

**DELIVERING BEST VALUE  
THROUGH INNOVATION**

Forward Commitment  
Procurement

Practical Pathways to Buying  
Innovative Solutions

NOVEMBER 2011

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## Introduction

This publication is aimed specifically at local government procurers and wider public sector procurers.

Access to better goods and services is critical to the pursuit of society's goals, be they sustainability, healthcare, adaptation to climate change, or information security. This requires innovation. However, Innovative goods and services face significant barriers before reaching their customers.

Traditional policy tools to address this, such as product development grants, are extremely helpful but inadequate on their own as evidenced by the number of promising prototypes that do not make it to the market. This is rarely because they are not needed or are ineffective. More often it is because the uncertainty of future sales makes the investment in bringing them to market too risky. Many new companies that do take this risk all too often fail when the pace of market entry proves too slow and profits are not realised.

For example, innovative good and services will be essential in the move towards a low carbon economy. These products and services are often not available, too expensive, unproven or struggle to break into the market. The result is that many promising solutions fall by the wayside and buyers are faced with few, often unpalatable, options.

“All too often emerging technologies and innovative goods and services fail to make it to market, or do so only slowly because of the uncertainty of future sales. This is a barrier to progress. At a time of such rapid societal and environmental change we cannot afford such slow progress, and for good ideas to fall by the wayside”. Dr Jonathan Frost, industry member and Chairman of the BIS FCP Programme Board.

Buying new goods and services can be risky so the FCP model has been designed to help manage this risk. It also advises innovation only when it is necessary. However, in a time of rapid change, escalating social and environmental problems and when public finances are under pressure there is a greater role for innovation. Yesterdays solutions are not equipped to meet tomorrow's challenges.

Forward Commitment Procurement (FCP) is an early market engagement tool that brings together progressive thinking and best practice from the private sector and the innovation and procurement communities, together with the understanding of the demand side barriers to the commercialisation of innovative goods and services identified by the Environmental Innovations Advisory Group (EIAG) to bring new cost effective goods and services into the market.

Although designed to address the particular barriers to market faced by environmental innovations, the FCP approach can, where appropriate be used to deliver efficiency savings and support the procurement of innovative solutions in other markets, such as sustainable development, healthcare and construction.

“By adopting FCP thinking, public and private sector organisations can incentivise innovative solutions that provide a step change in performance. This is good for business, good for customers and benefits society”. Fergus Harradence, Deputy Director, Innovation Policy, BIS.

## The Forward Commitment Procurement Concept

Delivering social objectives (such as environmental sustainability) often requires new solutions that are either not available in the market or are available at excessive cost, because they aren't available, customers don't demand them; because there is no demand, the solutions do not receive the investment required to enter and be competitive in the market. Consequently, public sector objectives are compromised by lack of affordable and effective products and services to deliver them.

The FCP approach unlocks this stalemate by making the market aware of genuine needs and requirements. It offers to buy solutions that meet these needs once they are available at a price commensurate with their benefits. This 'credible articulated demand' provides the necessary market pull to galvanise supply chains and unlock investment to deliver the requirement.

It is both innovative procurement and smarter procurement creating better outcomes for society. With future markets more certain our industries and enterprises will invest in innovation to meet demand and grow, and by buying smarter, public services can become more efficient and more effective.

“Innovation is critical to the UK's future economic growth, prosperity and quality of life. If the UK is to be competitive in the global economy, and tackle the challenges we face as a society, we need to become better at innovating and quicker to adopt innovative products”. Fergus Harradence, Deputy Director, Innovation Policy, BIS

## The supply and demand of innovation

A critical factor for suppliers of new products is the confidence that there will be a market once the solution is proven. The amount of investment made by product developers and by their supply chain depends on this confidence. The future customers of the new products can significantly affect investments decisions by making the future market as certain as possible (while retaining competition). FCP is a way for public procurers to make this future market visible and credible without either procurer or supplier incurring unmanageable risks.

“This approach gives companies the freedom to innovate and explore new technologies and design concepts rather than being constrained by what has gone before”. Andrew Bissell, Director, IMI Ltd.

## FCP mirrors the approach of the Private Sector

The FCP model translates into the public sector the approach taken by business in using supply chain management and procurement to promote investment in new products. Private sector companies actively manage their supply chains to promote investment in innovation and new or improved products. They do this by engaging with their suppliers and providing credible information about their future requirements and purchases. This provides the incentive and security for the supply chain to invest to deliver what is needed, when it is needed, at a price that is affordable. By mirroring this approach FCP provides an early market engagement tool for the public sector to create the conditions for their supply chains to flourish and deliver new cost effective solutions in a way that manages the risk for the customer and the supplier.

For example the motor industry and their electronics suppliers share plans and ambitions many years ahead of products reaching the market. The electronics suppliers align themselves behind the goals of their customers and invest in the development of products to meet their customer's future needs. To fail to do so would exclude them from the future market. Competition is maintained and at the same time this active management of the supply chain leads to unprecedented innovation in vehicle electronics, in a cost effective way. Every year cars can do more, perform better and cost less. This is in no small part due to the motor industries effective management of their supply chain.

“To use FCP as a tool you need to know what you want to achieve, be committed to achieving it and be able to convince the market that you really want it.” Dr Jonathan Frost, industry member and Chairman of the BIS FCP Programme Board

## Delivering ever better goods and services

The public sector may seek to stimulate supplier innovation through short-term pilot projects but often does not carry through the ideas into longer term procurements. There is a tendency to opt for low-risk solutions, low-margin players and mature technology. Innovation is not routinely welcomed or rewarded. Yet the potential of innovation to deliver the efficiency savings and step changes in environmental performance and sustainability is considerable.

The FCP procedure will help you to engage with the market at an early stage to tap into the wealth of creativity that the supply chain is capable of given the right messages from its customers.

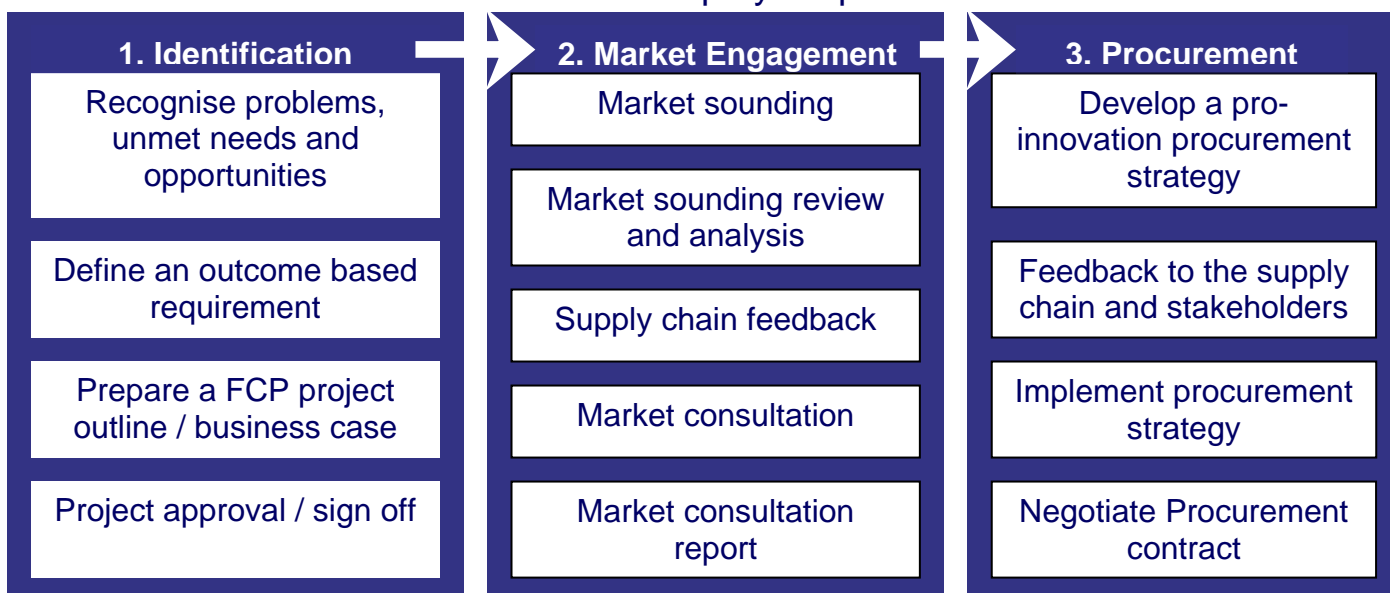
## Section 1: Overview of Forward Commitment Procurement

This section gives a high level overview of each step in the FCP process. SECTION 2 covers each step in more detail and gives examples of FCP in practice.

Forward Commitment Procurement (FCP) is an early market engagement tool that creates the conditions needed to deliver innovative, cost effective products and services. Designed mainly for use by the public sector, the FCP approach was developed to be consistent with value for money policy and the legal framework that governs public sector procurement<sup>1</sup>.

In brief, FCP provides the supply chain with information of specific unmet needs and, critically, with the incentive of a Forward Commitment: a commitment to purchase a product or service that currently may not exist, at a specified future date, providing it can be delivered to agreed performance levels and costs. FCP provides the incentive, confidence and momentum for suppliers to invest and deliver innovative solutions.

### Overview of the Step by Step FCP Procedure



### STEP 1: Identification

This step is about uncovering where new solutions are needed to solve problems, deliver policy outcomes, and more efficient and effective services. FCP can also enable you to make the most of opportunities, such as renewal of major contracts, new builds and refurbishments. In step 1 you:

- Recognise problems and identify your unmet needs well in advance.
- Define your requirement in outcome terms.
- Prepare a project outline / business case.
- Secure project approval and leadership backing.

<sup>1</sup> This framework comprises the European Union (EU) procurement directives, the EU Treaty principles of non-discrimination, equal-treatment and transparency, and the Governments procurement policy based on value for money.

## Case example: Identification of unmet needs

### HMPS identified an ‘unmet need’ for a zero waste mattress system

In a typical year HMPS purchased around 53,000 foam mattresses and 48,000 pillows, and disposed in the order of 40,000 items due to soiling, misuse, and wear and tear. Each prison area handled their own arrangements for disposal through local contracts. Although the current specification was considered innovative at the time of its development, and operationally a success, the majority of ‘end of life’ mattresses were being sent to landfill, with the remainder classed as clinical or hazardous waste and incurred high disposal costs.

In short, the situation was environmentally unsustainable and the combined cost of supply and disposal was estimated conservatively to be in the region of £2.8 million per year. As well as the financial cost of this disposal, individual prisons were finding it increasingly difficult to have the products taken away by contractors due to the increasing demands and restrictions on the use of landfill sites. This practice was not only uneconomical but out of step with HMPS and UK Government sustainable development policy, including Sustainable Operations on the Government Estate (SOGE) targets and Sustainable Procurement Action Plan (SPAP). To compound matters disposal costs were also set to rise as a result of regulatory drivers such as the European Union (EU) Landfill Directive, and EU Waste Framework Directive. The situation required a radical rethink. FCP provided a way to do this.

“It was estimated that the volume of HMPS mattresses and pillows annually disposed of to landfill equated to 35 double-decker buses,” Richard Hoy, HMPS Procurement Team

## STEP 2: Market Engagement

In this step you proactively engage with the market at an early stage to give potential suppliers advance notice of your requirements, get feedback on your requirements from the supply chain, and support cross fertilisation across different supply chains. You may:

- Conduct a ‘credible’ market sounding exercise to establish if and how the supply chain can deliver your requirement.
- Advertise this widely through an OJEU Prior Information Notice and supply chain intermediaries.
- Review and consolidate the responses and feedback to the supply chain.
- Consult further with the supply chain to establish the market conditions necessary to deliver your requirement and the optimal procurement approach.

“Some procurers avoid talking to suppliers because they are worried about stepping outside legal boundaries. The FCP Process was developed to be fully in line with Public Procurement Regulations.” Gaynor Whytes, BIS Consultant FCP Programme Manager. (JERA Consulting)

### **Case example: Market engagement HMPS conducted a three stage market engagement process in the Zero Waste Mattress FCP project.**

1. Publication of a Prior Information Notice.
2. Market Sounding “call for innovative ideas and information”
3. Concept Viability workshop.

The market engagement achieved the following:

- Made HMPS unmet needs visible to the market.
- Stimulated a response from the supply chain.
- Stimulated new connections in the supply chain.
- Provided HMPS with information on a number of products and technologies that could contribute to achieving a zero waste system.
- Introduced ideas and options for managing end of life mattresses.
- Introduced a number of potential new suppliers.
- Catalysed a number of innovative ideas.

“The combined cost of buying and disposing of mattresses and pillows is estimated to be well in excess of £3 million per year. In short the current solution is costly and environmentally unsustainable”. HMPS FCP Market Communication Document

### **STEP 3: Procurement**

At this stage you enter formal procurement in a way that supports innovation and enables the delivery of an optimal solution. Government Departments should refer to their procurement guidance ensuring they:

- Prepare a procurement strategy that encourages innovation based on your market engagement and on innovation procurement principles.
- Feedback to the supply chain to keep them up-to-date with progress and anticipated timelines
- Implement the procurement strategy in ways that encourage innovative solutions, for example using the Competitive Dialogue procedure where appropriate.
- Procure best value solution.

### **Case example: Procurement of a solution**

#### **HMPS successfully procured a Zero Waste Mattress solution**

As a result of the market engagement an OJEU competition was launched for the supply of a ‘Fully Managed Service for Mattresses and Pillows’. The tender documents made it clear that they needed to be environmentally friendly, at the very least cost neutral, and achieve a Zero Waste solution by 2012.



HMPS signed a supplier contract for a ‘Zero Waste Mattress and Pillow Solution’ in 2009. The outcome was a solution achieved sooner than expected, with significant cost savings estimated to be in the region of £5 million over the life of the contract. Exceeding all expectations, this brought to a successful conclusion the first pioneering FCP demonstration project. It is interesting to note that the new contract was awarded to the incumbent supplier.

Why hadn't a zero waste solution been available before? Above all because we had failed to ask for it. This time we looked at the whole life cycle of the mattress, gave the supply chain time to respond and created a competitive environment". Geoff Sykes, Head of Procurement Compliance, MoJ.

## Section 2: Forward Commitment Procurement in Practice

This section covers each step in more detail and gives examples of FCP in practice.

### STEP 1 Identification

By the end of STEP 1 the aim is to have an FCP project clearly defined and approved.

1. Identification	Identifies and defines the project and secures approval for the project and approach
1.1 Recognise problems, unmet needs and opportunities.	<ul style="list-style-type: none"> <li>▪ Pulls unmet needs and opportunities into focus.</li> </ul>
1.2 Define an outcome based requirement.	<ul style="list-style-type: none"> <li>▪ Translates unmet needs into an outcome based requirement.</li> </ul>
1.3 Prepare FCP project outline / business case.	<ul style="list-style-type: none"> <li>▪ States the case for the project and case for adopting an FCP approach.</li> </ul>
1.4 Project approval / sign off.	<ul style="list-style-type: none"> <li>▪ Leadership commitment secured.</li> <li>▪ Project formally approved.</li> <li>▪ FCP embedded in the organisations procurement process.</li> </ul>

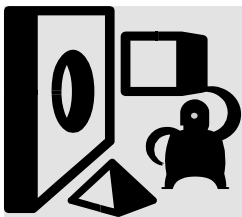
#### Success of an FCP project involves:

- A commitment to meeting the ‘unmet need’.
- Changes in the way procurement is planned and implemented.
- Strengthening links between policy / operations and procurement.
- Being a demanding and credible customer.
- Actively creating the market conditions needed to deliver a solution.
- Tenacious and committed project management.

## Introduction

To be successful an FCP project must be necessary, i.e. unless new and innovative solutions are brought into play the organisation will face unacceptable risks, costs, failures and consequences, or not be able to make the most of a major investment. But that alone will not guarantee a projects success as it also needs to be conducted professionally and managed effectively.

The success of a FCP project involves a close working partnership between an organisations procurement team and those responsible for delivering the organisations policies and targets.



### Need new answers?

A critical success factor for innovation is an accurate understanding of the problem that needs solving and the **unmet need** it is targeting. A common error is to ‘pick the answer’ rather than the **outcomes** you need. This stifles innovation.

The **purpose** of the identification stage is to bring the problems, issues, unmet needs and opportunities into focus in a timely way. They can then be recognised, defined and a decision made to act to address the unmet need, solve the problem or maximise an opportunity. Arguably it is our failure to do this that underlies the lack of innovation in the public sector.

## Common barriers to innovation

- The failure to identify unmet needs until they become urgent problems.
- A lack of practical ‘know how’ in supply chain management and procurement of innovation.
- Solution led rather than outcome led specifications.
- A disconnect between those responsible for delivering policies and targets and those procuring goods and services.

### 1.1 Recognise problems, unmet needs and opportunities

In some cases identification of an FCP project may be straight forward (for example renewing a major contract); in other cases it may take more time, in particular where the process of identifying unmet needs is unfamiliar. Needs may be driven by policy, legislative, fiscal or budgetary changes and trends or new operational requirements.

“The starting point for an FCP project is recognising that you have an unmet need that needs a solution and then deciding to do something about it”. Gaynor Whytes, BIS Consultant FCP Programme Manager. (JERA Consulting)

## FCP Concept: Unmet needs

An unmet need is a requirement that you have now, or (preferably) one that you will have in the future, that current products, services or arrangements cannot meet, or can only do so at excessive cost or with unacceptable risk. Unmet needs often become apparent as a result of a problem that needs resolving, a policy objective or target that needs delivering or where existing solutions are failing and new approaches, products, services or arrangements are needed.

There is no right or wrong way to identify unmet needs and different approaches will suit different organisations. The process you use will also reflect your role, individual style and way of working. It will inevitably involve discussions with colleagues and stakeholders. The organisation may already have processes and structures in place to identify future requirement and unmet needs. FCP can be introduced into these discussions as a delivery mechanism.

“Now we have a process that can deal with unmet needs and do something about them, we have found that we are more willing to identify them in the first place. FCP has set a new standard for the way we work.” Steph Holmes, Head of Procurement Rotherham NHS Foundation Trust

### Case example: Nottingham University Hospital NHS Trust identified an ‘unmet need’

The Trust successfully applied to the Department for Business Innovation and Skills (BIS) ‘Innovation for Sustainability’ Forward Commitment Procurement Competition. After a survey of forthcoming requirements, the need to replace the existing coal fired boiler plant at the City Campus was identified as a problem that needed a solution and an opportunity to rethink the overall approach to energy management. An unmet needs statement was prepared:

- The existing central coal fired boiler plant is old and needs to be decommissioned within 5 years and replaced with a new, reliable and sustainable energy solution within this timeframe.
- The NHS has ambitious carbon reduction targets; any new solution will need to be ultra low carbon and with minimal NOx and other emissions.
- The new solution will be commissioned and in operation at a time when energy and carbon costs are set to increase; consequently the Trust needs a future proof solution that uses its primary energy source in the most efficient way to supply heat and power to its facilities and where feasible sell back ‘low carbon’ energy to the electricity grid.
- The Trusts City Campus has a number of old energy inefficient buildings, some of which are of heritage status. Cost-effective solutions are needed to also improve the energy efficiency of these buildings.
- With growth funding expected to cease and challenging efficiency savings predicted the Trust will need to consider and explore innovative means to finance an optimal solution that meets the requirements.

“We are using this opportunity to fundamentally re-think the way we generate, use, and procure energy services across the whole Trust and ensure that the Trust’s energy provision is fit for the future.” Peter Homa Chief Executive, Nottingham University Hospitals NHS Trust

## Identifying unmet needs

To identify unmet needs, consider the policy objectives and targets you need to deliver, where the organisation is falling behind, the vision of the organisation, future plans and investments, major contracts etc.

These discussion points can be used in a number of ways:

- To feed into existing planning and strategy structures.
- To structure one on one meetings or informal chats.
- To conduct a survey (e.g. by email and telephone).
- To structure a discussion in focus groups (e.g. via existing issue based groups e.g. sustainability, carbon reduction).
- In senior management workshops (e.g. an annual event).
- A focus for stakeholder meetings.
- In departmental or team meetings (e.g. a regular agenda item).

Think about how much time you have, consider the culture of the organisation, your role in the organisation and whether discussions would be best to be organisational, departmental, unit or team based.

## Making the most of opportunities

FCP projects use investment opportunities to bring about a step change. For example The Rotherham NHS Foundation Trust used the opportunity of a 7 year ward refurbishment programme to provide a ‘forward commitment’ to procure an ‘ultra efficient lighting solution for future wards’.

“From the start we said that the solution had to be cost effective and affordable. We have not been disappointed – the outcome shows that better and more sustainable does not have to cost more”. Steph Holmes, Head of Procurement. Rotherham NHS Foundation Trust

### 1.2 Define an outcome based requirement

Once a problem, issue or opportunity has been identified, the next step is to translate this into a requirement. Your requirement should be expressed in technology neutral, outcome terms. That is, focus on the outcomes that are required rather than on how they are to be achieved. For example, a requirement for ‘electric vehicles’ sound innovative, but the technology neutral requirement is more likely to be a ‘low carbon zero emission vehicle’.

## FCP Concept: Outcome Based Requirement

The potential for finding an innovative solution is greatest when buyers specify what they want in terms of outputs or outcomes. An outcome based specification focuses on the desired outcomes that are required from goods or services rather than a detailed technical specification. This allows providers scope to propose innovative solutions that might not have occurred to the delivery team.

**Case example:** A London Borough identified a requirement for; “A cost effective, on site waste management solution for non recyclable waste, suitable for use in high rise flats and council housing in a densely populated urban environment, that eliminates the requirement for waste collection, involves minimal management and is environmentally benign”.

**Case example: Nottingham University Hospital (NUH) NHS Trust translated their unmet need into a tightening of emissions standards.**

“The Trust needs to procure an innovative and integrated ultra-low carbon energy supply and management solution so that it is able to adapt to meet the Trust’s power, heat and cooling needs now and in the future. The energy solution needs to be reliable, low maintenance, and flexible enough to meet the shifting demands of health care over the next 20 years. It should be cost effective, deliver progressive improvements and be future proofed i.e. take advantage of new and emerging technologies and anticipate increases in the cost of energy and carbon and in emissions standards”.

## You will need to establish if FCP is a suitable approach

Not all unmet needs can be addressed through FCP. How do you identify those that can? At the same time that you are gathering information and insights into unmet needs you can begin to draw out information and intelligence that will tell you which unmet needs could be the subject for viable FCP projects. Essentially the ingredients for FCP success include:

- A new product or approach is necessary and there is value placed on a solution.
- There are sufficient drivers (e.g. regulations, targets) for improvement.
- Leadership are committed to delivering a solution.
- Staff are interested, open to new approaches and enthusiastic.
- There is sufficient time for innovation, although FCP can operate over several procurement cycles.
- There is sufficient demand-pull i.e. the market opportunity is sufficient to stimulate the supply chain to invest time and money in supplying a solution.

“FCP involves being a demanding procurer, asking for what you want, not what you think you can get, and actively creating the market conditions that stimulate and enable the supply chain to deliver a cost effective solution.” Gaynor Whytes, BIS Consultant FCP Programme Manager, (JERA Consulting)

### 1.3 Prepare a FCP project outline / business case

Preparing a project outline will help to bring the key points into focus and provide a valuable communication vehicle for the proposed project. This step often proves to be a right of passage for an FCP project. All FCP project outlines will look different but they will cover similar ground:

- The unmet need.
- Statement of requirement in outcome terms.
- Approach to be taken and why.
- Context and drivers.
- Requirements for a successful FCP project.
- Project governance and management.
- Risks and Issues.
- Outline project plan and timeframes.

### 1.4 Project approval / sign off

It is vital to secure appropriate leadership commitment and approval before beginning Stage 2 of the FCP process, i.e. the market engagement process. The project brief provides both a focus for discussion with line managers and a document that can be presented for approval at the appropriate level.

Think about:

- What is the correct approach or procedure in your organisation?
- Who needs to approve the project?
- What is the level of detail needed?

The level of approval will depend on the project and your organisations internal processes. It needs to be sufficient for you to proceed confidently with the market engagement phase.

Project approval needs to confirm that:

- The unmet need is genuine and there is a commitment to finding a solution.
- The requirement is an accurate reflection of what is needed.
- There is a genuine intention to procure a solution that meets the requirement subject to the usual selection criteria and procurement processes.

### FCP project management and governance

FCP projects require tenacious project management. A Project Manager with responsibility for delivery of the project needs to be appointed. It should be someone with project management experience and a good understanding of the FCP process.

A Project Team should be established. This will include budget holders, staff responsible for the delivery of targets and policies to which the project relates, procurement professionals, and key stakeholders. It is helpful if all the team members have a good understanding of the FCP approach. A senior manager or Director should be appointed Chairman of the Project Board.

## FCP Skills Checklist

A range of skills are needed in an FCP Project Team

### Essential:

- Project Management.
- FCP Know How.
- Research and written communication.
- Public Procurement.
- Competitive Dialogue.

### Desirable:

- Complex Contract Negotiation

### Helpful:

- Facilitation

The contracting authority needs to ensure that it has enough skilled and experienced people in place at all stages of the procurement.

Rotherham NHS Foundation Trust carried out a training needs analysis once a project team had been identified. This led to BIS 'FCP Know How' training being offered to all Project Board Members; project management and negotiation training was provided to the nominated project manager, and Competitive Dialogue training was arranged for key procurement staff.

## FCP Project Management Tasks

- Engagement of colleagues and key stakeholders.
- Draw out the information and intelligence you need to uncover issues, problems, unmet and future needs and spot opportunities.
- Define the requirement in outcome terms.
- Assess if FCP is an appropriate approach.
- Prepare a project brief and outline plan / Strategic Outline Business Case.
- Ensure project is approved and embedded in the organisational structures.
- Establish and brief a project team and agree terms of reference.



## STEP 2: Market Engagement

The purpose of STEP 2 is to communicate a credible demand to the supply chain and engage proactively with the supply chain to understand what is possible and refine your specification.

2. Market Engagement	Provides the market with a credible articulated demand for new goods and services and engages them in delivering a solution
2.1 Market Sounding	<ul style="list-style-type: none"> <li>▪ Communicates the requirement to the supply chain and provides a structure for their response.</li> </ul>
2.2 Market Sounding Review and Analysis	<ul style="list-style-type: none"> <li>▪ Provides a snapshot of the state of the market and supply chains response to the requirement.</li> </ul>
2.3 Supply chain feedback	<ul style="list-style-type: none"> <li>▪ Keeps the supply chain informed of your plans and next steps and facilitates communication in the supply chain.</li> </ul>
2.4 Market Consultation	<ul style="list-style-type: none"> <li>▪ Provides a forum for a two way exploration of the requirement and how it might be met.</li> </ul>
2.5 Market Consultation report	<ul style="list-style-type: none"> <li>▪ Provides a record of the findings of the market engagement exercise.</li> </ul>

### Introduction

The public sector is not always good at communicating long-term plans to the market. The start of the formal tender process is often the first indication a supplier receives of a complex requirement. Timescales are then too short for innovative solutions to be developed. The concepts and practices involved in the market engagement phase will be familiar to most procurement professionals.

This stage is the first action in creating the market conditions necessary to support the delivery of a solution. It involves communicating your unmet needs and requirements to the supply chain in a way that supports and stimulates innovative solutions, and then enabling and stimulating a response. You will need to present your requirement in a way that demonstrates to potential suppliers that you are serious about buying a solution. This stage of the FCP process involves making your requirement visible and credible to the supply chain. It also involves providing a framework for potential suppliers to engage and respond to your requirement in advance of the formal procurement process. Market engagement needs to be carried out in a way that demonstrates a high degree of credibility i.e. in a way that demonstrates to the market that you are serious about buying a solution.



Practically market engagement involves:

- Communicating the outcome based, technology neutral, requirement to the supply chain in a way that maintains a level playing field and is open and transparent.
- Actively inviting (& stimulating where necessary) the supply chain to respond.
- Facilitating new connections in the supply chain.
- Actively consulting with the supply chain on how your requirement might be delivered both technically and commercially and on potential barriers to delivery.

From start to finish, an FCP market engagement phase typically takes between 6-12 months.

### **FCP market engagement typically involves two discrete steps:**

1. **Market Sounding:** you formally communicate your requirement to the supply chain via a Prior Information Notice, publish a Prospectus and invite responses.
2. **Market Consultation:** you hold more detailed two-way discussions with the supply chain about your needs and how they might be met. This can involve workshops and meetings with individual or small groups of potential suppliers.

Most importantly you need to allow time for innovation.

### **FCP Concept: Market Engagement**

This stage of the FCP process involves communicating your unmet needs and requirements to the supply chain in a way that supports and stimulates innovation, and enabling and stimulating a response. This gives the supply chain the necessary 'credible articulated demand' and provides the 'demand pull' that will stimulate the supply chain to deliver what you need, when you need it, at a price you are willing to pay.

**"The market engagement was invaluable in gaining insights into the real needs of our customers in the NHS". Neil Robinson, Managing Director, Sharp Smart**

## **2.1 Market Sounding**

Market sounding is the process of assessing the reaction of the market to a proposed requirement and should begin at the earliest possible stage in the procurement process. It focuses on suppliers as a whole, rather than the merits of individual suppliers. At no point does it involve supplier selection or evaluation. The manner in which the market sounding is carried out is particularly important in FCP projects. The process needs to support the development of trust and credibility with the supply chain. It is vital to ensure that the market sounding process remains open and that the suppliers involved are treated with fairness and equality. All possible efforts should be made to preserve a 'level playing field' and the process should be formally documented. There are five key documents that need to be in place before an FCP market sounding can begin:

1. A Market Sounding Prospectus to provide the supply chain with the information it needs to understand the demand.
2. A Response Form to standardise the supply chain's response.
3. A Communication Plan setting out how you will inform the supply chain that the market sounding is underway and how to stimulate a response.
4. A supply chain communication text which is a summary of your requirement written to attract the supply chains interest this makes the communication task easier for supply chain intermediaries such as trade bodies and Knowledge Transfer Networks.
5. A Project Specific Prior Information Notice to advertise the market sounding Europe wide and formalise the process.

“Information about a customer’s needs and future markets is pure gold to a supplier and helps to unlock investment to develop new goods and services to meet those needs”.  
Gaynor Whytes, BIS Consultant FCP Programme Manager (JERA Consulting).

## The Market Sounding Prospectus

The Prospectus needs to:

- Provide the supply chain with the information it needs to understand the demand i.e. your specific requirement, the market opportunity that it represents in terms of direct sales, and the scale of the wider public sector market opportunity.
- Provide the information needed for respondents to provide a meaningful and considered response.
- Explain the market sounding process, how the results will be used, and how this relates to the future procurement.

“This is what we suppliers need; information on our customers needs today, and even more helpfully their future needs. We can then plan and manage our supply chain so we are ready to respond”. Peter Jones, Director of Design, Skanska.

What information do you need to include in the Market Sounding Prospectus?

- Explanation of why you are conducting market sounding.
- The requirement.
- The context and drivers.
- The wider opportunity.
- The FCP process.
- The market engagement and procurement schedule.

## Signposting routes to the wider market

The potential of public procurement to transform markets for innovative goods and services comes from the implicit scaling up of demand across the public sector. If one hospital needs ultra efficient lighting then suppliers can safely assume that other hospitals will need the same or similar. By signposting these wider market opportunities and facilitating access to customers with similar needs you can remove a large proportion of the market risk for a supplier.

- At the market sounding stage invite other organisations to include a statement of need in the Prospectus.
- Publicise the project to other potential customers through articles, case studies and direct communication.
- At the market consultation stage share your market sounding analysis and invite them to participate in the consultation workshop.
- When you advertise in the OJEU, including the PIN make the solution available to other public sector procurers
- Keep a record of all those organisations who have expressed interest.

## The Response Form

There are 6 key areas of information about the market as a whole that Market Sounding is commonly used to assess:

1. **Maturity:** is the market ready to deliver what's required?
2. **Feasibility:** will the market be technically capable of meeting the requirement?
3. **Competition:** how many suppliers provide what is required, will procurement be sufficiently competitive?
4. **Capacity:** are there enough suppliers, with sufficient capacity, to meet the requirement?
5. **Working together:** will the requirement bring suppliers from different sub-sectors to work together in a new way? How will this work?
6. **Traditions and prevailing attitudes:** what are they in this market? How will they affect the project?

These are not questions you can ask suppliers directly. You need to gather the information indirectly through the questions in the response format and explored further in the subsequent market consultation dialogue.

“Early on, we recognised that we needed to encourage the supply chain to develop credible, innovative and competitive proposals which meet our needs. The Forward Commitment Procurement approach gives us a really useful framework to work with.”  
Andrew Camina Assistant Head of Estates Operations for the City Hospital Campus

## Designing a Response Format

The response form provides a framework for:

- The questions and requests for information you have about your requirement.
- Focussing the supply chain on providing the information you are looking for rather than the information they are keen to provide.
- Standardising the supply chains response to make reviewing the responses quicker and simpler.

and may take the form of:

- A list of questions included in the Prospectus.
- A separate form to be completed and returned by email.
- A web-based form.

## The Communication Plan

All the good work you have done in getting an FCP project developed to this point is wasted unless the supply chain:

- Is aware that a market sounding exercise is underway.
- Understands its relevance to them.
- Believes what you are saying and
- Knows how to respond.

The aim of the communication plan is above all to maximise the level and quality of the supply chain response. It also provides a record of your communication approach showing that you made every effort to be comprehensive and inclusive, open and transparent and maintain a fair playing field.

**Plan ahead and don't leave the communication plan to the last minute. When you are developing a communication plan be inclusive and think laterally to help create new connections in the supply chain and cross fertilisation between supply chains**

A typical plan involves:

- Publishing a Project Specific Prior information Notice in the Official Journal of the European Union (OJEU).
- Engaging and supporting supply chain intermediaries to stimulate their members, subscribers and audience to respond.
- Creating a web presence where the supply chain can follow the process and keep up to date with developments.
- Targeted communication to key supply chain members and supply chain integrators.
- Ensuring that smaller companies are aware of the opportunity.
- Keeping key stakeholders informed and engaged.

Supply chain intermediaries provide you with easy access to potential suppliers. They have links and networks already in place to communicate to the supply chain(s) in question. For example, Knowledge Transfer Networks, trade organisations, innovation networks and business support organisations. Make the job of the intermediaries easy by preparing a core text to attract the interest of potential suppliers. Highlight the market opportunity, the forthcoming procurement and the scope to influence the procurement specification and strategy.

Bear in mind that in many cases innovation will require cross fertilisation between supply chains and new connections being made. Be creative and inclusive in your research of intermediaries and communication vehicles. Include supply chain integrators and logistics organisations. There are also organisations that exist specifically to support innovating companies, new technologies and SMEs. In some cases it may be helpful to place an advert in well read trade magazines. Press articles are also a good way to raise the profile of the project. In some cases launch events have been used to raise the profile of the project and generate press coverage.

### FCP Support: Knowledge Transfer Networks (KTNs)

Knowledge Transfer Networks, managed by the Technology Strategy Board<sup>2</sup>, are designed to stimulate innovation in the UK economy. They can provide an excellent source of information and support for FCP projects and have communication vehicles to communicate with companies and stakeholder, such as newsletters, alerts and mailings. The Environmental Sustainability KTN has used its network to promote a number of FCP market soundings and has facilitated FCP market consultation events. Electronics, Sensors and Photonics Knowledge Transfer Network (KTN) also has excellent links to the supply chain and has helped to promote lighting based FCP projects and facilitated consultation events. Currently there are 15 KTNs. For more information and contact details see: <https://ktn.innovateuk.org/>.

“The advance market engagement not only gave potential suppliers advance notice and time to innovate, it also stimulated a valuable exchange within and between supply chains”. Dr Gareth Jones, Consultant for the Electronics, Sensors and Photonics KTN.

### Launching the market sounding

- Publish a Project Specific PIN announcing a market sounding in advance of procurement.
- Email intermediary contacts with core text for them to use and follow up by phone.
- Email key suppliers announcing publication of the Project Specific PIN, inviting responses in the context of getting views from a cross section of the supply chain.
- Send out any adverts, press releases or similar to the trade press.

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<sup>2</sup> The Technology Strategy Board is an executive non-departmental public body (NDPB), established by the Government in 2007 and sponsored by the Department for Business, Innovation and Skills (BIS).<sup>7</sup> their role is to stimulate technology-enabled innovation in the areas which offer the greatest scope for boosting UK growth and productivity. They promote, support and invest in technology research, development & commercialisation & spread knowledge, bringing people together to solve problems or make new advances.

## Market Sounding check list

- Prepare Market Sounding Prospectus.
- Agree and sign off the Prospectus.
- Design a response form.
- Develop a communication plan.
- Prepare a core communication text.
- Prepare a Project Specific Prior Information Notice.
- Establish an FCP Project web-page.
- Publish the Prospectus and response form online.
- Publish the Project Specific Prior Information Notice in the OJEU.
- Implement the communication plan.

## 2.2 Market Sounding Review and Analysis

The number of responses that you receive will reflect not only the success of your communication plan, but also the nature and scale of the supply chain. Typically between 15 and 50 responses will be received. The volume can seem daunting, but the response form structure should make the analysis of responses relatively straightforward. The analysis should be objective and based on the information provided. It can be carried out by one or more of the project team.

### Maintaining communication with the supply chain

To facilitate communication with the supply chain it is helpful to set up a website page that is dedicated to the FCP project and can be regularly and quickly updated. This can be a place where potential suppliers can be directed to get the latest updates and provides a repository for all the documents relating to the project.

### Market Sounding Analysis Report

The Market Sounding process will generate a wealth of information from the supply chain. This information needs to be made accessible to the project team to inform the development of a specification and plan the procurement process. This is the purpose of the analysis report.

Typically a market sounding analysis report will:

- Present a consolidation and analysis of the response to the market sounding exercise.
- Draw top level conclusions from the responses regarding the markets appetite to supply the requirements identified in the Prospectus.
- Assess the feasibility of delivering the requirement and the capacity and capability of the supply chain to deliver a solution.
- Draw attention to issues and barriers to the delivery of the requirement.
- Identify questions and discussion items for follow up consultations with the supply chain and / or individual supplier.

It is not appropriate to technically assess the ideas and products put forward in the market sounding responses.

## **2.3 Feedback to the supply chain**

Throughout the FCP process make every effort to keep the supply chain up-to-date with developments. This not only ensures that you maintain a level playing field, with all interested parties having equal access to information; it also helps to keep the supply chain interested and engaged. Procurement timetables can slip; if this happens let the supply chain know so they can plan their time accordingly.

### **Project web-page**

Potential suppliers can be directed to the FCP project website page to get the latest updates. Keeping the webpage maintained and up-to-date will help to keep suppliers informed and engaged.

### **Company Directory**

Publishing a directory of companies that have responded will help to facilitate new connections within and across supply chains. Include a short description of each company and publish the directory online on the website page.

## **2.4 Market Consultation**

The market sounding exercise is carried out remotely with little if any direct contact with the supply chain as per departmental procurement guidance. Although it provides a wealth of valuable information it is often not comprehensive. In addition new issues and questions are often brought into focus and need to be explored in more detail before you can decide on the most effective procurement approach.

Market consultation is the next step in the market engagement process. It gives you an opportunity to explore the requirement, timeframes and options with the supply chain and stakeholders in more detail. It also gives the supply chain an opportunity to give you valuable information on the practicalities of delivering a solution and potential barriers so that an effective procurement strategy can be developed. Depending on the project and the nature of the supply chain consultation may be in an open forum such as a workshop or be conducted as one- to-one meetings. Ensure that the Project Team is aware of the need to maintain a level playing field and ensure that all suppliers have access to any information exchanged during this process.

### **Market Consultation workshops**

Running a market consultation workshop with a cross section of the supply chain provides you with a forum to explain what you are looking for and why. It also gives an opportunity for the supply chain to ask questions and get a better understanding of your needs. Such workshops also facilitate networking among suppliers. For practical reasons it may not be possible to invite every company that participated in the market sounding. If there are too many participants it will be difficult to have a meaningful discussion. Think in terms of 30-40 participants as a maximum, and invite a cross section of those that responded. Also



think about inviting stakeholders such as regulatory bodies, trade organisations, and public sector bodies.

“FCP helps innovating companies to manage the market risks associated with bringing new goods to the market. Market sounding was new to us, but gave us the opportunity to influence the specification and highlight issues that the customer was not aware of.”  
John Gaskarth, Director, Econoplas Ltd.

### **Rotherham NHS Foundation Trust invited key stakeholders to a market consultation event regarding Ultra Efficient Light (UEL) for Future Wards**

The workshop was facilitated by the Electronics, Sensors and Photonics Knowledge Transfer Network (KTN). As well inviting two representatives from all the companies that responded, key stakeholders were invited, including the Departments of Health and the Department for Business, Innovation and Skills, the NHS Sustainable Development Unit, ProCure21 framework contractors, and the Chartered Institution of Building Services Engineers (CIBSE).

#### **Prepare a briefing for participants in advance of the workshop**

The briefing document typically sets out:

- Purpose of the workshop and agenda.
- The current situation.
- The requirement.
- Summary of the drivers for a solution.
- Key findings from the market sounding.
- And most importantly questions, often arising from the market sounding, to which you are seeking answers.

Following the workshop it is also helpful to invite participants to make written submissions which, together with the workshop proceedings, are published as a report of the workshop.

#### **Extract from Rotherham NHS Foundation Trust Market Consultation Briefing**

“The aim of this workshop is to inform the development of a procurement specification and strategy that is capable of delivering the optimal lighting solution for the Future Wards refurbishment programme, and specifically to establish:

- What is required for the supply chain to deliver an optimal, ultra efficient lighting solution for the Trusts Future Wards refurbishment programme within the timeframe and budget constraints under which we are operating;
- What are the potential barriers in the delivery of the optimal solution?
- What is needed to facilitate the delivery of the optimal solution, either by the Trust, other bodies or the supply chain?”



## FCP Project Management Tasks STEP 2

- Maintaining momentum of the project and keeping the project plan up-to-date.
- Organising project team meetings.
- Managing the production and sign-off of market sounding documents.
- Managing the market sounding process and communication activities.
- Maintaining regular contact with the FCP Team by phone, email and one-to-ones.
- Keeping the project sponsor and stakeholders engaged and informed of progress.
- Organisation and implementation of market consultation events and preparing a briefing document.
- Maintaining and updating the FCP website page.
- Handling enquiries from the supply chain.

### 2.5 Market Consultation Report

It is helpful to record and make publically available a report of your market consultation activities, ensuring anyone who has expressed interest is made aware of its availability. In the case of a workshop report these may be prepared by the person or team that facilitated the workshop. It is usual for the report to be anonymised.

### STEP 3: Buying a solution

By this stage you will have the information you need to plan and implement your procurement. Public Sector procurers must follow appropriate procurement regulations and there are best practice procurement policy and standards set out by the Cabinet Office.

In this section will make some suggestions specific to the FCP procedure and procurement of innovation and provide some examples.

3. Buying a solution	Supporting innovation through the procurement process
3.1 Develop a pro – innovation procurement strategy	Using the feedback from the consultation process develop a procurement strategy to set out how you will carry out your procurement in a way that supports delivery of an optimal solution
3.2 Feedback to the supply chain and stakeholders	Keep the supply chain up to date and maintain the website page. Keep in touch with stakeholders and especially those who are potential customers for the solutions and demonstrate the wider demand pull
3.3 Implement procurement strategy	Get support and endorsement of the procurement strategy from senior management
3.4 Negotiate procurement contract	Include 'forward commitments and other mechanisms to support innovation and progressive improvement

### 3.1 Develop a Pro-innovation Procurement Strategy

The procurement strategy will be an internal confidential document but a public version should also be available to keep the supply chain informed and engaged. It is helpful to provide advance notice of the core requirement and the procurement process that will be followed, how the notification will be advertised, and anticipated timeframes. This gives suppliers time to prepare, seek out key supply chain members, and build consortia.

The procurement strategy should be 'pro-innovation' i.e. designed to allow suppliers scope to bring innovative solutions to the table and an opportunity to distinguish their products and services on factors other than price alone.

For example: The use of **outcome based specifications** avoids the customer being limited by what is currently available on the market and by what they can conceive as the answer. The **Competitive Dialogue** procedure should only be used where appropriate. It can provide scope for client / supplier dialogue and this can be invaluable when innovative solutions are being sought. It allows discussion with suppliers and innovators to determine how their solution meets the need expressed and how it can be developed to the point of supply. For guidance on using Competitive Dialogue please refer to the Cabinet Office website.

**Whole-life costing** makes sure that the value of an innovative solution in delivering savings in the longer term are recognised.

### 3.2 Feedback to the supply chain and stakeholders

It is important to continue to keep the supply chain informed of developments and progress. Remember to keep the project web page up-to-date throughout the procurement phase. Once the contract is published make all companies and stakeholders that have participated in the market engagement aware.

### 3.3 Implement Procurement Strategy

#### Procurement Strategy Approval and Sign-off

By making the procurement strategy a formal, approved document you create a common reference point for the members of the project team that will undertake the procurement and negotiation process.

#### Award Criteria

Value for money should not be seen as a barrier to innovative solutions. Sometimes innovative offers can look more expensive in the short term, but will be a better offer in the long term. Although not listed explicitly in the Regulations, criteria involving innovative solutions may be used to determine the most economically advantageous tender, where they provide an economic advantage for the contracting authority which is linked to the product or service which is the subject matter of the contract.

“The HMPS example shows that sustainable solutions need not cost more and can save money. It all depends how you go about buying a solution. Now other organisations are following the FCP process we can expect not only innovative thinking but cost savings”  
Fergus Harradence, Deputy Director of Innovation, BIS.

## Forward Commitment Agreements and contracts

The word ‘commitment’ often causes concern among procurers. However, it is often the case that by the time you have been engaged with the supply chain in a credible way over the course of many months your commitment has been sufficiently demonstrated and competition stimulated. The process of market engagement itself demonstrates a level of commitment to delivering a solution. The context and drivers that you have presented to the potential suppliers will have given them a clear indication of what you need to deliver by when and why. A credible market engagement process also stimulates competition and drives improvement.

### 3.4 Negotiate Procurement Contract

At this stage you should follow your normal contractual processes in a way that is consistent with the messages that you have been giving the supply chain throughout the pre-procurement and procurement process.

#### FCP case example: Ultra Efficient Lighting for Future Wards at the Rotherham NHS Foundation Trust

In the first FCP project in the NHS, the project team successfully used the Forward Commitment Procurement (FCP) methodology to stimulate innovation in the supply chain. The project set out to deliver both a step change in the patient experience and in the efficiency of ward lighting, while at the same time being cost effective and ‘future ready’. The opportunity for innovation was presented by a multi-year refurbishment programme beginning in 2010. The vision of the CEO for a ‘Hospital of the Future’ was a key driver. The Facilities Team were keen to exploit new and emerging lighting technology such as LEDs and Organic LEDs which promised both considerable energy savings and an improved environment for patients and staff.

Once identified an ‘unmet need’ was communicated to the supply chain in outcome terms as part of a market sounding exercise. The Trust communicated their requirement and launched the market consultation via a Prior Information Notice in the OJEU more than two years before the solution would be needed on site.

‘The Trust wish to achieve a step change in the patient experience; creating a patient centered environment, including the incorporation of highly efficient, smart lighting systems that can deliver economical carbon reductions while at the same time contributing to a pleasant and healthy environment for both patients and staff.’ Extract from the market sounding prospectus

Stimulated by the advance warning of the forthcoming procurement, one consortium worked together in advance of the tender and was subsequently well prepared to come

forward with an innovative solution that met, and indeed exceeded, the Trust’s expectations. The pro-innovation procurement approach has brought to the market an integrated ‘future ward’ modular solution, with integrated bio-dynamic lighting, trunking, and storage for use by patients and staff.

“This is what gets us excited. There is somebody here who doesn’t want to carry on doing the same old thing, just chipping away at energy efficiency but saying what they really need – a step change” Andrew Bissell, Director, IMI Ltd.

Detailed costings, verified by an independent quantity surveyor, show that the innovative solution will cost the same as a standard ward solution with not only the required step change in patient experience and lighting efficiency but also with reduced on-site build time and additional benefits:

#### Design Features

- Increased storage
- Bio-dynamic lighting
- Daylight responsive
- Modular and flexible solutions
- Patient control

#### Construction Benefits

- Factory made quality
- Adaptable standard components
- Tried and tested technology
- Clean dry construction
- Quick installation

#### Operational Benefits

- Future technology ready
- Easy to clean & maintain
- Daylight linked control

#### Financial Benefits

- Same cost as the traditional build
- Reduced energy consumption, anticipated savings of 30% (or more than £5,000 per 40 beds over 10 years)
- Reduced maintenance, anticipated saving of 88% (or more than £15,000 per 40 beds over 10 years)
- Reduced construction and disruption costs

#### Sustainability

- Long lamp life
- Green energy in manufacture
- Low energy lamps
- Recyclable components

“The key to success was to begin by asking for what was needed – not what we thought was available or affordable. The results have exceeded all expectations. FCP really works”. John Cartwright, Director of Estates and Facilities, The Rotherham NHS Foundation Trust.

## What next?

In a time of rapid change and escalating challenges the public sector needs new solutions and innovation to deliver what is needed in a cost effective way. If we are to stimulate and bring these innovations to the market will need to take responsibility and be proactive managers of supply chains. This not only means changes in way specifications are written and procurement is planned and managed; it means that procurement professionals, operational staff and policy leads will need to work together to identify and address unmet needs. Similarly we will need to make the most of investment opportunities and equip buildings and services for the future. FCP provides a focus and a mechanism to do this.

But to be successful these teams will need the support and backing of their senior managers and leaders. Successful FCP projects require leadership that demands and expects solutions; leaders that are unwilling to settle for the status quo and are willing to challenge 'business as usual'. With backing and support, as the examples in this guidance have shown, these teams can transform thinking, deliver the better outcomes and stimulate real innovation in services and products.

“The outcome of the UEL for Future Wards project shows that better and more sustainable products do not have to cost more. By adopting innovation procurement approaches you can deliver the goods and services that you really need at a price you can afford”. Gaynor Whyles, FCP Programme Manager

Experience tells us that the first FCP project is often a steep learning curve, but the example of The Rotherham NHS Foundation Trust, whose projects have been referred to through out this guidance, shows that the subsequent projects become easier as new systems and ways of thinking are shared among staff. Once a number of FCP projects have been shown to work and deliver real value, and lessons have been learnt, it is natural that you will adapt and shape the processes to meet the particular needs and culture of your organisation.

Finally, our hope is that proactive supply chain engagement and the drive for innovation to deliver ever better solutions will become the standard for public sector procurement.

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### **Forward Commitment Procurement Project Board Members (2008-2011)**

Dr Jonathan (Jack) Frost	Johnson Matthey (Chair)
Fergus Harradence	Department for Business, Innovation and Skills
David Williams	Department for Business, Innovation and Skills
Sue Creese	Department for Business, Innovation and Skills
Karen Andrew	Department for Business, Innovation and Skills
Gaynor Whyles	JERA Consulting
Geoff Sykes	Ministry of Justice
David Whiteley	Department of Health
Vanessa Carpenter	Cabinet Office
Maggie Manton	Cabinet Office
Kore Mason	Cabinet Office
David Golding	Technology Strategy Board
Penny James	Taunton Deane Borough Council

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Any enquiries regarding this publication should be sent to:

Department for Business, Innovation and Skills  
1 Victoria Street  
London SW1H 0ET  
Tel: 020 7215 5000

If you require this publication in an alternative format, email [enquiries@bis.gsi.gov.uk](mailto:enquiries@bis.gsi.gov.uk), or call 020 7215 5000.  
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