

## Mystery Shopper Publication Table October to December 2014

CONTRACTING AUTHORITY / PRIME CONTRACTOR COMPLAINT AGAINST	ISSUE WITH PROCUREMENT	DESCRIPTION OF COMPLAINT	OUTCOME OF CASE / RECOMMENDATIONS
<p><b>New</b> Crown Commercial Service (CCS)</p>	<p>Timescales with regard to Questions &amp; Answers (Q &amp; A)</p>	<p>A Mystery Shopper contacted the service to raise concerns about the Q&amp;A process for the Network Services procurement. The deadline for responses falls between the 11 and 17 December, but the Mystery Shopper had not had answers to all of the questions they had asked. They were concerned that they had to bid for work without fully understanding the requirement in order to fit the timescales.</p>	<p>CCS responded quickly to look at the issues raised and agreed to move the deadline for responses to 9 January to ensure that the Q&amp;A process was completed to provide suppliers enough time to bid for the work.</p>
<p><b>New</b> Crown Commercial Service (CCS)</p>	<p>Invitation to Tender – Timescales</p>	<p>Two Mystery Shoppers contacted the service to raise concerns about the response deadline for the ICT for Education procurement. The deadline fell between the 11 and 17 December, alongside three other tendering opportunities. This meant that the Mystery Shoppers did not have enough capacity to bid for all four frameworks.</p>	<p>CCS responded quickly to look at the issues raised and agreed to move the deadline for responses to 19 December to allow suppliers the extra time to bid for the work.</p>
<p><b>New</b> Crown Commercial Service (CCS)</p>	<p>Invitation to Tender – Timescales</p>	<p>Two Mystery Shoppers contacted the service to raise concerns about the response deadline for G Cloud 6. The deadline fell between the 11 and 17 December, alongside three other tendering opportunities. This meant that the Mystery Shoppers did not have enough capacity to bid for all four frameworks.</p>	<p>CCS responded quickly to look at the issues raised and agreed that as the deadlines for responses on three out of four ICT frameworks have been moved to allow suppliers the extra time to bid for the work, the deadline for G Cloud 6 should remain to ensure all ICT response deadlines were staggered and did not run into the Christmas period and other onward procurement commitments post Christmas.</p>
<p><b>New</b> Crown Commercial Service (CCS)</p>	<p>Invitation to Tender – Timescales</p>	<p>Two Mystery Shoppers contacted the service to raise concerns about the response deadline for the Technology Services procurement. The deadline fell between the 11 and 17 December, alongside three other tendering opportunities,</p>	<p>CCS responded quickly to look at the issues raised and agreed to move the deadline for responses to 23 December to allow suppliers the extra time to bid for the work.</p>

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		which meant that they did not have enough capacity to bid for all four frameworks.	
<b>New</b> Crown Commercial Service (CCS)	Invitation to Tender – Timescales	Two Mystery Shoppers contacted the service to raise concerns about the response deadline for Network Services. The deadline fell between the 11 and 17 December, alongside three other tendering opportunities, which meant that they did not have enough capacity to bid for all four frameworks.	CCS responded quickly to look at the issues raised and agreed to move the deadline for responses to 9 January to allow suppliers the extra time to bid for the work.
<b>New</b> Health Trust Europe	Pre-qualification questionnaire (PQQ) – lengthy and disproportionate questions	A Mystery Shopper raised concerns about a lengthy PQQ for a ' <i>Learning and Talent Development</i> ' tender that Health Trust Europe were running on behalf of NHS Trusts. The Mystery Shopper was eliminated at the PQQ stage despite having experience in this sector and field.	We investigated this case with Health Trust Europe and highlighted some areas which we recommended for changes in future procurements. These included: - treating public / private sector experience equally and moving the requirement to hold a 'Disclosure and Barring Service checks' to a condition of contract as opposed to a selection criteria. Health Trust Europe accepted these recommendations and agreed to ensure that these changes are reflected in future procurement exercises.
<b>New</b> Manchester City Council	Procurement Process Issues with Specification	A Mystery Shopper raised concerns about a procurement by Manchester City Council for "The Provision of a School Attendance and Attainment Monitoring and Data Collection Service for Looked After Children." They felt that the specification was written in a way that restricted competition as it did not consider equivalent ways of gathering this data other than via daily telephone calls, e.g. via electronic means. The Mystery Shopper was also concerned that they had not been given an opportunity to demonstrate their offering.	The Council explained that they already had a system for electronic data collection and the requirement for a telephone-based service was necessary to provide accurate and current information to ensure vulnerable children are accounted for to ensure safeguarding requirements are met. The telephone service allows Commissioners to both validate the electronic mark being submitted by Schools for each Looked After Child and also provides additional means for discussing and resolving with a School any queries arising from a child's attendance. The Council also provided evidence of a supplier day in which the Mystery Shopper had been given the opportunity to demonstrate their system.
<b>New</b> Swale Borough Council	Scoring	A Mystery Shopper raised concerns surrounding the rationale behind the scoring of the Swale House Reception procurement. The Mystery	The Council provided us with a copy of the scoring matrix for this procurement and we could not see that any procurement rules have been broken. The Council did explain that the successful

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		Shopper was concerned that the scoring system could lead to very low or zero marks being awarded to potential bidders.	tender is significantly lower than the other prices. However, the successful tenderer is also their incumbent term maintenance contractor and the Council were satisfied that their ability to manage the project and the workforce associated with the project in conjunction with the term contract has given them a competitive edge. The Council were also satisfied that the tender is reasonable based on their own experience when compared with the budget estimate for the project.
<b>New</b> Home Office	Procurement Process Timescales	A Mystery Shopper raised concerns about a procurement run by the Home Office stating that the timescales for the implementation of this tender were too restrictive.	We investigated this case and came to the conclusion that the timescales were satisfactory in relation to the value of the contract. We discussed procurement timescales with the Home Office, who have advised that they engage with the market through supplier groups, industry days and supplier briefings for larger procurements.
<b>New</b> Tavistock Town Council	Evaluation of Tender	A Mystery Shopper raised a concern in connection with the procurement of legal services. Specifically, that whilst they received the highest score in a preliminary evaluation, but not the final assessment, they were unsuccessful and the contract was awarded to an incumbent supplier	Tavistock Council explained their procurement approach and provided a breakdown of the scoring and evaluation of the procurement. We found there had been some misunderstanding and confusion on the part of the provider surrounding the status of the 'preliminary assessment' of suppliers in part because some feedback had been oral and some in writing. We recommended that to ensure a fully transparent procurement approach in future the Council provide a full written breakdown of scores and evaluation for each stage of procurement.
<b>New</b> UK Commission for Employment and Skills (UKCES)	Procurement Process Timescales	A Mystery Shopper raised concerns about a procurement run by UKCES stating that the timescales for the implementation of this tender were too restrictive.	We investigated this case and have confirmed that UKCES actually published this tender on an earlier date. The new creation date shown on Contracts Finder was the date that UKCES added their question and answers document to the contract notice, not the original contract notice date. This had led the Mystery Shopper to believe that a very short timescale was being applied, which was not the case. We have drawn this issue to the attention of the Contracts Finder team.
Slough Borough Council	Financial assessment at	A public service mutual raised concerns about a tender they were knocked out of because of a	We investigated this case and the Council informed us that this public service mutual did not pass the financial standing because it

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	tender stage	lack of financial stability. They were disappointed that they were unable to talk through their situation directly with the Council prior to completing the Invitation to Tender.	<p>did not present a robust enough financial position. They fed back to us that do take a view on the longevity of the business but they are also obliged to consider the financial stability and capacity of all tenderers on an equal basis, and they must exclude companies which fail to provide the requisite substantiating financial information. The Council, while mindful of the need to support SMEs and developing businesses, highlighted to us the importance of taking due care in the expenditure of public money. The Council offered a range of equivalent financial documents which allow flexibility to prospective tenderers to demonstrate their financial standing.</p> <p>Our recommendation to the Council was then when setting the financial bar that suppliers have to pass in order to progress, they should consider wider factors on areas of risk (such as sector, scale of procurement, type of goods/services, what the market is like and whether they could be replaced easily), which should develop a clearer picture on the extent to which the financial stability of a supplier is paramount to the delivery of the contract. In addition, we would encourage open dialogue with suppliers at pre-market engagement to address any concerns (such as financial standing, early on.) The Council have accepted these recommendations.</p>
Warrington Borough Council	Procurement Process Timescales	A supplier contacted the Mystery Shopper service concerning an Invitation to Tender (ITT) for a contract worth £10,000. The supplier believed that the level of information requested for a low value contract was too burdensome and overly bureaucratic.	The council confirmed that the contract was worth between £100,000 and £120,000 and having reviewed the ITT, and looked at the financial information requested, we concluded that the ITT was proportionate to the value of the contract. The financial information requested complied with current supplier financial assessment policies.
London Borough of Redbridge	Payment	A Mystery Shopper raised concerns that a 2.5% deduction was applied to the total they were paid, in exchange for receiving payment within 14 days. They felt that this was not made clear up front and the first time they became aware of this	We investigated this case and were informed by the Council that when they take on new suppliers, they ask them to complete a form which makes it clear that 2.5% will be deducted from the invoice payment if paid within 14 days. This form also contains a hyperlink to the Authority's Standard Terms and Conditions which

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		was when they received payment.	set out the payment terms. These Terms are published on the Council's website. In addition, purchase orders placed by the Council contain a reference to the early payment discount. In this situation, the supplier had unfortunately overlooked this information. The Council has commented that it is currently the default option that suppliers are paid within 14 days, however, in certain situations, they will consider waiving the Early Payment Discount. The Council highlighted to us that they are aware of the importance of prompt payment for suppliers (and particularly small businesses) and the early payment discount was introduced with the full agreement of Council members.
UK Shared Business Services	Award Notification	A Mystery Shopper raised concerns about a procurement by UK Shared Business Services (UKSBS) for "the Small Business Campaign." The supplier read in a media article that they had been unsuccessful prior to receiving any response from UKSB and asked us to investigate why they had not been informed prior to this article being released.	We investigated this case and UKSBS have confirmed that unfortunately information was made publically available prior to the official notification letters being sent to the unsuccessful suppliers. UKSBS have since confirmed that they have issued letters to the unsuccessful suppliers with full notes and constructive feedback for future bids. UKSBS are looking into their internal processes to ensure that this situation does not re occur (including ensuring training is put in place for users of the procurement process.)
Cheshire East Council	Procurement Process - Evaluation	A Mystery Shopper raised concerns about a procurement for "The Monitoring the attendance and attainment for Children and Young People Cared for by Cheshire East Borough Council." The enquirer was unsuccessful in this tender and received written feedback on their bid. They raised a number of concerns regarding the evaluation where they feel that the guidance was not clear and that they were therefore marked down unfairly on certain points.	The council responded to each of the areas of concern in detail and for each question the Mystery Shopper's bid met the requirements. In line with the scoring matrix, which was provided to bidders along with the evaluation matrix, additional marks were awarded to the winning bidder because their answers demonstrated more understanding or interpretation and exceeded expectations. This approach is in line with procurement best practice. The Mystery Shopper's bid scored highly in the evaluation, however the winning bidder provided answers which showed a closer understanding and better interpretation of the council's requirements, therefore scoring slightly higher.

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<p>Procurement for Housing (Purchasing Consortium)</p>	<p>Procurement Process- Charges for procurement documents</p>	<p>A Mystery Shopper contacted the service to raise concerns about charges for the assessing of Financial consultancy, financial transaction processing and clearing-house services procurement documents</p>	<p>The authority has commented that this was a charge to evaluate the PQQ, not to access the document and was assessed incorrectly at the time of completing the OJEU notice. This was an internal issue and will be eliminated going forward. The charging for procurement documents is currently not considered good practice and will not be allowable under the new Directives, this was accepted by the authority</p>
<p>Buckinghamshire County Council</p>	<p>Transparency</p>	<p>A Mystery Shopper raised concerns that a contract between The Buckinghamshire Grammar Schools (TBGS) and Buckinghamshire County Council had not been publically advertised for the Administration of Secondary Tests.</p>	<p>We investigated this case and TBGS confirmed that there was a contract between themselves and Buckinghamshire County Council for the Administration of Secondary Tests. They told us that the contract in fact replaced 13 individual contracts between Buckinghamshire County Council and each of the 13 Buckinghamshire Grammar Schools. The contract term is three years. We recommended to TBGS to that for all future procurements, they refer to the DfE procurement decision tree which provides School Business Managers with information relating to the basic questions and choices they need to consider when purchasing any goods, works or services for schools.  <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/342567/Effective_buying_for_your_school_Aug_14.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/342567/Effective buying for your school Aug 14 .pdf</a> In addition, for situations where they are novating contracts/bundling several together such as this, we recommended that they should consider seeking legal advice on whether to advertise the opportunity. They accepted these recommendations and will ensure that they are incorporated for future procurements.</p>

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Ofcom	Financial Requirements	A Mystery Shopper raised concerns that Ofcom's approach to supplier financial assessment, particularly a turnover threshold limit, on a large ICT contract was out of line with the guidance contained in procurement policy note PPN 02/13.	Ofcom explained that this is Ofcom's single largest contract and, as well as being significant in terms of spending, is operationally critical because Ofcom makes extensive use of both general and more specialist IT applications in undertaking its functions. Disruption to such services due to financial instability on the part of a supplier would present a significant risk to Ofcom, both financially and in terms of enabling Ofcom to carry out its functions in accordance with its statutory duties. Therefore, they emphasised that they felt it was necessary for the contract to be awarded to a supplier whose financial standing and stability are suitably robust. In preparing for this procurement process Ofcom considered its approach and the minimum requirements such as turnover very carefully. A detailed consideration of risk, informed by Ofcom's risk appetite, was undertaken before reaching the agreed position. They fed back to us that they believed their approach to be proportionate to the value and risk of what they were buying.
British Council	Procurement Process Issues with Specification and Timescales	A Mystery Shopper raised concerns about an urgent procurement by the British Council for an Employer Brand Proposition, which following receipt of a tender for the work was subsequently abandoned. The procurement was later re-started with a modified brief and the Mystery Shopper was concerned that the revised statement of requirements drew on information provided in their original tender.	The British Council provided a comprehensive response which explained the delays within this procurement and issues with the funding arrangements. They also assured us that the Mystery Shopper's proposal was not used to develop the revised statement of requirements. The British Council will take steps to ensure that staff understand the need for transparency and for keeping suppliers up to date on the progress of, or delays in, procurement processes. In addition, the British Council is increasingly undertaking pre-procurement market consultations to ascertain the amount of funding required to procure the relevant services, in

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			order to try to avoid the situation where a supplier spends time and effort putting together a proposal for a project where the budget available is significantly lower than the cost to the supplier of the undertaking the work.
Nottingham City Council	Restrictive Timescales	A Mystery Shopper requested additional feedback on an unsuccessful tender for “Virtual School Data Collection”. They also raised concerns that the timescales for the implementation of this tender were too restrictive for any company with the exception of the existing provider to achieve.	Whilst the Council felt that they had already provided comprehensive feedback to the Mystery Shopper they committed to call them again to resolve any outstanding points of concern. Additionally, they advised that content of implementation plans was scored as part of the tender process, but there was no requirement for a specific timetable to be met. The Council did include an anticipated start date of 01/05/2014, but this was an aspiration and subject to the plans put forward by bidders. The contract was actually awarded on 19/05/2014, so the go-live date of 01/05/2014 would not have been achieved with the successful provider.
Bolton at Home	Compliance with Social Value Act	A Mystery Shopper raised concerns about the local economy re-spend requirement within a tender for the supply of kitchen units.	We discussed the Mystery Shopper’s concerns with Bolton at Home. Bolton at Home has committed to taking detailed legal advice from specialist solicitors in social value to create a social value policy and strategy framework and toolkit, and training for relevant staff on achieving social value. While that work is ongoing, Bolton at Home is committed to considering social value pre-procurement and incorporating social, economic and environmental requirements in the procurement process to the extent that it considers those requirements are relevant to the subject matter of the contract, in line with current guidance and European case law.
North Western Universities Purchasing Consortium	Procurement Process –	A Mystery Shopper raised concerns about the approach to lotting and the assessment of	We drew NWUPC’s attention to procurement policy note PPN 02/13 which sets out principles for the consideration of supplier



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	Lotting and Financials	financial risk by reference to turnover in a procurement for an office supplies framework.	risk which it advises should be done on a holistic basis. NWUPC explained that they were looking for companies with a relatively high turnover but look at other financial criteria. They also explained that in the relevant lot they had sought a single supplier so their members did not have to undertake further competitions.
Oil and Pipelines Agency	Payment Terms	A Mystery Shopper wished to confirm whether a supplier to the Oil and Pipelines Agency was required to pass down 30 day payment terms to their supply chain.	The Oil and Pipeline Agency have confirmed that the supplier in question is required to pass down 30 day payment to their supply chain. The Agency has also provided details of how the subcontractors can report concerns about late payment in confidence to them.
Ministry of Defence	Late Payment	A Mystery Shopper raised concerns about an outstanding invoice for legal work	The MoD reviewed the situation and agreed that there were exceptional circumstances that justified a payment being made and acted promptly to address this.
Middlesborough Council	Procurement Process- clarity of evaluation criteria	A Mystery Shopper requested further clarity regarding criteria for being admitted to a framework for Schools MIS.	The Council confirmed that all suppliers who could demonstrate that their tenders met all mandatory requirements and scored 50% or more in the quality sections detailed in the Invitation to tender would be admitted to the framework. This additional clarification has now been communicated to bidders.
Synergize Consulting, acting on behalf of a supplier to a Central Government Department	Security Clearance required for Job vacancy	A Mystery Shopper raised concerns that a job vacancy posted on an internet job site required candidates to hold existing security clearance in order to be considered.	The agency has advised that all adverts that they place can consider cleared or non-cleared resources, in line with the code of practice. In this instance there was an error in the advert. The opportunity was, in fact, available to applicants who did not currently have pre-existing SC clearance as they would be able to undergo vetting upon appointment to the role. The agency has committed to go to stringent efforts to make sure they comply with the code moving forward.
Hunter MacDonald acting on behalf of a private sector body	Security Clearance required for Job vacancy	A Mystery Shopper raised concerns that a job vacancy posted on an internet job site required candidates to hold existing security clearance in order to be considered.	The agency has advised that, whilst they do normally follow the code of practice, in this instance there was an error in the advert. The opportunity was, in fact, available to applicants who did not currently have SC clearance. The agency has taken steps to ensure that this clerical error does not re-occur.

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Stockton Borough Council	Transparency – contract duration	<p>Two Mystery Shoppers raised concerns that a contract awarded by Stockton Borough Council was given a 5 year rolling contract with no end date and felt that this was not transparent or clear in the procurement process. In addition, they were concerned that advertising timescales and deadline for submitting bids were unreasonably short.</p>	<p>Following a review of the procurement documentation, we were satisfied that this procurement was run in an open and transparent manner. This procurement falls under Part B Services, so is not subject to the scrutiny of the full EU rules, however, the Council opted to follow a Competitive Dialogue type process to enable an open, outcome based dialogue with suppliers during the process, which helped inform and refine the requirements over time.</p> <p>Contract Duration: The Council told us they informed providers during pre-market engagement that they did not know at that stage what form of contract, contract duration or form of partnership would be the final outcome. They were open to receiving different proposals as to how they could identify and define the means best suited to achieve the outcomes they had established and these could include a traditional block contract, call off contract or other innovative solutions such as establishing a joint venture using their assets. The solution, including the term, would be developed during the dialogue stage. They explained that the solution that was finally selected was one which they considered was most likely to achieve the outcomes required, this was the establishment of a joint venture partnership, following a series of dialogue sessions with suppliers. They explained that this solution could only deliver the financial savings and improved outcomes for children and young people if there was sufficient time to establish and operate the school and children homes. Consequently a 5 year initial term was identified as the optimum length and providing the partnership is successful, this will continue to roll on until either the Council’s need for the services ceased or a different approach becomes necessary. Our general advice during any dialogue phase is that Contracting Authorities make it very clear and transparent to all bidders about every aspect of the contract – including contract duration, so that all parties are treated fairly and equally throughout.</p> <p>Advertising Timescales: We reviewed the advertising timescales</p>
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			and were content that these were made clear at the pre-market engagement supplier event and within the ITT.
Crown Commercial Service	Procurement strategy – how SMEs feature	A Mystery Shopper raised concerns about the fact that they had received limited feedback on a bid they submitted for the Events, Planning and Delivery related services. Furthermore, they wanted to understand how SMEs were featured in this framework as they felt it was lending itself to large firms.	We investigated this case and found nothing to be wrong. Of the 18 contracted suppliers, 16 are SME organisations (89%).
School Partnership Trust Academies	Procurement strategy- applicability of aggregation rules	A Mystery Shopper raised concerns about the approach to energy procurement carried out by School Partnership Trust Academies.	School Partnership Trust Academies explained that they had inherited a range of energy contracts when various schools converted to academy status. They have taken professional advice and are now in the process of ensuring that arrangements are in place that are fully compliant with the Public Contracts Regulations.
Kent and Essex police	Procurement process ITT favours incumbent supplier	A Mystery Shopper raised concerns about a procurement process for a messaging service where following earlier contact from the force a tender process was abandoned and then re-started. He had concerns about the approach to assessing financial strength in the second tender.	Kent and Essex explained that there had been an element of pre-procurement engagement which may have confused the mystery shopper. The original tender was withdrawn because of a change to requirements and the approach to financial assessment was placed on a more holistic footing. When we examined the tender documents for the second procurement we found no fault with this approach. Kent and Essex have strengthened their processes and introduced training to ensure that future pre-procurement engagement is done with clarity and that operational team work closely with the procurement team.
Smart Sourcing Plc acting on behalf of Central Government Department	Security Clearance required for Job vacancy	A Mystery Shopper raised concerns that a job vacancy posted on an internet job site required candidates to hold existing security clearance in order to be considered.	The Government's policy is that candidates should not, as a rule, miss out on employment opportunities because they do not hold an existing security clearance at the application stage. Exceptions can be made when the vacancy arises at short notice and is urgent, or when the appointment is of short-term duration and the time needed to complete the security vetting process exceeds the length of the contract, or where it is not possible for an individual with pre-employment checks to start the role under appropriate

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			supervision. In this particular case, this was an urgent requirement in a role where security vetting was a necessity. The agency responsible for the recruitment has stated that this could have been made more explicit in the advert and have taken steps to refine their process to ensure that any exceptions to the policy are clearly justified in the advertisement.
Smart Sourcing Plc acting on behalf of Central Government Department	Security Clearance required for Job vacancy	A Mystery Shopper raised concerns that a job vacancy posted on an internet job site required candidates to hold existing security clearance in order to be considered.	The Government's policy is that candidates should not, as a rule, miss out on employment opportunities because they do not hold an existing security clearance at the application stage. Exceptions can be made when the vacancy arises at short notice and is urgent, or when the appointment is of short-term duration and the time needed to complete the security vetting process exceeds the length of the contract, or where it is not possible for an individual with pre-employment checks to start the role under appropriate supervision. In this particular case, this was an urgent requirement in a role where security vetting was a necessity. The agency responsible for the recruitment had clearly stated that this was an urgent requirement on the advert and has advised that it is their company policy that they only mention a requirement for pre-existing security clearance if there is an immediate urgent requirement for a start.
nationwide people acting on behalf of Central Government Department	Security Clearance required for Job vacancy	A Mystery Shopper raised concerns that a job vacancy posted on an internet job site required candidates to hold existing security clearance in order to be considered.	The agency has advised that in this case they misinterpreted the requirement of the client and that a pre-existing security clearance was not a requirement to be considered for the role, as security vetting could have been undertaken on the successful applicant. The agency has committed to ensure that they clarify any vetting requirements with their clients going forward. They have been supplied with further guidance which they have committed to embed in their processes.
Capita, as supplier to Central Government (Crown	Supply chain	A Mystery Shopper was concerned third parties to prime suppliers (Capita) who are delivering	We drew Capita's attention to the <a href="#">explanatory notes</a> on the Small Business Enterprise and Employment Act, which is currently before

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Commercial service)		CSL are unable to access funds through a route recommended by the Governments Business Bank and Lord Young.	Parliament and contains proposals to ensure that access to funds by the transference of or offset of outstanding invoices will be enabled.
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