

MYSTERY SHOPPER CASES FOR PUBLICATION – JUNE 2014

CONTRACTING AUTHORITY / PRIME CONTRACTOR COMPLAINT AGAINST	ISSUE WITH PROCUREMENT	DESCRIPTION OF COMPLAINT	OUTCOME OF CASE / RECOMMENDATIONS
UK SBS Ltd (BIS)	Non-disclosure agreements (NDAs)	A mystery shopper raised concerns that a NDA contained a number of clauses concerning deletion of data that made it impossible for them to sign up to.	BIS UKSBS fully appreciated that no data could ever be truly removed or deleted and recognise that they should have made it more explicit within the NDA. Their NDAs have subsequently been updated to reflect this accordingly.
Mid Essex Hospital Services NHS Trust	Evaluation	A mystery shopper raised concerns regarding the scoring process and the requirement for additional product testing for the procurement for surgical drapes and gowns.	We agreed that it was entirely legitimate that clinical testing should take place. We recommended that the advert and tender documents should clearly set out that clinical testing will form part of the evaluation. We recommended that for future procurements, in order to maintain a level playing field, all suppliers who pass to the ITT stage, and not just the 'front runner', should be asked to submit samples for evaluation and should all be evaluated by the same evaluation panel in one evaluation process, otherwise there is the risk that such alterations might take the product requested outside the original specification and that not all bidders will have had the opportunity to have their products fully evaluated. The Trust accepted these recommendations.
Government Procurement Service (GPS)	Short timescales in a low value tender	A mystery shopper raised concerns about very short timescales in a low value opportunity published on Contracts Finder.	GPS explained that they were carrying out this procurement for another Department who had imposed very tight deadlines for response for operational reasons. We recommended that a reasonable period of time is built into tender processes to enable an effective response from the market and that unreasonably tight timescales should be avoided. GPS accepted these recommendations.
Office of the Public Guardian (OPG)	Specification	A mystery shopper queried why a managed service had been specified for a procurement of scanning and data capture services.	OPG explained they were carrying out an information gathering exercise before starting the procurement. As a result of this pre-procurement they changed their approach to procure a managed service. The mystery shopper had not realised this was a pre-procurement exercise.

MYSTERY SHOPPER CASES FOR PUBLICATION – JUNE 2014

Westminster City Council	Lotting	A mystery shopper raised concerns about the way an ICT services contract had been split into lots.	Westminster City Council explained that the contract was split into three lots. We discussed the approach they took to lotting and agreed it was reasonable.
Essex County Council	Transparency	A mystery shopper raised concerns about a contract for school transport which they said had not been advertised properly.	When we investigated the concerns we discovered that Essex County Council had not advertised this contract. All of the council's school transport contracts had been advertised transparently.
NHS England	Transparency	A Mystery Shopper was concerned NHS England was not providing clarity with regard to tendering for external consultancy support. The consistency of the procurement process used for contracts below £100,000 threshold was also raised.	NHS England explained they are an arm's length body of the Department of Health and are therefore subject to the central controls that apply to government departments and their arms length bodies, in certain categories of their procurement spend. When procuring consultancy services they are required to use centrally approved deals. In line with Government policy we also recommended that all contracts over £10,000 which are not sourced through central deals must be advertised on Contracts Finder. NHS England are reviewing their policies to align with these policies.
Government Procurement Service (GPS)	Single supplier framework agreement	Two mystery shoppers raised separate concerns about the Civil Service Learning (CSL) single supplier framework agreement.	<p>Concerns were raised about a sub-contracting opportunity which was advertised by the single supplier (Capita) for which 5 working days were allowed for a response. We discussed the issues with GPS and the CSL team. They explained that the tight timescales were not ideal and were driven by the need to have provision in place in line with very demanding timescales. Our recommendation was that a reasonable period of time be built into these exercises to enable the market to respond. This length of time will vary depending on the complexity of the work being sought. CSL and GPS agreed with this recommendation.</p> <p>Concerns were also raised about the single supplier's terms for sub-contractors which would prevent the sub-contractor from contracting directly with a government department who they had supplied via CSL. GPS and CSL explained that the clause in the Capita contract concerning future work is a mechanism to ensure that future Civil Service learning and development procurement activity is channelled through the CSL framework agreement between GPS and Capita. This is part of the Government's policy to centralise its spending on a range of commonly bought goods and services, including learning and development. We</p>

MYSTERY SHOPPER CASES FOR PUBLICATION – JUNE 2014

			asked GPS and CSL to consider if a sufficiently clear explanation of this clause has been given to the supply chain and they agreed to do so.
North East Lincolnshire Council	Procurement of construction design services	A mystery shopper raised concerns that a specialist designer had not been procured in connection with the construction of a swimming pool.	The council explained that they have a long term partnership with a construction contractor. We asked the council to encourage their prime contractor to open specialist opportunities in their supply chain to SME contractors which they agreed to do.
Selby Council	Procurement of construction design services	A mystery shopper raised concerns that a specialist designer had not been procured in connection with the construction of a swimming pool.	The council told us that they had procured construction consultancy services from a framework agreement and construction services from another framework agreement. We did discuss the amount of pre-procurement engagement with the market which had taken place and drew the council's attention to the advice in PPN 04/12 - PPN 04/12 The council will take account of this advice in future procurements.
County Durham and Darlington NHS Trust	Procurement process and specification	A mystery shopper raised concerns regarding the procurement process for a leadership development programme.	We investigated the procurement process used by the Trust and were satisfied with the approach they adopted. We made some recommendations, however, around the PQQ and financials for future procurements, suggesting that the Trust follows the Cabinet Office PQQ model set out in Procurement Policy Note PPN 01/12: PPN 01/12 and also PPN 02/13 on financials: PPN 02/13 . We further suggested that in future, insurance is a contractual condition rather than a selection criterion.
London Borough of Lambeth	Charges for third party accreditation	A mystery shopper raised concerns about having to pay a charge to a third party accreditation service in order to pre-qualify for the council's approved list of construction suppliers, which they used to source contractors for lower value contracts.	We recommended that where a charge is made by a third party accreditor that a free to use alternative is provided – in this case a PAS91 pre-qualification questionnaire. The council advised that they do use PAS91 PQQs when they go out to tender and would consider this advice on a case by case basis.
Mid Devon District Council	Transparency	A mystery shopper raised concerns about the clarity of the advertisement for a tender for a low value works project.	The mystery shopper questioned the design of the works to provide septic tanks for a row of cottages. We discussed the concerns with Mid Devon District Council and recommended that in future adverts there should be greater clarity about the requirements expected from the contractor and the scoring system. The council accepted these

MYSTERY SHOPPER CASES FOR PUBLICATION – JUNE 2014

			recommendations.
Education Funding Agency(EFA)	Pre – qualification questionnaire (PQQ)	A mystery shopper was concerned about the complexity of a PQQ for a works contract and felt it created barriers for SMEs.	We recommended that the EFA adopt a PQQ based on the PAS91 standard for the construction industry. They accepted this recommendation.
Foreign and Commonwealth Office	Bid costs	A mystery shopper was concerned about the bid costs for a low value contract to design a logo. They believed they would have to design a logo to compete and this would be uneconomic.	FCO explained that they had made clear in the tender documents that they did not expect to see a full design. They were sourcing this work through a framework agreement so had confined their request to a small number of experienced suppliers because of the low value of the contract. We agreed with the FCO's approach.
Government Procurement Service (GPS)	Procurement Process	A mystery shopper raised concerns about the lack of support and guidance in a procurement for a framework agreement for Vehicle Conversions.	We discussed the concerns with GPS and they agreed to provide more support and guidance in the future by being the point of contact for all enquiries regarding GPS procurements. Service desk enquires regarding such procurements will be redirected to the category team to process as part of the Q&A that must be circulated to all bidders.
Leicestershire County Council	Insurance	A mystery shopper raised concerns about the requirement for £2 million of personal indemnity insurance for a low value contract.	We discussed the concerns with Leicestershire County Council and drew their attention to PPN 02/13 - <u>PPN 02/13</u> - which calls for a proportionate approach to insurance requirements. The council are reviewing their approach to the levels of insurance they require in future contracts. They are also reviewing documents and processes to ensure they are as SME friendly as possible.
University Hospital of South Manchester NHS Foundation Trust	Pre – qualification questionnaire (PQQ)	A mystery shopper raised concerns about the complexity of a PQQ.	The mystery shopper had particular concerns about questions relating to insurance, quality accreditation and disaster recovery planning. We drew the Trust's attention to the core PQQ set out in PPN 01/12 <u>PPN 01/12</u> and the advice on financial risk in PPN 02/13 <u>PPN 02/13</u> and recommended that future PQQs reflected this advice. The Trust accepted this recommendation.
Her Majesty's Revenue and Customs (HMRC)	Low bid rejected	A mystery shopper raised concerns about the reasons why their bid had been rejected which they said was cheaper than rival	We discussed with HMRC who explained that the award had been made on a value for money basis and that quality factors as well as price were taken into account. We found no fault with their approach.

MYSTERY SHOPPER CASES FOR PUBLICATION – JUNE 2014

		bids.	
East Thames Housing Association	Turnover threshold	A mystery shopper raised concerns that a security contract required bidders to have a turnover of £10 million.	East Thames Housing Association said turnover was set due to value of contract, staffing requirements and for risk reasons. We drew their attention to the policy set out in PPN 02/13 - PPN 02/13 . We also discussed the forthcoming new EU procurement directives which will limit the setting of turnover requirements in future. The housing association agreed to take this advice into account in future procurements.
Central Manchester NHS Foundation Trust	Lotting	A mystery shopper was concerned that a procurement for doctor locums discriminated against SMEs, citing particular issues around pricing mechanisms and admission to lots.	The Trust explained the reasoning behind the lots and the transparency of the pricing system, allowing day rates for locums and agencies' commission rates to be clearly expressed. The mystery shopper continued to be unhappy with the pricing structure and the number of lots to which they had been admitted and, after further discussions with the Trust, contracts were awarded without awarding to the mystery shopper. Although we did not find any fault with the procurement process followed, we would recommend for future procurements the need for the Trust to stipulate to all bidders that contracts should be signed by the contract award date. The Trust accepted this recommendation.
Stratford on Avon Council	Procurement halted	A mystery shopper raised concerns when procurement was halted on the day that tenders were due to be returned.	The council had reviewed their requirement and then issued a new specification. The mystery shopper had concerns that this was unfair as technical information provided might be used, for example, to inform a subsequent procurement from a framework agreement which he would not be able to respond to. We recommended that the council make greater use of pre-procurement engagement to test the market and shape requirement early in the process to prevent problems during a procurement. This recommendation was accepted.
Business, Innovation and Skills (BIS)		A mystery shopper raised concerns about a procurement carried out by UK SBS Ltd for BIS in support of the growth vouchers programme, especially around the complexity of the procurement process.	We discussed the issues raised with the mystery shopper who had not realised that the EU procurement rules would apply. He had developed a low cost solution but the procurement team did not feel it met the requirement advertised. We explained this to the mystery shopper. We examined the procurement documents used and recommended to UK SBS that they ensured that their procurement documentation reflected the approaches set out in PPN 01/12 (the standard core PQQ which is mandated in central government) - PPN 01/12 ; PPN 02/13 on the financial assessment of suppliers - PPN 02/13 and PPN 06/13 on the tax affairs of suppliers PPN 06/13 . UK SBS Ltd took action to ensure their

MYSTERY SHOPPER CASES FOR PUBLICATION – JUNE 2014

			documentation is up to date.
Basingstoke Council	Pre – qualification questionnaire (PQQ)	A mystery shopper raised concerns about a PQQ which they believed was complex.	We contacted the council and drew their attention to the core PQQ in PPN 01/12 - - PPN 01/12 . We put the mystery shopper in touch with them to meet and discuss his concerns
Crescent Purchasing Consortium	Financial requirements	A mystery shopper raised concerns about the financial assessment of suppliers in a procurement of framework agreement for temporary staff.	We discussed the issue with Crescent and drew their attention to procurement policy note PPN 02/13 - PPN 02/13 which advises contracting authorities to take a holistic view of supplier financial capacity. Crescent responded that they had split their framework into 12 geographical lots to enable SMEs to compete and they thought that turnover was a good indicator of the capacity of suppliers to provide temporary staff when required. They did commit to review their approach to financial assessment in line with the advice in PPN 02/13 for future procurements.
Kings College Hospital London	Late payment of invoices	A mystery shopper raised concerns about the late payment of invoices.	We discussed this issue with the hospital and they arranged for the prompt payment of all outstanding invoices.
Medway Maritime Hospital	Late payment of invoices	A mystery shopper raised concerns about the late payment of invoices.	We discussed this issue with the hospital and they arranged for the prompt payment of all outstanding invoices.
University College Hospital London	Late payment of invoices	A mystery shopper raised concerns about the late payment of invoices.	We discussed this issue with the hospital and they arranged for the prompt payment of all outstanding invoices.
Business Innovation and Skills (BIS)	Short timescales to respond to an Invitation to Tender (ITT)	A mystery shopper raised concerns about the short turnaround time for responding to an ITT.	Recognising that the ITT did not follow good practice BIS withdrew the ITT from the market and Contracts Finder. The tender was re-issued to reflect changes to the timelines and cross referenced to the previous exercise.
Environment Agency	Procurement strategy	A mystery shopper raised concerns that the procurement of a large framework agreement would not allow a level playing field or lead to opportunities for small or micro civil engineering consultants	The mystery shopper argued that instead of splitting completely separate requirements into independent lots and managing them, they have combined them into a single framework, which would be advantageous to larger firms who have the major multidiscipline consultants required. We discussed these concerns with the agency who explained that they had carefully considered the shape of this procurement to obtain best value for money. They have taken steps to ensure that SMEs can play a full role in the supply chain.

MYSTERY SHOPPER CASES FOR PUBLICATION – JUNE 2014

Hertfordshire County Council	Framework agreement	A mystery shopper raised concerns about the method of calling off from a framework agreement and the way that bids would be evaluated.	The council clarified their approach to evaluation. We recommended that they also make it clear how call off contracts would be awarded from the framework once it was in place. They decided that contracts would be awarded following further competition.
Cabinet Office	Transparency	A mystery shopper raised concerns that the Due North tendering system was not sending accurate feeds of information to potential suppliers.	When we investigated we found that links with the Contracts Finder website were not functioning properly. The Contracts Finder team are working with Due North to ensure that the links between the systems are working as they should.
Government Procurement Service (GPS)	Time allowed to respond to a low value tender	A mystery shopper raised concern about a very short timescale for the return of bids for a low value tender.	GPS accepted our recommendation to allow a proportionate amount of time and to resist requests for unreasonably short timescales from government bodies who they are buying for.
Portsmouth Council	Abandonment of procurement	A mystery shopper was concerned that a procurement for a small research project had been abandoned, wasting the effort of bidders.	The council told us the procurement was abandoned due to a review of whether the research was in fact required. We recommended that, for future projects, the market should only be engaged when a full business case, including funding, has been agreed. The council accepted this recommendation and advised that the project may go ahead in the future.
Nottingham University Hospitals NHS Trust	Participation of bidders in other bidders' supply chains	A mystery shopper raised concerns regarding the procurement process used for the provision of a Pathology Managed Service and the fact that the Trust would not accept bids from suppliers who were also accepted in another bidder's bid as a sub-contractor. Furthermore, this only became apparent when suppliers were invited to tender.	We recommended that the Trust re-start this procurement, making their position clear from the outset if they wish to exclude bidders bidding in this way, in order to avoid discriminating against different classes of supplier and to encourage transparency. The Trust, however, considered that this would not resolve the bidder's prime concerns but whilst wishing to continue with the procurement, offered to engage with the mystery shopper. Following discussions, the Trust concluded that in order to mitigate its own concerns, those of the mystery shopper and any potential concerns of other bidders, the most appropriate course of action would be to re-design the procurement, permit parallel prime and sub-contractor bids and to re-advertise the revised opportunity in this way.
BBC	Pre- qualification questionnaire (PQQ)	A mystery shopper raised concerns about the approach to the assessment of financial strength of bidders in a PQQ.	We drew the BBC's attention to the core PQQ in PPN 01/12 - <u>PPN 01/12</u> . They agreed to adopt the approaches in the core PQQ in future procurements.
Surrey County	Financial Risk	A mystery shopper raised	The council was changing the way that housing support payments would

MYSTERY SHOPPER CASES FOR PUBLICATION – JUNE 2014

Council		concern about how funding in a housing support contract would be provided.	be made to the provider because of changes in the benefits system resulting in tenants receiving payments for their rent directly from the Department of Work and Pensions. The mystery shopper was concerned that this would lead to an increase in financial risk in the contract. We brokered a meeting between the mystery shopper and the council so they could discuss the concerns in more depth.
North Eastern Universities Purchasing Consortium (NEUPC)	Turnover thresholds	A mystery shopper raised concerns about the inclusion of minimum turnover thresholds in the financial assessment of bidders	<p>The Mystery Shopper contended that the minimum turnover levels set excluded SME businesses and only permitted large organisations to bid for the framework. Independently of the referral, NEUPC superseded the original contract notice and the financial thresholds in the replacement contract were set at much lower levels. We discussed the advice in procurement policy note PPN 02/13 - PPN 02/13 - which is not to exclude potential suppliers on turnover size alone.</p> <p>NEUPC said they follow the advice of PPN 02/13, however, they reserved the right to vary their supplier financial requirements in accordance with their perceived level of risk - that is to determine the risk to both the supplier and institutions and to ensure that potential bidders can sustainably operate and not be exposed to undue risk at the end of any potential contract period.</p> <p>In this particular case turnover thresholds were lowered.</p>
Education Funding Agency	Financials	A mystery shopper raised concerns that a turnover threshold was being used in isolation to assess the financial strength of suppliers.	We discussed the concerns with the EFA and drew their attention to PPN 02/13 - PPN 02/13 - , which advises against the use of excluding bidders solely on the basis of turnover, although turnover can be a factor which is taken into account when assessing financial strength. EFA accepted our recommendation to apply this policy in future procurements.
Government Procurement Service (GPS)	Pre-procurement engagement	A mystery shopper raised concerns that a procurement for Telecoms Expense Management services favoured larger suppliers.	The mystery shopper had attended a supplier day but had concerns that a pilot project had been undertaken by a large supplier. GPS assured the supplier that they wanted to see an open competition with suppliers of all shapes and sizes participating and the procurement had been structured to enable that, e.g. holding extensive supplier engagements including a supplier day with networking opportunities and presentations from the CCS SME team, providing clear descriptions of the opportunity for consortia bids and sub-contracting in the supply chain and redefining the specification to describe outputs more clearly and allow for innovation in service delivery

MYSTERY SHOPPER CASES FOR PUBLICATION – JUNE 2014

Metropolitan Police	Short period of time between answers to clarification questions and deadline for return of pre qualification questionnaire (PQQ)	A mystery shopper raised concerns about a short period of time between final clarification questions being answered and the deadline for return of the PQQ.	We approached the Metropolitan Police with the mystery shopper's concerns and they immediately extended the deadline to enable more time for bidders to respond.
Epsom and St Helier University Hospitals NHS Trust	Pre-qualification questionnaire (PQQ)	A mystery shopper raised concerns about the approach taken to the financial appraising of bidders in a PQQ.	We referred the Trust to Procurement Policy Note (PPN) 01/12 – PPN 01/12 , which illustrates the Cabinet Office model PQQ and also Procurement Policy Note 02/13 PPN 02/13 , which sets out our view on financials. In our view a risk-based approach should be taken for financials, looking at a range of measures. We do not recommend that a supplier is removed from a competition on the basis of turnover threshold and/or credit scores in isolation and we also feel that financials should be pass/fail and not scored. We further noted that insurance was asked to be in place; we advocate in PPN 01/12 that insurance should be part of the contractual requirements rather than a selection requirement. The Trust agreed to change their approach to financials for future procurements.
Kent Community Health NHS Trust	Pre-qualification questionnaire (PQQ)	A mystery shopper raised concerns regarding the PQQ used for a below threshold contract, citing particular issues around selection criteria.	We informed the Trust that we do not advocate using PQQs for below threshold contracts and when asking selection-type questions, they should be proportionate to the contract value. We would suggest that in future they follow the Cabinet Office model PQQ set out in Procurement Policy Note PPN 01/12: PPN 01/12 . The Trust accepted this recommendation.
Staffordshire County Council	Charges for third party accreditation	A mystery shopper raised concerns that he would have to use third party accreditation services to pre-qualify for a works contract.	The mystery shopper was concerned that he would incur additional costs by registering for third party accreditation services. The council agreed to allow free to use alternatives.
North England Commercial Procurement Collaborative (NHS)	Cloud First	A mystery shopper raised concerns regarding the procurement to set-up a framework contract for e-sourcing/e-tendering solutions	In future procurements of this type we recommended that Cloud First solutions are considered in the first instance, in line with government policy which is mandatory within Central Government and strongly recommended within the Wider Public Sector, including the NHS. G-Cloud is an effective way of doing this, although not the only route. This

MYSTERY SHOPPER CASES FOR PUBLICATION – JUNE 2014

		and questioned why G-Cloud was not used instead?	recommendation was accepted.
Department of Work and Pensions	Tender scoring	A mystery shopper raised concerns about the way their tender for a disability advocacy contract had been scored. They were concerned that their experience in the field had not been taken properly into account.	The Department provided a detailed response which set out where the tender board believed that the mystery shopper's experience was not as wide and up to date as other bidders. We were satisfied that the tender scoring process followed good practice.
Devon County Council	Use of a framework to procure schools management information services (MIS).	A mystery shopper questioned why the council had not used the IMLS framework to procure schools MIS but had used an alternative framework agreement.	<p>The council told us they considered the following options:</p> <ul style="list-style-type: none"> • Conduct an EU compliant tender exercise • Conduct a mini competition through the Government Procurement Service RM1500 IMLS framework • Conduct a mini competition through the Government Procurement Service RM713 SAS framework <p>They considered the IMLS framework however this framework is for standalone IMLS software systems, which was not appropriate in this instance. They discussed the best route with the Government Procurement service and decided that the Software Application Solutions RM713 could be used to provide an end-to-end solution to deliver their requirements.</p>
Warrington Borough Council	Use of framework agreement	A mystery shopper asked why the council had used an alternative to the IMLS framework agreement for the procurement of schools management information services.	The council decided to use an alternative framework agreement for their requirement and we found no fault with their approach.
Merseyside Police	Use of framework agreement	A mystery shopper questioned why a procurement for speed cameras was undertaken using a framework agreement which meant they were unable to bid.	Merseyside Police explained that having identified the need to update speed cameras and supporting equipment, they chose to use a Government Procurement Service framework agreement for this procurement as this covered the items to be purchased. A tendering exercise was undertaken within this framework arrangement. We forwarded a list of suppliers who were party to the framework to the

MYSTERY SHOPPER CASES FOR PUBLICATION – JUNE 2014

			mystery shopper so he could pursue sub-contracting opportunities.
Middlesbrough Council	Not using GPS Frameworks	A mystery shopper queried why the authority was not using a particular framework to procure the services they wanted.	The authority replied explaining that using the GPS framework was considered as a one of the procurement options but was ruled out because the framework did not meet all of their needs. This was explained to the mystery shopper who raised the case.
Guy's and St Thomas NHS Foundation Trust	Pre-qualification questionnaire (PQQ)	A mystery shopper questioned why they had been excluded from a procurement at PQQ stage for a framework agreement for the recruitment of nurses from overseas.	The mystery shopper said they had extensive experience of recruiting nurses from abroad, although was unable to demonstrate experience within the timescale requested by the Trust. The Trust reviewed the criteria and re-opened the PQQ. The mystery shopper was satisfied with this course of action.
County Durham Procurement Consortium (NHS)	Feedback	A mystery shopper raised concerns that in a tender for a screening test they had not received feedback on why their bid was not successful.	The Trust told us how they had evaluated the bids and offered to feedback to the mystery shopper.
Kent Community Health NHS Trust	E-procurement systems	A mystery shopper raised concerns about an e-procurement system and their PQQ not being downloaded properly.	The Trust checked their e-procurement system and reported that there were no problems with it.
Norwich and Norfolk University Hospital and the University of East Anglia/UKSBS Ltd	Clarity of advertisement	A mystery shopper raised concerns about the clarity of an advertisement in the Official Journal of the European Union (OJEU) for construction consultancy services. The mystery shopper has three concerns. The works to be carried out are in Norfolk but the location of the contract was specified as Newport; the value of the contract was related to the value of the works rather than the associated consultancy services; and concerns that the coding in	UK SBS Ltd explained that the "NUTS" coding in the advertisement should be used to ascertain the location of the contract. This was accurately displayed as Norfolk and it is possible to search by NUTS code to find contracts by location. They have reviewed their approach to contract values and they will not be using the value of the works going forward for consultancy service advertisements. UK SBS said they were aware that their coding of the advertisement allowed for non-professional firms to bid. They wanted to engage a wide range of suppliers but would expect non-specialist firms to demonstrate how they would engage appropriate professional services.

MYSTERY SHOPPER CASES FOR PUBLICATION – JUNE 2014

		the advertisement would mean that the services could be provided by those professionally qualified to do it.	
North Tyneside Council	TUPE	A mystery shopper raised concerns regarding procurement for a Social Prescribing Hub where the TUPE liabilities were greater than the contract value for the service. The Mystery Shopper felt this was not economic and precluded fair and open competition in the procurement process.	We recommended that the Council should not advertise contracts with a value below costs that have to be met under the TUPE regulations. This will help ensure that the procurement process is open to competition and potential contractors are not precluded from bidding on the basis of the wage costs consuming the full budget. The Council accepted these recommendations and will consider them in all future procurements. To facilitate this the Council is also writing a briefing note that will be shared with all those responsible for procurements.
UK SBS Ltd	Clarity of instruction in tender documents	A mystery shopper raised concerns about the clarity of tender documents issued in connection with the procurement of framework agreement.	UK SBS Ltd clarified the points that had been causing confusion and extended their deadline for responses to enable the market to better respond to this tender.
London Borough of Southwark	Financial Requirements	A mystery shopper raised concerns that audited accounts had to be produced for the financial strength of bidders to be assessed. They raised the point that small business with turnover below a set threshold do not have to have their accounts audited for Companies House.	We raised the concern with Southwark who told us they do allow for alternatives to audited accounts. As they take these sorts of concerns seriously they reviewed their processes to ensure that this is made clear to bidders in future procurements.
iESE	Charges to use a procurement portal	A mystery shopper raised concern about the prospect of suppliers being charged to use the iESE procurement portal.	We discussed the concerns with iESE who commented that they were reviewing their business model and had no immediate plans to charge suppliers to access their portal.
Construction Industry Training Board (CITB)	Experience	A mystery shopper raised concerns that his bid for a contract through the Creative Choice framework agreement had been rejected because of a	We discussed the issues with CITB. They had already reviewed and strengthened their processes to ensure that evaluation criteria (such as relevant experience) are published in all invitations to provide quotes which are logged on the Creative Choice portal.

MYSTERY SHOPPER CASES FOR PUBLICATION – JUNE 2014

		lack of relevant experience.	
Frimley Park NHS Foundation Trust	Pre-qualification questionnaire (PQQ)	A mystery shopper raised concerns about a PQQ which appeared to give extra weighting for experience of supplying the NHS.	We drew the Trust's attention to the model PQQ which places an equal weight on all relevant experience (either from the public or private sector). The Trust adjusted the PQQ to reflect this advice.
Norfolk and Suffolk NHS Trust	Prompt payment of invoices	A mystery shopper raised concerns that payment had not been made for invoices in respect of temporary staff supplied to the Trust.	We discussed the concerns with the Trust. Some of the invoices related to work done directly for the Trust and some related to work done as a sub-contractor to a prime contractor of the Trust. We clarified the supporting evidence needed with the mystery shopper who was able to provide further information to enable the invoices to be processed and paid.
London Borough of Enfield	Charges for third party accreditation	A mystery shopper raised concerns about having to pay for accreditation through Constructionline in order to qualify for low value construction related consultancy services.	We discussed the merits of using Constructionline with London Borough of Enfield. They explained that Constructionline offers an effective pre-qualification service for a relatively modest charge. We explained our policy view; if a third party accreditor, which applies charges to suppliers is used, then a free to use alternative should be available. They agreed to accept a PAS91 pre-qualification questionnaire as an alternative in this case.
Sport England	Pre-qualification questionnaire (PQQ)	A mystery shopper raised concerns about the complexity of a PQQ.	We examined the PQQ but found it was in line with the standard PQQ set out in procurement policy note PPN 01/12 - PPN 01/12
Care Quality Commission	Time allowed to respond to a low value tender	A mystery shopper raised concerns about a short response period in a low value tender	CQC acted promptly to lengthen the period to enable more time for the market to respond but highlighted operational difficulties with Contracts Finder as one of the reasons for a shorter than ideal timeframe. We are working with CQC to resolve those issues.
Skills Funding Agency	Time allowed to respond to a tender (procurement not subject to the timescales in the Public Contracts Regulations).	A mystery shopper raised concerns about short time scales in two SFA procurements for the Skills Support for Work Programme Participants and the Flexible Fund for the Unemployed.	The SFA took into account the concerns raised, reviewed their approach and decided to extend the timeframe for response by suppliers.
Cabinet Office	Availability of Contracts Finder	A mystery shopper raised concerns about the Contracts Finder being unavailable due to	As the website was unavailable for a short period we arranged for timescales to be extended in a number of procurements. The Contracts Finder team agreed that any changes to the advertised downtimes for

MYSTERY SHOPPER CASES FOR PUBLICATION – JUNE 2014

	website	technical issues.	Contracts Finder will be updated on a daily basis and the information circulated to users.
Tees, Esk and Wear Valley NHS Trust	Prompt payment	A mystery shopper raised concerns because he had not received payment for an invoice submitted for removal services.	The Trust explained that they had updated their processes for payment of invoices as part of a counter fraud initiative in the NHS. The mystery shopper had not responded to a request to submit payment details but once he had prompt payment was made.
LGSS (Northamptonshire County Council)	Time allowed to respond to a low value tender	A mystery shopper raised concerns about a short timescale for response to a tender in a lower value contract for training services.	LGSS reviewed their approach and acted promptly to extend the timescale for response.