



Getting the best out of your procurement

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Foreword

by Mohamed Hans

I have pleasure in writing the foreword to the summary of the CIPFA/Zurich roundtable event which considered the evolving UK public procurement landscape and how public contracting authorities and other stakeholders can respond to support improvement of outcomes in the future.

We are seeing a huge amount of excitement, activities and focus due to the various legislative initiatives and continuous press coverage around public procurement. It was therefore not surprising that the meeting had a packed agenda, and we are grateful to the line-up of expert colleagues who managed to cover the full breadth of scheduled topics within the limited timescale and offered many interesting viewpoints.

It was interesting to note from the discussion that the procurement profession is finally getting the acknowledgement it deserves. Procurement teams effectively demonstrated their frontline role by helping to keep the nation moving during the pandemic, as well as the ongoing operational response to supply chain and inflationary pressures we are all facing. Other inspiring messages included looking forward to the simpler and modern flexible way of delivering procurement because of the Procurement Bill and compliance with the relevant National Procurement Policy Statements, which will strengthen the strategic and societal role of procurement.

There was however consensus that due to the scale and complexity of the changes proposed as well as other external pressures, organisations needed to start advanced planning, so that they can be best placed to drive genuine innovation in the delivery of public services, bring about further clarity and practical examples to concepts like social value, as well as engage with the supply chain, support SMEs and help the nation achieve net-zero targets.

While we had plenty of example of progress around the virtual room, there was also agreement that if we are to see higher standards of conduct when spending taxpayers' money, develop expertise in contract management and have the specialist skills to analyse data to make meaningful changes, the government and the sector must invest in not only rewarding existing staff, but also attract a new generation of procurement apprentices. Many organisations struggle with recruitment of staff and unless this is urgently addressed, the procurement vision of the future may fail to be fully realised.

During the meeting we covered a broad range of topics including:

- the skills and capacity needed to understand and apply the procurement rules
- the importance of strategic procurement, having a holistic view of the impact of a product or service, and the risks of getting it wrong
- governance and controls required within organisations to ensure good practice
- assuring contracts and making sure they perform as they should.

This is of course just a brief reflection of the discussions. CIPFA and Zurich will make note of the key discussion points and offer further guidance, support and tailored products to support the sector. I am grateful to Zurich and expert colleagues who took time out of their busy schedules to take part and look forward to continuing the dialogue, as this is just the start of the new procurement journey.

Roundtable

The purpose of the roundtable was to share best practice so that we might improve outcomes for organisations and the sector as a whole. The issues focused on include:

- The skills and capacity needed to understand and apply the procurement rules
- The importance of strategic procurement, having a holistic view of the impact of a product or service, and the risks of getting it wrong
- Governance and controls required within organisations to ensure good practice
- Assuring contracts and making sure they perform as they should.

Participants

Mohamed Hans, Procurement Network Adviser, CIPFA

Rod Penman, Head of Public Services, Zurich Municipal

Richard Howroyd, Head of Strategic Procurement Commissioning, Bath and North East Somerset Council

Tina Yu, Head of Procurement at National Museums Liverpool

Tania Khan, Head of Procurement, UK National Audit Office

Lucy Munt, Strategic Commissioning and Procurement Manager (Public Health and Children's Services), Bedford Borough Council



Topic 1: Skills and capacity

In his role as CIPFA Procurement Network Adviser, Mohamed Hans manages the Institute's procurement and commissioning network. He is an expert on the interpretation of public procurement rules, having written extensively on the topic over many years.

Hans opened the roundtable discussion by providing a brief overview of the current procurement landscape in the UK and outlining the four key topics that would be under discussion. The objective, he said, was to explore the many ways in which the procurement landscape is changing in the UK, and share issues, observations and best practice in order to support the improvement of outcomes required for public sector procurement to flourish in the future.

Hans identified the COVID-19 pandemic as an important factor not only in changing the way procurement works, but also in raising the profile of procurement and catapulting it into the spotlight "for a variety of both positive and, unfortunately, negative" reasons.

He pointed to a number of simultaneous issues impacting on the procurement landscape. "Usually, we contend with maybe one major external factor disrupting normal business operation," Hans said. "However, over the past two and a half years we've had a number of separate issues that have all come together to create a bit of a cocktail, which has kept many practitioners awake at night looking for solutions.

These include Brexit; supply chain disruptions due to conflict and driver shortages; energy price hikes and inflation; the search for new ways of working; technological developments; the huge impact of the climate change agenda; regulatory reforms post-Brexit; and efforts to use procurement to achieve societal goals and objectives."

These had resulted in both opportunities and challenges, he said, which would form part of the discussion.

Skills and capacity

The first question on the roundtable agenda was around whether the sector had the skills and capacity needed to understand and apply the new procurement rules.

Hans highlighted the potential impact of the new UK Procurement Bill currently going through Parliament: "It's been sold as streamlining public procurement, cutting 350 EU regulations into a single uniform framework. However, the Bill is 122 pages long, with 116 provisions and 11 schedules. This will be supported by secondary registration and several guidance documents over the next couple of years," Hans said. "Therefore, it will be interesting to learn how colleagues expect to cope with this amount of reforms – are we underestimating the cost and disruption, and what do we need to do now to improve our capacity to implement these changes over the next couple of years?"

Hans introduced Rod Penman, Head of Public Services at Zurich Municipal, to provide his overview of the challenges facing the sector. He looks after the company's UK local government risk and insurance area and is also responsible for the organisation's approach to procurement across the public sector.

Penman explained Zurich Municipal's role in this area and how it perceives some of the challenges – and raised the issue of how processes can lead to missed opportunities for maximising delivery for public sector bodies. "We encounter many different scenarios in terms of the procurements that we're involved in. And we see many examples of where local authorities and other public bodies perhaps prioritise process over potential best value for them," Penman said.

"Getting a better understanding of what's being procured and how you can get wider benefit from it is something that really interests us. We spend a lot of time in terms of our proposition and trying to be innovative, trying to be a good tenderer. But often, we get frustrated at the inability to provide the full benefit we could and would like to deliver to public sector organisations – and it's usually it's the process that causes the difficulty."

Penman continued: "For Zurich Municipal, it is about how can we help local authorities and public sector bodies get more from us from within the tender. We can help public sector bodies achieve their strategic

goals by linking in with our supply chains or with certain elements that are part of our business. We've got so much more to offer that is often overlooked or ignored because of the process."

Penman asked if this situation reflected Zurich Municipal's operating in a small part of the public sector world: "Can you imagine what the amalgamation of a whole lot of these missed opportunities could do to help in these difficult times? So I'd pose the question: 'Can you get more from your suppliers just by thinking a little bit wider in terms of the procurement process?'"

Addressing the question of whether the sector has the skills and capacity to be able to deliver on all the challenges it is facing, Richard Howroyd, Head of Strategic Procurement Commissioning for Bath and North East Somerset Council was positive about his organisation's current capabilities but also warned about a potential shortfall in recruitment and training for the future.

"We have lots of very good procurement people in my team. However, we are not growing our own anymore. We are becoming an ageing profession. We need to encourage more people into procurement. But if we are going to do that, we've got to make sure it's valued by our organisations," Howroyd said.

He said that procurement has been viewed as being a transactional function, but that the pandemic had changed the perspective by putting it in the public spotlight "either for being really successful or – unfortunately – because of the scandals around procurement over the last couple of years". He suggested some of these scandals may have resulted from a mindset where people believe they already have the necessary procurement skills without actually having learned them. "We need to put a lot more effort into upskilling the CIPFA community," Howroyd said. "Our directors of finance need upskilling. I think our chief accountants need upskilling. I think our chief executives need upskilling. We as procurement professionals have to move ourselves higher within the organisation."

Tina Yu, Head of Procurement at National Museums Liverpool, concurred with Howroyd's assessment of the need for upskilling and his warnings over recruitment: "I am struggling trying to recruit. I'm currently a one-person procurement team, overseeing the group. My interest is procurement maturity, and most definitely – in terms of engaging the business, in terms of ideas on how to deliver a very strong commercial message – driving and changing that culture, but also empowering colleagues we work with."

Yu suggested that to achieve this, what was needed first was an understanding of the business – which was different for every organisation and sector – ascertaining where the gaps were, and recognising where pockets of different levels of procurement maturity were located both within and across departments. "Having a clear vision is essential," she said. "Whoever's leading procurement needs to be able to have that clarity of vision and foresight, and not be afraid to emphasise, and show by example and through action, what is right, but also completely keep the commercial focus – what is best value." She also advised colleagues not to overemphasize process all the time. "We get into a car, we put a seatbelt on, but we still need to get from A to B. So concentrate on getting from A to B and wrap in what we need to do," Yu said. "The new regulations – the fact that it has more flexibility and so forth – should give us greater opportunities to tap into not just the process driven type of procurement support, but more in terms of commercialism, negotiation and all of those aspects."

Tania Khan, Head of Procurement at the UK National Audit Office (NAO) agreed with the other speakers about issues with recruitment. She said it had been a big problem in terms of recruiting high-calibre procurement staff.

“The problem I’m facing in the public sector – and all other colleagues are saying the same thing – is that people are so used to framework procurement, OJEU [Official Journal of the European Union] procurement is a dying trade. I recently had a senior procurement manager who couldn’t do a contract notice or an OJEU or FTS [Find a Tender Service] tender. And I just couldn’t believe it. You expect that somebody who’s been doing procurement for 10-plus years should know that.”

She explained: “At the NAO, we have a requirement to go outside of frameworks because of the different types of services we buy, so building capabilities in-house is really important. Although my existing team has a sound knowledge of procurement, they will need to unlearn the things that we’ve learned since the 2015 regulations came out.”

Khan said that it was important to get the message around procurement changes to buyers across the organisation. “We will get external training from organisations such as CIPFA and CIPS, but it’s the practical experience where we may fall down. We know what’s in the Bill – we know what changes are coming through or need to be coming through. This is

going to be a learning curve – I’m quite excited about it, but I don’t know if I’m going to have a team to support me on that learning curve,” she said.

Such procurement recruitment issues were a common theme across many local authorities, Hans told the participants, with many experiencing shortages of skilled, experienced procurement staff. He noted that, for example, there was a lack of training in how to complete an FTS notice, and that CIPFA had discovered in reviews that up to 90% of FTS notices had technical errors.

He cited this as an example of how procurement is starting off on the wrong footing, which can lead to challenges as a result of such mistakes – which could also have a knock-on impact on insurance premiums.

Penman from Zurich Municipal warned that the issue didn’t only potentially impact on insurance premiums. ‘Often, we’d see that people just evaluate the headline price without delving into what’s behind it. And it’s often the unseen costs are the ones that are going to come back to bite you.’

Strategic goals

Penman discussed how, if you understand what your organisation’s strategic goals are, you can then see how the contract can play into that. “It’s the bits within the proposition that can help people so much in terms

of their strategic goals,” he said. “But all too often, that’s the bit that gets missed. It’s understanding that you can actually achieve more if you look beyond the price alone.” It’s not necessarily about the procurement team and their skills, but the procurement manager understanding what they want to achieve and effectively communicating that to tenderers.

“You can get a lot more by pre-tender engagement because everybody then understands what you’re trying to achieve,” Penman said. “All too often tenderers can make a mistake because they haven’t got all the information – the whole picture – available.”

Focusing on the issue of getting the message about procurement across to the executive management team, Hans referred to the Gershon Review in 2004 that advocated having a procurement champion in the organisation. He pointed out that each national procurement strategy since then has revisited the need to have a procurement champion as a senior director in the organisation who is responsible for procurement and contract management, but that there few examples where this is happening in the public sector.

“In the private sector, the chief purchasing officer will often be at the top table, whereas in the public sector it’s usually the case that the head of procurement is in the third or fourth tier down,” Hans said. “So how can they get that message across to the top team in terms of the importance of procurement’s role? Money

is going away from the organisation if procurement's done badly, so how do we actually get that message across?" he asked.

Penman backed Hans on the desirability of such changes within public sector organisations. "Certainly, within Zurich, the person in charge of procurement does have a seat at the top table, and so that flows down through the organisation in terms of a contract management," he said. "It makes it easier because we have a structure then as to how we manage the contracts post-procurement as well as the procurement element."

Penman continued: "It's certainly recognised within Zurich that you can lose a lot of money if you don't get your procurement right. It's very strategic, and we look at how can we go wider than just the normal service, where else can we make links into other parts of the business? I'm not sure how you would do it within local authorities, but it certainly needs to be elevated up the chain."

This view on elevating procurement was enthusiastically endorsed by Howroyd. "We have to make sure that the directors of finance in particular understand what the head of procurement's role actually is – it's not just about process, it's not just about buying cheapest," he said. "The National Procurement Strategy priorities are a godsend from that point of view. And we've certainly used that to sell how important procurement actually is. We've got to take the new Procurement Act as a real opportunity

to strengthen our role. And I think procurement teams need to be starting now."

Howroyd said it was crucial to start embedding the procurement changes as soon as possible to ensure success. "There's a lot of work that we need to be done. The national benchmarking process is also going to be really valuable, because I don't think – certainly from a local authority perspective – a chief executive or a treasurer is going to want to have a poorly-rated procurement strategy."

Apprenticeships

Raising the subject of whether to consider embracing apprenticeships to help bridge the skills gap, Hans questioned whether more needed to be done to make the procurement profession more visible in schools and sixth forms, and make it an attractive career proposition for younger people.

Although it's a path she hasn't yet explored at the NAO, Khan acknowledged that apprenticeships may be the way forward. The nature of the particular organisation may be an issue in attracting procurement trainees, she noted – within the NAO, for instance, all the trainees that come in want to be accountants and auditors. However, she related a fundamental lack of understanding generally about what procurement is. "If you say 'buyer', then a lot of people will understand, they get it. But if you say: 'I work in procurement', it

doesn't register, particularly with younger people. The other issue is the gateway into procurement in terms of education – there aren't many direct academic options to get into the profession."

At National Museums Liverpool, Yu is currently looking at a more junior role being filled through an apprenticeship and is very keen to explore this option. She said: "Essentially, we're scoping it in such a way that it will be a career grade, so there are opportunities to progress, to incentivise them, so they don't just train up and leave. We need great skills – and we need to keep them. I've visited some schools to explain what procurement is about, and when I was working for universities, I offered secondments, so our first- and second-year graduates could experience a few weeks in procurement. There's a lot of scope for education, though we need to do a lot more."

Howroyd highlighted the success of the UK Ministry of Defence (MOD) with procurement apprenticeships, which, he said, had attracted some very high-quality candidates who would've normally gone to university. "They have put a lot of effort in to make it more attractive to people. I agree that there is a lot of work we can do to get people to consider a career in procurement. In my experience, I've had quite a few people who've been seconded onto my team from different service areas and they've loved it, and they've ended up doing CIPS just to feed that back into their own functions, or they've then looked for procurement

opportunities elsewhere. If you can get them through the door, it's a great starting point because they can then see so much of how an organisation runs, and how procurement means getting involved in everything."

With the public sector responsible for spending approximately £300bn a year, the lack of talent coming through in procurement could spell trouble in the future, the roundtable heard.

Addressing this should be a priority, Penman agreed. "The more people we can train, the more they'll understand where they can not necessarily just make savings, but also get value for money from procurement contracts. And if we don't, we're just going to carry on as before – and the new regulations aren't going to make any difference whatsoever if we just carry on the way that we are."

Understanding the role

Ensuring that workers generally within the organisation have a better understanding of procurement would be a step forward, Howroyd suggested. He endorsed the contract management foundation training and the higher-level training that the UK Cabinet Office is currently offering, which he said had the potential to be "another game changer for people who need to be involved in procurement".

"Procurement isn't just about the buying side. It's about the whole cycle. And while we keep on talking about procurement as being the problem, I don't think it necessarily is. Quite often we do that element of the cycle really well; we then hand it over to the contract managers, and that's when everything goes awry."

He suggested engaging with the Cabinet Office, and CIPFA supporting different streams of training, could make a difference in respect of the awareness of whole-life procurement.

Agreeing with the point, Penman ventured that he could offer "countless examples of where you signed up to something in the tender and nobody ever follows through on it". Quite often, he said, it was an issue about pricing stability or service level agreements that no one followed up on.

Summary:

In summary, the roundtable acknowledged that there were important issues to address in ensuring organisations had the skills and capacity needed to understand and apply the new procurement rules that will be coming into force. A lot of work was needed by government and authorities to impress upon organisations the importance of the role procurement plays within those organisations. While the COVID-19 pandemic had put a positive spotlight on the role procurement has in enabling the public sector to carry on functioning, the past two years has also highlighted issues of when procurement fails to meet expected standards.

Raising the profile of procurement could have an impact on the ongoing issue of recruitment and skills gaps within the profession. More work needs to be done with schools and other education establishments to promote procurement as an interesting and rewarding career option in order to ensure that we're not storing up further trouble for the future.



Topic 2: Strategic procurement

The second topic for discussion was the importance of strategic procurement, having a holistic view of the impact of a product or service, and the risks of getting it wrong.

Strategic public procurement has always had an important role to play in supporting contracting authorities to get the best value in terms of their work, supplies and services that they need. However, in today's more transparent world, every decision that we make can be exposed or made public. While this is a welcome development in terms of scrutiny, accountability and fostering best practice, getting decisions wrong can result in huge reputational damage to authorities, as well as officers individually.

Having a wider strategic overview of procurement decisions is vital to maximise value for an organisation, suggested Penman from Zurich Municipal. While from a procurement perspective, for instance, the firm could be perceived simply as fitting the bill as an insurance provider, looking at the group in a wider perspective as a global organisation providing numerous other services and solutions, procurement could gain from exploring in a holistic way what allied services or solutions it can provide.

"A good example that we would give is around services we provide, such as a counselling services for flood victims and similar offerings," Penman said. "We could be considering how we could link that into the work

that local authorities are putting into their resilience plans around disaster recovery and strategies like that. We try and think deeply. Zurich Municipal only operates in the public sector, so we do a lot of work with Solace and CIPFA, in terms of understanding what's coming down the track for local government and try to put solutions in place."

Another example of a potential benefit that Penman gave was Zurich's Safer Schools app, which is designed to help bring teachers, pupils and parents together to safeguard children online. It provides safeguarding training online, which could save schools significant amounts of money compared with in-person courses. Similarly, rehabilitation propositions that are generally used for employees could also offer benefits elsewhere in an authority's business. "However, that doesn't get anywhere near the evaluation of an insurance contract tender," Penman said. "It's those sorts of potential benefits and opportunities that are getting missed – not only with us but across the board.

"Across the wider world, how many other suppliers are there that can offer other services, if they can just understand what it is that you're looking for?"

This led the roundtable onto a discussion around the importance of understanding social value and how to promote and achieve societal goal through public procurement. These aims align with the National Procurement Strategy policy statement that includes

providing social value as one of the criteria that authorities must take into account.

Although no longer working in a local authority, Yu from National Museums Liverpool explained how procurement in local authorities can try to incorporate social value and how to make sure that the contractor delivers on what they promised. Engagement, research and commitment to ensuring delivery were essential components.

She said: "When I worked for a local authority, we were trying to reduce the dependency on drugs and alcohol in the area. We engaged with the NHS and some commissioners, explaining the situation, to scope what type of delivery, aftercare support and guidance were required, and where people could go to for advice. And we structured that way before social value was a required weighting. We put quite a high weighting to it and set out some key performance indicators (KPIs) in terms of when it would be delivered, how it would be rolled out, and how engaged the contractors was.

"We took expert advice from external specialist organisations to ensure we knew exactly what to feed into the tender – effectively, we linked that tender for the procurement into what the outcomes would mean for the people within the community."

Sometimes, however, it is difficult to distil social value into a procurement document, Yu acknowledged.

Nonetheless, approaching it in those terms was a useful process not only in delivering social value but also futureproofing the service for business needs, she said.

Procurement and commissioning

The roundtable discussed the differences between commissioning and procurement, how and where such differences were defined, and how better integration could ensure best outcomes for a tender exercise.

Contrasting her experiences in the private sector of integrated commissioning and procurement with her initial experiences in the public sector, Lucy Munt, Strategic Commissioning and Procurement Manager (Public Health and Children's Services) at Bedford Borough Council, said she found the differentiation unusual.

She began her role as the manager just for procurement but since then it has gone through a complete redesign to have a strategic function that now covers both commissioning and procurement "so we are actually running the procurement process, as I would see it, from end to end".

Explaining the integrated strategic function at Bedford, Munt says they assess the organisation's needs, demands or services required before engaging with the market. "We'll look at what other local authorities are doing. We'll look at collaborative approaches. We'll look

at supporting them with getting a service specification that's perhaps more robust and up to date. We'll work with them to look at the budget they've got available and whether that's appropriate – we don't simply follow what's been done before.

"We engage, work closely with stakeholders and the market to get to a position of options appraisal, PID on our procurement, and run the tender process compliantly. And then, at the stage where we hand that back, we are heavily involved in the first three months of contract implementation mobilisation – which is often where we have found where things can fall down. It's usually during that period where people get a bit lost and forget what they've agreed to, what's in the spec, that kind of thing."

Her team then sits in on quarterly or six-monthly assessments, or annually for smaller value contracts, to make sure that everything on a contract is running smoothly – and, importantly, that the contract KPIs are still being met and the team are not just focusing on the operational side.

"We're not running the contract day to day – we don't have the team to do that, but at least to have some reach-in, which covers both the commissioning and the procurement cycle end to end. We are trying to avoid some of those bumps in the road that can often take place but we usually don't hear about it in procurement until they go to re-tender," Munt explained.

Bringing social value into the equation was still problematic, however, Howroyd maintained. "I still don't believe we truly understand what social value is," he said. "There are so many different views on it and as a result of that, most organisations we work with don't understand what social value is either. They get different messages coming from different authorities." He warned that social value is starting to be gamed by larger organisations who have the resources and time to spend time to refine their social value pitch to maximise it for weightings within tenders.

"We do need to do a lot of work on social value – in particular, how we embed the climate emergency as well," Howroyd said. "There are so many different tools out there, measurement can be very inconsistent." His authority is working with the University of the West of England to explore this important area in more detail.

"This is an area where you can really start adding the value," Howroyd says, "providing our treasurers with information so they understand that it is not about the cheapest option first – and that you can use procurement to deliver your political and corporate priorities if you embed social value within your policies."

Implementing procurement policies around areas such as modern slavery can also be successful in eliminating dubious procurements. It can also have an additional impact in the attitudes of suppliers as well; asking questions of them can prompt them to do their

own research into ethical sourcing of products and services. “This is why we can be gamechanger from that point of view,” Howroyd said. “But there is a level of inconsistency that we need to sort out.”

Looking at the social value issue from the NAO’s perspective, Khan said her department used “very good guidance” from the social value model that the Cabinet Office has issued. She recommended it to other procurement professionals as one they could use and adapt according to their organisation’s needs. “This has enabled us to ask well-constructed questions. We give tenderers a lot of ‘meat on the bone’ in the questions themselves, so that they’re able to help us achieve our own targets.

“For example, we have an objective to become net zero carbon by 2029. So whenever we go up to tender on our strategic contracts, we tell them that we want our partners to help us achieve that and also demonstrate how they will be doing it. The reason for that is that the highest carbon emitters fall under my category – the procurement of goods and services.”

The other element NAO focuses on is diversity and inclusion (D&I). “D&I is something that I’ve used in my tenders for many years. And right now, we apportion a high weighting towards it,” said Khan. “But with D&I, it’s a bit more difficult because D&I policies tend to be for your organisation internally – it’s not normally targeted towards the supplier. However, there is a

section in ours whereby we state that the people we work with should also be inclusive and diverse. We try to use that, along with questions from the social value model.”

Summary

While social value has been on the agenda for around a decade in England, there was a consensus that it was time now to move this on in terms of making social value criteria work effectively for both the supplier community and public organisations. The roundtable panel agreed that there was still a lot of work to be done in this area, around definitions and implementation. It was anticipated that the new Procurement Bill, as well as the National Procurement Policy Statement – which should be updated periodically – could act as the catalyst for improvements in this area.



Topic 3: Governance and controls

The third question discussed by the roundtable was around governance and controls required within organisations to ensure good practice – how procurement professionals could maintain a commercial edge while at the same time ensuring that they were working with the most up-to-date policies and procedures.

This is an issue that external auditors are increasingly honing in on at the moment as part of their best value reviews rather than their traditional audit board review, Howroyd said. Outlining what has been done at his authority, he explained: “We’ve totally updated our contract standing orders. We try and keep those up to date. We’ve embedded ‘think local’ within them, which prioritises local firms up to £100,000 contracts.

“In terms of our internal governance, we’ve set up a procurement steering group to cover the revenue contract side and the commissioning side. That has representatives of each of our main directorates on it, so that it makes everything visible from that point of view. In effect, people can take business cases through it, and our senior leadership team expect high-risk, high-value procurements or projects to be challenged through this process to start with before they’re even allowed to go through any further processes.”

Other successful elements include six-weekly online procurement briefings, which regularly attract between 70 and 100 attendees who can be updated on a range

of relevant issues.

“That’s really opened it up to the organisation, they know we’re a friendly face,” Howroyd said. “They will come and get help. Going back to the social value agenda – my biggest legal challenge has been around social value. But I need to get more people to understand the issues around governance and transparency, because we are getting a lot more attention of it because of COVID PPE, and so on. You have to have that governance now.”

Another issue he highlighted was the attitude towards ‘bending the rules’ on procurement among some staff within local authorities, and an apparent lack of understanding that such rules are mandatory rather than flexible. This was highlighted during the COVID pandemic in some cases where procurement rules weren’t followed, and the resulting implications for delivery.

“Some think the procurement rules are there to be flexed and to be broken in a way they wouldn’t contemplate for the rules around their own area,” Howroyd said. “I’ve always said ‘my role is to help you maximise the use of the rules and to make your life easier. But that doesn’t mean that I’m going to say you can do something if it’s blatantly unlawful.’”

With the role of the NAO being to provide scrutiny and investigate organisations that don’t adhere to

procurement rules, policies and procedures, Khan provided some interesting insights into how that organisation ensured that it kept its own house in order in terms of procurement.

“Although not officially civil servants, we follow the central government procedures,” she explained. “Anything over £10,000 is published. At the height of the pandemic, I wrote a paper about transparency because for a lot of the framework procurement that we did via G-Cloud, and various other frameworks, we didn’t publish contract award notices, we just notified the framework owner – Crown Commercial Service (CCS), ESPO, and so on. Just to make sure that we were aligned to the organisation’s strategy, and to ensure transparency, I advised in that paper that anything over £10,000 will need to be published, and that went down very well. The knock-on effect of that was that we’re getting fewer Freedom of Information (Fol) requests.”

The NAO has an internal governance process, depending on the delegated financial authority, Khan explained. But challenging issues do crop up when single tender actions are requested. Anything high value goes to the NAO board and anything below that goes to the executive team. “The main problem that we face is when we get requests for single tender actions (STAs), because there is always something or somebody we need to hire who, it appears, is the only person in the country who can deliver that service or has unique knowledge about something.

“In accordance with public sector guidelines, the threshold is £138,000 including VAT. But we are now getting requests for over-threshold STAs. And the logic would be to issue a VEAT (Voluntary Ex-Ante Transparency) notice. We’ve never issued a VEAT notice because we didn’t need to, but I’ve come to a point whereby we need to use these individuals, but the cost of them is over the threshold. And it really is a challenge because although we may know – and my stakeholders may know – that they’re the only person who can do it, there is the risk of challenge. So we have to go to the open market. But advocating that to our organisation is becoming very difficult for just those sort of very niche areas.”

The pressure to make direct awards for niche expertise or services affects other areas in the public sector too, Yu from National Museums Liverpool agreed, highlighting valid areas with the museums arena.

“In terms of what we would do, it’s understanding what’s coming up and seeing if we can amalgamate, aggregate our requirements and set up longer-term requirements. There’s more flexibility for below threshold. Above threshold, which I’ve experienced in in previous roles, I have considered and used a VEAT notice. But you can try and gauge through conversations whether you could test the market and advertise it on contract finder. If there is an incumbent, we can tell them we will be advertising and you can apply if you’re interested, and then that will let the

market prove whether other alternatives are available.”

Howroyd backed Yu’s suggestion to test the market if such matters arise around such single tender waivers. “I’m quite tough on this now,” he said. “If they say there’s only one person in the market, I tell them, prove it, go and advertise it – if there is genuinely no one else, then we can do a single tender waiver. If there isn’t, it’s a competition. I’ve had an example recently where that’s happened – we went and advertised it turned out that there were nine different organisations who could deliver.”

Hans agreed that although procurement rules are very clear in terms of when an organisation needs to go out open competition and the limited exemptions allowable, “unfortunately we all have too much experience of these waivers being issued like confetti over many, many years”. He acknowledged that sometimes there was pressure from higher up in the organisation to issue waivers. Nonetheless, he said: “The procurement rules don’t cater for this – it is as simple as that. Maybe the procurement rules need to be bit clearer – that this isn’t allowed, and the implications of this happening should be communicated, not just in legal terms but also in terms of disciplinary action against individuals.”

Topic 4: Contract management obligations

Referring back to some of the issues raised during the roundtable, the final question was on the topic of assuring contracts and making sure they perform as they should. It touched on the comments from participants around contract management working in tandem with procurement to deliver best value outcomes. This was considered particularly relevant in the light of the recent focus on procurement contracts during the pandemic, and how to ensure that what's being delivered corresponds to the specifications agreed. Hans asked participants what kind of additional policies were in place in their organisations to ensure that everybody plays by the rules to ensure good contract management?

One of the issues identified was that within public organisations, contract management obligations are often carried out by individuals who are not dedicated to the task but are asked to manage contracts on top of their regular day jobs, particularly in non-corporate areas of local authorities. Munt from Bedford Brough Council admitted it is a challenge. "To tackle that, we've had to work really closely with our internal audit to come up with a plan where we work together to target that sensitively and appropriately – a kind of hand-in-hand approach."

Munt described how her team was currently putting together training slides and other materials for contract management training in order to communicate the basics to the wider organisation "in manageable, bite-size pieces". They also highlight CCS guidance on the subject.

"We already offer some training programmes, which don't tend to have a massive amount of uptake, which is why we want to roll something a bit more robust to reflect the importance of the legislation around it and its implications. We want to get to a point where it will be practically a mandated requirement for anybody who has requisition rights, or rights to sign off invoices that are coming in from third parties. They must attend the training and understand the rules and regulations, the dos and don'ts about managing contracts, so that we as an organisation can demonstrate everybody's been on that journey."

Formal approach

As might be expected, the NAO has a more formal approach to contract management – although work has had to be done to embed such a system. "We have a contract managers' group, governed by a contract managers' governance group, which is chaired by our executive director," Khan explained. "It's very important in our agenda. It hasn't been as smooth as I would have thought, though, because our contract managers are also people who have a day job which isn't

contract management – they are just the key person for that particular contract."

Khan said that her role had been created after an external audit review had identified contract management as an area that the NAO needed to take a serious look at. "We created this group and we identified everyone who managed a critical contract, and they joined this group. When I came in, the first thing I noticed was that no one really knew what procurement was."

Khan said that it was regarded as "basically a back-office function that sat with finance" rather than an important area for which legislation was in place. She took urgent steps to address that misconception.

"I ran a survey about very basic procurement questions and people didn't know much about it at all. So I started from scratch. Instead of offering contract management training, I began with procurement training – very basic slides with information that anyone who works in procurement will already know, but my contract managers were unaware of. And I think that helped them immensely. They're now better informed, better buyers and are able to do contract management more effectively."

The NAO's contract managers group now meets quarterly, although they can get in contact with Khan's team for advice at any time and work very closely with them. Khan reports back to the contract management governance group every quarter as well, and any problems that arise are highlighted to the directors and the executive director. "It's now mandated in our organisation," Khan says.

Looking at the issue of assuring contracts and contract management, Howroyd outlined extensive work that his authority has done to embed best practice into Bath and North East Somerset Council's contract management function.

He explained: "Just before the start of the COVID pandemic we carried out a joint exercise with South Gloucestershire and North Somerset Councils – we basically 'sheep-dipped' a whole load of managers we identified as our key contract managers on a one-day foundation course on contract management to make sure they understood what was required from a contract manager. It was really good training – even for a few who thought they knew it all already. The pandemic meant we then had to move the process to online training, but that has actually worked quite well.

"I currently have a cohort of ten people, including myself, doing the Cabinet Office Pathfinder training, which is really good and a great way of getting good value, high-level contract management training. That

cohort are going to be my champions across the organisation, and I'm also training up a member of my team to be a 'contract management guru'."

Howroyd believes one issue that does get in the way of effective procurement and contract management within local government is antiquated financial and procurement software systems.

"We need to do a lot to try and make it easier for people, because I just don't think the information gets to people in an easy way to use that data effectively," he argued. "We have to start using solutions such as SharePoint and other business intelligence systems to really help us so that we can concentrate on what's important in terms of contract management, and make sure it's proportionate. We really need to make sure that we have good proportionate systems in place, otherwise local authorities will continue to have disasters that end up costing a fortune."

Accountability

From Zurich Municipal's perspective, Penman said, there is definitely a skills gap in terms of managing contracts, which is often revealed down the line on agreed service contracts where elements have been disregarded or changed without the successful contractors being held to account. "After the procurement exercise is over, I don't see an awful lot of activity until we then get into the next procurement

exercise. A lot of time is spent on the evaluation, getting people to sign up to service level agreements, ensuring that certain parts of the bid that will have certain implications. And then down the line, you become aware that something's changed; 12 months on somebody is breaking a long-term agreement and there are no apparent ramifications."

While this situation appearing common in the public sector, Penman reflected that this sort of practice didn't occur in Zurich's sector. "We have pretty robust processes. I look after a contract for the organisation that produces the Safer Schools app for us, and it's a very structured process. It includes bi-weekly meetings with them, monthly meetings, quarterly meetings and we measure performance against the KPIs that we put in place, and so on. But in local authorities I don't see that sort of rigour."

While a lack of insurance claims related to contract management suggest it doesn't appear to be a significant issue in terms of claims, Penman counselled against complacency, and warned that when something does go awry, it often brings huge reputational consequences that can be worse than the financial impact.

Summary

A number of challenges were identified in assuring contracts and making sure they perform as they should. For many public sector bodies, the lack of dedicated contract managers – instead, relying on the oversight of individuals who are doing other day jobs – means that ‘end-to-end’ responsibility and accountability from procurement through to contract assurance can be problematic. However, even a basic level of training for such ‘part-time’ contract managers can improve processes. The roundtable participants outlined several successful programmes through which procurement teams had sought to improve relationships and communication with contract managers, enhancing oversight processes and resulting in better outcomes. Nonetheless, it was broadly agreed that more needed to be done in this area to foster and embed best practice and improve contract management culture within the sector.

Conclusion

Procurement and contract management, as well as commissioning, should be considered as part of the wider procurement profession. The roundtable identified a serious skills gap that needs to address to ensure the long-term capability of the profession in a challenging and fast-changing climate. There is a pressing need to reach out to schools and colleges to attract high-calibre entrants into a procurement career and then retain them within the profession.

While there's still plenty of work to be done, the roundtable highlighted some good kind of examples of work that authorities are doing in this area. The Procurement Act will, it is anticipated, set the pathway for the future of the profession. It is likely to bring with it major transformational change – the intended objective of this new government legislation. “Maybe, if we were to do all this, in a couple of years’ time, there will be a big change,” Hans concluded. “Because the profession, the public sector needs this to change. With every procurement, there's a cost impact. If it's done well, we'll get the service that we all, as citizens, demand and need. If it's done badly, it's simply going take more money out of hard-pressed public finances. And we certainly can't continue to afford these extra costs at a time when we are facing a variety of risks amid a very challenging economic environment.”

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