID-19, the challenges in rebuilding supply chains to address structural inequalities in the future, and the

potential of scenario development to enable necessary change.

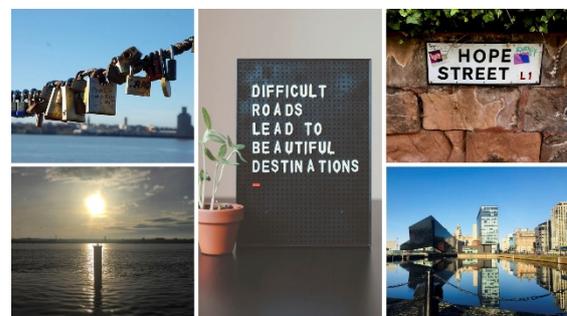
## 2. Public procurement's dual role in supporting the Liverpool City Region response to COVID-19

The regulatory environment for public procurers during the COVID-19 crisis is marked, on the one hand, by a relaxing of purchasing constraints to allow for rapid commercial response, but also by the imposition of emergency measures designed to stabilise cashflow in local economies. Under regulation 32(2)(c) of the Public Contract Regulations 2015, public authorities are permitted to procure goods, services and works for reasons of 'extreme urgency' (i.e. if a 'risk to life' is posed). Furthermore, under regulation 72(1), contracts can be modified without a new procurement procedure in certain circumstances. Lastly, contracting authorities are compelled to deliver accelerated and business continuity payment for suppliers deemed 'at risk' until at least June 2020 under the 'Supplier relief due to COVID-19 Action Note Procurement Policy Note (PPN) 02/20' emergency measures.

The regulatory regime for public procurement during the COVID-19 crisis relies, however, on the availability of supplier data. Without full sight of service delivery beyond 'tier one' suppliers, which is rare and complex, the identification of 'at risk' suppliers, or what constitutes 'risk to life', may not be apparent to public procurers. In the Liverpool City Region (LCR), 97% of businesses are micro (0-9 employees) or small-to-medium enterprises (SME) (10-249 employees), and there are 14,000 social organisations. The region's social economy generates an annual income of £3bn and employs more than 45,000 people, yet despite its importance in providing frontline care to vulnerable groups, the majority of organisations are asset poor, generate modest revenue, and operate in a deficit,

exposing them to great financial risk (Heap, Southern and Thompson 2017). It is highly likely that the LCR business community lacks the scale required to be direct suppliers to local authorities. Being situated beyond the first tier in a supply chain leaves the majority of 'at risk' suppliers and 'risk to life' service providers hidden from view.

The Liverpool City Region Combined Authority (LCRCA) and the Metro Mayor have established a package of measures to provide financial support as the COVID-19 crisis continues to expose vulnerabilities within the LCR economy. The emergency schemes can achieve maximum impact with the support of a *coordinated* public procurement response to address economic risk. In parallel, public procurement should be used as a vehicle to rebuild supply chains to address *structural* inequalities. The introduction of new policies must support and empower procurement decisions to bring about this change and address three key challenges.



*A look towards the future*

## 3. Challenge 1: Identifying 'risk to life' and 'at risk' suppliers across supply chains

Where possible, contracting authorities need to have full sight of whole supply chains, to determine critical hidden dependencies. Individual organisations are very unlikely to have appropriate supply-side data; therefore risks beyond 'tier one' suppliers are largely unknown,

limiting the ability to enact emergency procurement mechanisms.

*Risks: General Data Protection Regulation 2016/679 (GDPR); commercial clauses that prevent the sharing of suppliers' commercial data; safeguarding and health and safety issues where volunteers are used.*

### **Actions for heads of procurement, commissioning and finance**

Prioritise regional services and materials within all contracting authorities through the mobilisation of response teams.

- Mandate a coordinated regional response to share supply-side data to assess local capacity for materials and services to prioritise deployment of resources.

### **Actions for procurement leads in all contracting authorities**

- Repurpose procurement data to identify suppliers 'at risk', including financial performance reports, supplier performance and contract management data, Brexit-planning data, modern slavery risk mapping.
- Identify criteria for classifying 'risk to life' and suppliers 'at risk' and, crucially, ensure that this considers the whole supply chain, not just 'tier one' suppliers.
- Engage key suppliers, consortia, and framework providers (e.g. Crown Commercial Service and Procurement for Housing) to gather data and for rapid onboarding of new sources of supply.
- Centralise daily data collection on suppliers' trading positions, stock levels, and distribution restrictions in collaboration with consortia.
- Agree how business continuity payments will be fast-tracked through to the supply chain, beyond 'tier one' suppliers.

- Suppliers receiving continuity payments where services / products cannot be postponed should not be making profits under the regulation. Open book procedures and reporting are mandatory.
- Responses to the Supplier Relief PPN could be along the spectrum of:
  - waiting for suppliers to self-identify themselves 'at risk'
  - targeting all SME suppliers
  - targeting suppliers based on business / service criticality
  - blanket response to all suppliers
- Explore step-in rights and whether ownership of goods could be transferred before delivery for materials at risk.
- Transfer of Undertakings (Protection of Employment) (TUPE) provisions for potential service transfers should be investigated for critical public services.

## **4. Challenge 2: Coordinating a response to forecasting future capacity and demand**

Constraints on international manufacturing and shipping, raw material shortages, price gouging, and the spread of COVID-19 in the US can limit the UK's ability to secure critical materials, particularly from American medical companies including 3M. To plan for short-term demand of critical materials and services, a coordinated response with the wider system is needed. Epidemiologists predict further infection peaks with the timing and duration contingent on social distancing, testing, and future vaccines. Procurement risk profiles should be continuously reviewed in light of the changing predictions.

*Risks: Critical products diverted to other countries; global supply disruptions; political cooperation internationally*

### **Actions for Liverpool City Region Combined Authority policy-makers**

- Coordinate LCR policies and data with other UK regions.

### **Actions for procurement leads in all contracting authorities**

For contracts approaching renewal, explore temporary extensions for markets experiencing dynamic flux.

- Coordinate contract renewals and commissions across the region to smooth demand and workflow peaks for suppliers.
- Identify companies 'at risk' of economic collapse from the collective cessation of spending across LCR. Explore options to repurpose suppliers' services.
- Attention should be given, at least in the short term, to sourcing from LCR companies to minimise movements of goods / people in line with social distancing.
- Market prices will be severely disrupted as capacity, demand, and operational constraints distort costing and shipping models. The level of uncertainty should be considered in relation to agreeing terms and duration of contracts.

### **5. Challenge 3: The longer-term social response to public procurement**

Even with the adoption of social value principles under the Public Services (Social Value) Act 2012, the current procurement model gives primacy to the economy over social or ecological matters. Zoonotic pandemics are rooted in social inequities in urbanisation including housing, overcrowding, air pollution, low wages, and precarious working conditions (Connolly 2020). Public procurement can

contribute to addressing 'the causes of the causes' through designing progressive responses in their sourcing and commissioning decisions to stimulate sustainable, diverse growth. Today's sourcing decisions shape tomorrow's markets.

*Risks: Political appetite for systemic change; financial cost; managing in crisis mode.*

### **Actions for Liverpool City Region Combined Authority policy-makers**

- Set progressive policies that seek to address root causes of socio-economic inequalities.
- Develop governance structures for accountability, trust, and policy steering.
- Re-evaluate the Local Industrial Strategy in light of inclusive growth and supply chain vulnerabilities exposed by COVID-19.
- Employ robust scenario development processes to expose critical uncertainties, surface-level assumptions, and reveal blind spots for multiple plausible and preferable futures (c.f. Knight and Meehan 2018).

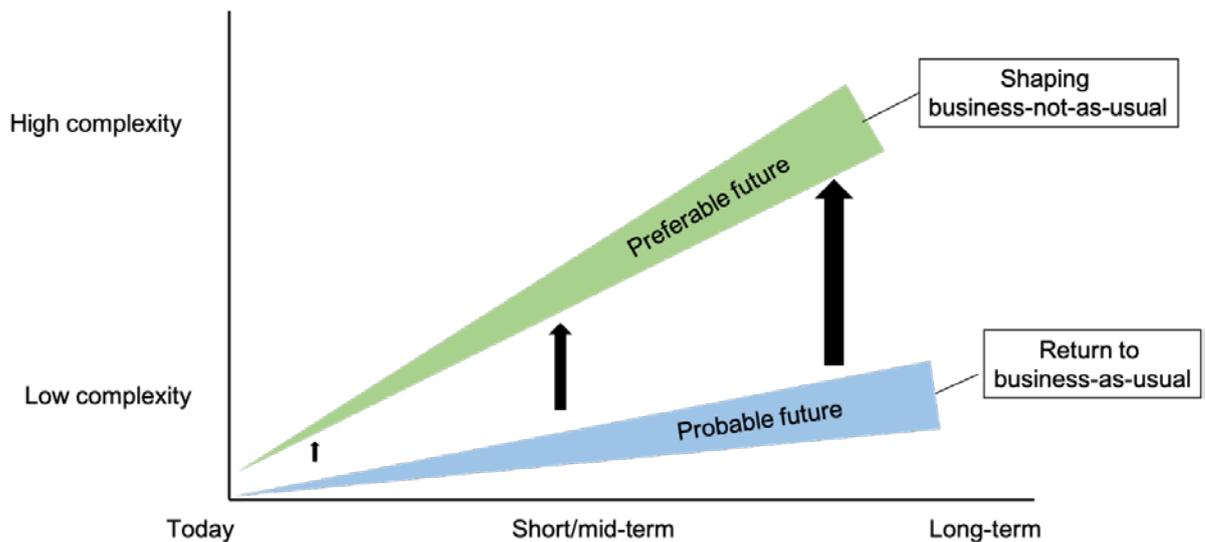
### **Actions for Liverpool City Region commissioners**

- Critically review successes and failures of social value returns.
- Understand and clarify the legal boundaries of developing social value criteria in tenders.
- Build supply chains that shape the transition to a preferable future.

### **Actions required by procurement leads in all contracting authorities**

- Develop a coordinated approach to social value.

**Figure 1:** Transitioning to a preferable future



- Agree criteria for supporting and evaluating social value in tenders and contracts. All contracts should seek to address *systemic* structural inequality, recognising the interdependence of economic, health, housing, environmental, and other systems.
- Consideration should be given not just to what is procured, but how, from who, and the wider role that suppliers' business models play in generating or sustaining inequality. Issues across end-to-end supply chains could include climate change performance, modern slavery, reliance on non-renewable energy and extractive materials, living wage pledges, human resources policies, tax profiles, gender pay gaps, engagement with the social sector, supplier payment policies, and supplier diversity.

## 6. Policy implications

COVID-19 will scar our communities. Our lives mirror how others live in crisis every day, with the threat of redundancy, losing our homes, experiencing loneliness, or restricted leisure activities. But beyond the

loss of life, restricted freedoms, and the unravelling economy, there may be opportunities for systemic changes from new political horizons. Rebuilding demands fundamental shifts in how and why we do business. Despite the complexity and scale of the rebuilding, “cities are at the heart of global change” (Acuto and Parnell 2016, 873). City-level policies and public procurement have important governance roles when building a fairer system, but responsibility can no longer be confined to linear or artificial boundaries.

We advocate scenario development – a tool that prompts policy-makers to anticipate multiple *plausible* futures, rather than responding to one *possible* future – as the best means of shaping a *preferable* future. Understanding the ‘causes of the causes’ that are ingrained in our economic system is a complex task. It is built on hegemonic assumptions of growth that serve powerful and dominant interests. We need alternative stakeholder representation to broaden debates on structural inequalities. Change requires more than good intentions. We must *all* be willing to change and recognise the

tensions in the interconnected structures of manmade and natural systems.

Scenarios enable insight into the interplay between supply chain behaviours and social / health inequalities by surfacing blind spots, critical uncertainties and the implications of actions (Knight and Meehan 2018). As illustrated in Figure 1, there is a danger that the crisis and rebuilding phases are separated. The longer it takes to consciously rebuild with fairer priorities, the more likely we are to endorse a 'business-as-usual' future trajectory and create barriers to a preferable future. Bauman (1991, 192) suggests that the 'commitment of immoral acts ... becomes easier with every inch of social distance,' and if we are careless in the short term, we may suffer in the longer term.

## 7. References

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The information, practices and views in this Policy Brief are those of the author(s) and do not necessarily reflect the opinion of the Heseltine Institute.

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