

Mystery Shopper Service Progress Report 2016/17

Trends from 6 April 2016 to 5 April 2017

Background

The Mystery Shopper service was launched in 2011 to help suppliers raise concerns about potentially poor public sector procurement practice. The service is anonymous and covers procurement by contracting authorities across the public sector.

The Mystery Shopper team works with suppliers and contracting authorities to resolve issues. We offer advice and support to suppliers during their case and work with contracting authorities to understand why an issue has arisen. By making recommendations for the future, we aim to prevent the problem being repeated. We have a particular focus on removing barriers that may prevent Small and Medium Enterprises (SMEs) from obtaining public sector contracts.

The service was strengthened in 2015 through the Small Business Enterprise and Employment Act that provided a statutory basis for our investigations. If the Mystery Shopper team finds a policy gap or trend, we consider whether policy advice is needed or whether we need to make contracting authorities aware of a potential trend.

We offer anonymity to suppliers using our service wherever possible so they feel able to challenge without concerns that this will hinder their business. We deliver a completely transparent service, publishing our case results and holding contracting authorities to recommendations made.

Outcomes of cases are published on a monthly basis via the Mystery Shopper pages of GOV.uk:

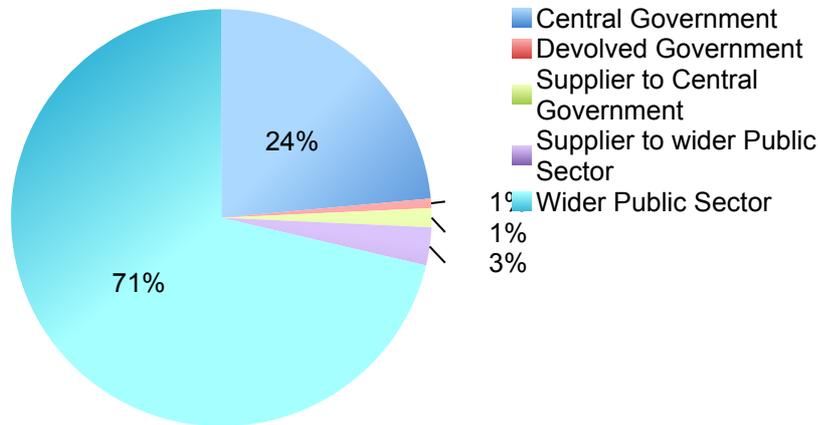
<https://www.gov.uk/government/publications/mystery-shopper-results-2017>

This progress report highlights the main trends between 6 April 2016 and 5 April 2017. It includes outcomes from spot checks on past cases, feedback from our user survey and a comparison of procurement issues within the different sectors. It should be noted that the trends are based on the type of complaint that has been investigated at the closure stage and does not always indicate that an incorrect procurement process has been identified.

Highlights

We received 160 cases between 6 April 2016 and 5 April 2017 and there is little change in terms of the sectors we receive complaints about from the previous year, with the wider public sector continuing to have the majority of cases raised.

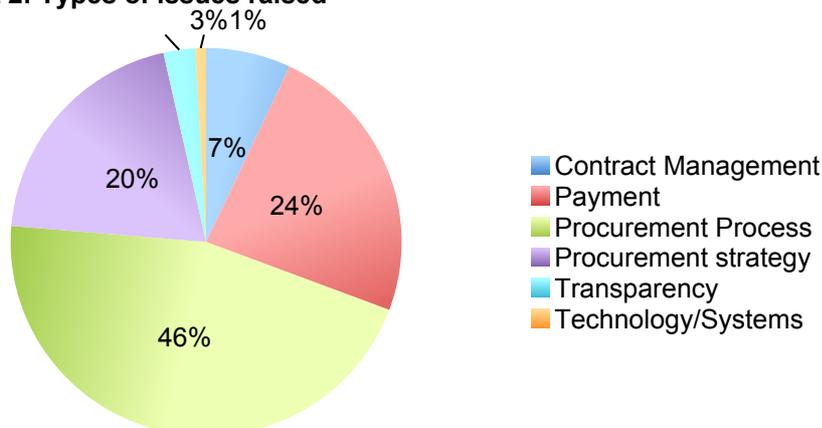
Chart 1: Sectors we received concerns about



The majority of issues raised link to 'Procurement Process' i.e. the process of finding, agreeing terms and acquiring goods, services or works, rather than to the 'Strategy' i.e. the outline of what the contracting authority requires from the contract. It is good to note there has been a positive reduction from 64% to 45% in the past year of the percentage of cases raised within the procurement process. Identifying trends within this issue has been difficult as there was no one part of the process that has been causing a disproportionate number of problems, although invitation to tender, evaluation, pre-qualification questionnaires, financial requirement and timescales have featured more frequently than other issues.

We have seen a significant increase in the proportion of payment issues raised: these have increased to 24% from 1% over the past year.

Chart 2: Types of issues raised



100% of all our closed cases resulted in a positive outcome. This includes changes being made to live procurements, recommendations being accepted that will affect future procurement practice or cases where we find nothing wrong with the procurement practice but we are able to offer advice to service users that help them understand what has happened and why.

Main trends

The most common issues investigated are included in the table below (categories with 2 or below have not been included).

High level classification	Sub criteria	No.	Overall assessment and recommendations	Recommended reading for more information
Procurement Processes	ITT	4	There has been a reduction in cases concerning pre qualification questionnaires (PQQ), reflecting progress made implementing policy in this area.	Public Contract Regulations 2015
	Evaluation	4	No one type of issue is predominant, with familiar concerns and some examples included:	Regulation 67
	PQQ	3	<ul style="list-style-type: none"> • Invitations to tender (ITT) included lost bid papers or bid process restarted once a problem has arisen with current process, 	Regulation 57 – 60 PPN 8/16
	Financial requirements	3	<ul style="list-style-type: none"> • Evaluation process not followed as stated in the bid pack, • Financial requirements requested did not follow the process in the bid, • Tight tender timescales. 	Regulation 58 PPN 2/13
	Timescales	3	There were no particular trends or evidence of a policy gap that needed addressing.	Regulation 26-32
Payment	Non payment	13	Payment cases fell into three broad categories, non payment, prompt payment and changes to payment terms which fell outside the current legislation. The majority of these cases were raised on wider public sector contracts.	Public Contracts Regulations 2015
	Prompt Payment	4	A number of actions are being taken in government to drive a prompt payment culture.	Regulation 113 Statutory guidance for contracting authorities and Suppliers on paying undisputed invoices in 30 days down the supply chain
	Change to payment terms	3	<p>First the government tracks the performance of central government in meeting its commitments to pay on time.¹</p> <p>Second the government has delivered on its commitment to sign all Strategic Suppliers to the Prompt Payment Code²</p> <p>Third, the government has committed to making prompt payment part of the selection process for larger suppliers and will shortly be consulting on this measure.</p>	

Procurement Strategy	Frameworks Financial requirements	4 3	<p>The majority of procurement strategy issues were raised in two categories, frameworks and financial requirements.</p> <p>Examples of issues raised on frameworks included incorrect selection and suggestions that existing ones that could be have been used rather creating a new one.</p> <p>CCS is leading the way in simplifying procurement processes for suppliers and buyers. The simplified bid pack is shorter and written in plain English and has been successfully used in a number of recent framework procurements. CCS is working on a new approach to terms and conditions for common goods and services, which will be shorter and clearer and should be ready to pilot by the end of the year. It should be noted this is for CCS frameworks only, but that they will provide examples of best practice for the rest of the public sector.</p> <p>Examples of issues raised on financial requirements include asking for excessively high previous turnovers or financial requirements being unclear within the bid. These are linked to wider public sector procurements and have been highlighted to the individual contracting authority.</p> <p>There were no particular trends or evidence of a policy gap that needed addressing.</p>	Public Contracts Regulations 2015 Regulation 33 Frameworks Agreements Regulation 58 PPN 2/13
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<https://www.gov.uk/guidance/central-government-prompt-payment-performance>

² <https://www.gov.uk/government/publications/procurement-policy-note-0515-prompt-payment-and-performance-reporting>

Spot checks

As part of the work to continually improve the service, we have refreshed our approach to 'spot checks' to include checks on authorities that have previously agreed to implement recommendations as a result of a Mystery Shopper investigation. The pilot commenced with CCS Mystery Shopper cases and we then extended this programme across the rest of central government and the wider public sector.

The details of these follow-up investigations are published every month alongside the Mystery Shopper case results.

<https://www.gov.uk/government/news/making-sure-procurement-practice-is-best-practice>

Findings

For CCS Mystery Shopper cases, 90% of recommendations had already been implemented prior to our follow up. For the outstanding cases, we reminded the teams about the actions required and asked for confirmation of when this would happen.

For other parts of central government and the wider public sector we found 60% of our recommendations had either already been implemented, or were done so as a result of our reminder. For the remaining 40%, this check served as a useful reminder of what they had agreed and organisation's confirmed plans to make the necessary changes.

We are continuing to follow up on recommendations that are yet to be implemented and we will be working with SME Champions within central government to increase compliance. The SME Champions are based in central government departments and with a Lead Minister, they drive delivery of the Small Business Agenda.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/602978/Small_Business_Lead_Ministers_and_Champions_March_2017_.pdf

Feedback from suppliers and contracting authorities

In November 2016 we re-launched the feedback process with the creation of 2 new surveys. These have been designed to capture feedback on the service provided and to assist the team in improving going forward. Surveys were issued to both suppliers and contracting authorities that used the service and on case closure.

Suppliers feedback

A total of 83 surveys have been sent to suppliers and we have received 31 responses, giving a 37% response rate.

- Over 80% who responded rated the service Good or Excellent
- 89% agreed the process and case outcome was explained to them
- Over 70% of those surveyed confirmed it was easy to find information on the Mystery Shopper service
- Over 93% of those surveyed confirmed they would use the service again
- Over 90% would recommend the service to others and 26 out of the 31 responses had encouraging comments when asked, "what did we do well"?

Contracting authorities feedback

A total of 68 surveys have been sent to contracting authorities that have been contacted by the Mystery Shopper team and we have had 20 responses, giving a 29.4% response rate.

- 40% of contracting authorities who responded to the survey agreed it was a helpful route for suppliers to question procurement approach.
- 45% agreed the process and case outcome was explained to them.
- 52% of contracting authorities agreed that they found the advice and recommendations provided useful.
- 25% of contracting authorities confirmed they informed suppliers about the Mystery Shopper scheme.

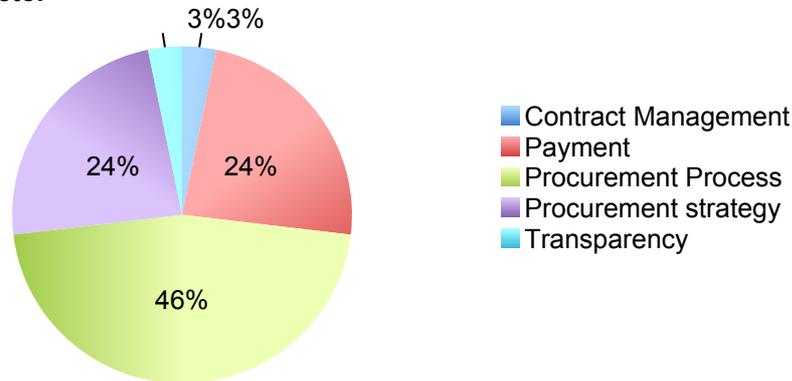
The majority of the feedback identifies that the Mystery Shopper service is not widely known about; we will be undertaking additional promotional work in the 2017/ 2018 financial year.

We will be reviewing the feedback quarterly to improve our services in future.

Annex A: Comparison of procurement issues within different sectors

Wider public sector

Chart 3: procurement issues investigated within the Wider Public Sector

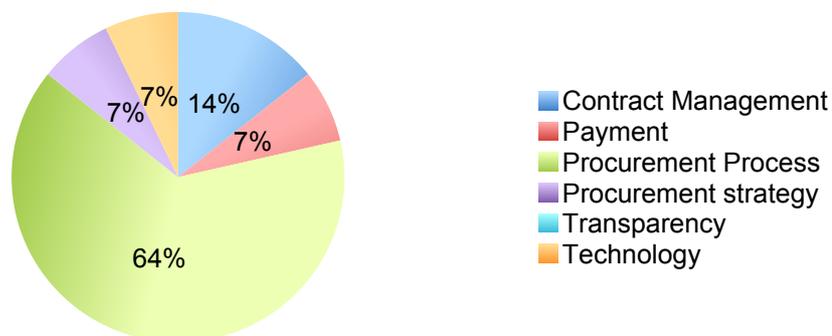


We investigated 93 cases made on wider public sector procurements. 43 of the cases raised were categorised as procurement process issues, it is good to note the percentage of cases investigated within the process has reduced from 66% to 46% this year. There were far fewer cases concerned with prequalification questionnaires reflecting progress made in implementing policy changes in this area. No specific issue predominated, with familiar concerns such as tight timescales, and evaluation process not followed as stated in the bid pack but only appearing on a handful of occasions.

The number of payment cases rose sharply and were equal to the number of procurement strategy issues raised, these both fall into the second most prominent group of concerns raised. This could reflect an increased focus on improving public sector performance in payment areas by the introduction of legislation in 2015.

Central government (not including CCS)

Chart 4: Classification of procurement issues investigated within Central Government



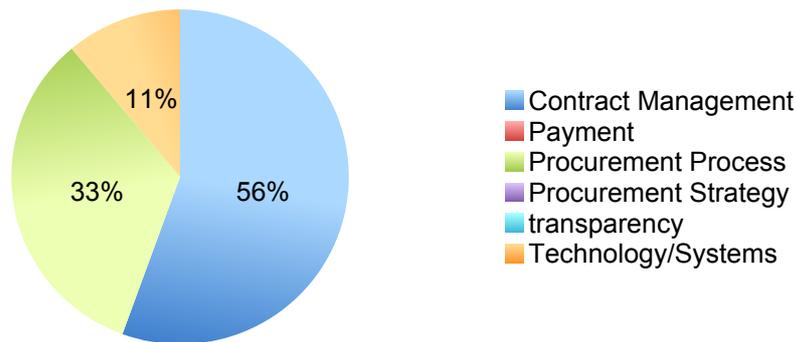
We investigated 14 cases this year and the majority of issues investigated were within the procurement process (64%), there were no particular trend or evidence of a policy gap that would need addressing. Issues ranged from contract requirements favouring larger businesses as some were too large for a SME to bid for, lack of communication with incumbent suppliers about new contract opportunities when changes have been to original ITT's, to perceived overly

burdensome security requirements and feedback that does not explain or support the supplier understanding why they were unsuccessful in a bid.

Due to the size of contracts, many of the suppliers contacting the service about central government were seeking to be involved in or were already part of a supply chain. When we contacted departments about cases, they all demonstrated their awareness of the importance of SMEs and said they were actively seeking to include them in their supply chains.

Crown Commercial Service

Chart 5: Classification of procurement issues investigated within Crown Commercial Services



We investigated 9 cases this year and the majority of the issues we investigated were about contract management, with some linked to the supply chain that has impacted receipt of payment. These issues were raised in a number of CCS cases. All concerned a specific framework for health services. Suppliers were not being paid within the required 30 days. We worked with the framework managers, the Department of Health and the lead contractor to resolve the case for the suppliers concerned. The root cause was that timesheets were not being processed due to a portal failure and manual sorting had been implemented, which was taking additional time.

Aside from contract management issues, CCS cases were varied in subject with issues raised about how central government departments use CCS frameworks and complicated tender processes perceived as favouring larger suppliers. We have worked with CCS Category and Sourcing teams to raise issues as they occur to support individuals through the procurement process, in advance of CCS completing the working on simplifying procurement processes for suppliers and buyers.