



# **Government response to House of Commons Communities and Local Government Committee's Sixth Report of Session 2013-14**

Presented to Parliament  
by the Secretary of State for Communities and Local Government  
by Command of Her Majesty

June 2014





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# Local Government Procurement

## Government response to the House of Commons Communities and Local Government Committee's Sixth Report of Session 2013-14

### 1. Introduction

The Government welcomes the report from the Select Committee on local government procurement. The report has been helpful in that it has identified a number of areas for improvement and we have carefully considered the Committee's comments and recommendations. The Government's response to the report is set out below. The Local Government Association will be providing a separate response to the recommendations that are for it to consider.

The committee's report recognises that local government is aware of the need to improve procurement practice across the sector and commends the work undertaken to date by many councils and the Local Government Association to make improvements.

The Government acknowledges that there is still considerable scope for improvement in local government procurement and supports the Committee's view that the drive to make these improvements should be sector led.

There are a number of steps that local authorities can take to make significant savings. These include:

- Embracing transparency on spending, tenders, contracts and property assets as required by the Local Government Transparency Code will identify savings and eliminate duplicate spending. Research by Experian estimated that councils could be losing significant sums every year in duplicate payments. Transparency also allows suppliers and councils to identify opportunities to work collaboratively together and aggregate spending to achieve greater savings.
- Establishing a supplier network. Bringing in partners early can mean that innovation and co-design are built in from the outset and makes for better services. Councils also fulfil their role as local leaders by being market makers.
- Breaking up large contracts and assessing firms on their ability to get the job done rather than their turnover. A 'Tell Us Once' service can pass on company specifications to other councils joining up local government. Splitting-up larger contracts into smaller lots can bring in more competition on price.
- Having robust fraud procedures in place and ensuring that a suitable audit trail is maintained. Procurement fraud is one of the hardest types of fraud to identify, particularly at the pre-contract award phase. Good contract

management and data management can identify potential fraudulent claims. Scrutinising data can also identify patterns of fraud, for example, the timing of fraudulent claims being clustered around the end of the month. Procurement fraud is estimated by the National Fraud Authority to cost local government £890 million a year.

## 2. Improving local government procurement

### **The Committee's comments and recommendations:**

- **We conclude that local authorities' focus on meeting the needs of local communities requires councils to retain control over their procurement operations. Local freedom and flexibility would be lost if they were compelled to adopt a centralised model of procurement such as that adopted by central government in its Crown Commercial Service. (Paragraph 25)**

### The Government's Response:

- We agree that local authorities should focus on meeting the needs of local communities and that councils should retain control over their procurement operations. It will, however, be important for those procurement functions to consider and continue to use centralised and aggregated procurement deals where it makes sound commercial sense to do so. For example, purchasing commodity items such as energy where demand is aggregated and negotiated through centralised arrangements results in lower prices. Using centralised deals maintains local authorities' ability to focus on meeting the needs of local communities by freeing up resources to focus on procurement that is strategic to them. The Crown Commercial Service is available to those local authorities that choose to take advantage of its centralised deals and commercial expertise.
- Local authorities have shown what can be achieved by working together. One local authority was able to procure a new waste collection contract at a significantly lower price by joining with three neighbouring collection authorities. As a result all four authorities are benefiting from economies of scale generated from aligning collection methods.
- Five local authorities successful with bids to the Department for Communities and Local Government's Weekly Collection Support Scheme procured 250,000 food caddies and 9.5m food caddy liners together (total value of £460,000). They achieved an overall saving of 25% compared to the price they would have paid buying alone. The one with the smallest order of the five made the greatest saving (68%) because it would have paid a high unit price for its low volume order. Instead, it paid a low unit price as the combined order was so great.

- Sir Ken Knight's report 'Facing the Future', highlighted the need for fire and rescue authorities to focus their efforts on procuring collaboratively by removing the widespread duplication of effort in the design, commissioning and evaluation of fire-specific products. Recent research, carried out with the support of the fire and rescue sector, showed the potential to make savings of at least £18 million on an estimated £127 million annual spend on fire and rescue specific products by doing this. Research also showed that savings of approximately £600 million could be achieved through greater standardisation of the products purchased and identified further potential efficiencies if non-fire specific goods and services are bought together with other public bodies, such as local authorities or other emergency services. At the moment, some fire and rescue authorities pay over 200% as much for their products as others, for example, a similar pair of fire boots were bought by one authority for £65 while another paid £175. The Chief Fire Officers Association's National Procurement Group is committed to taking ownership of the issue going forward and are currently developing a procurement strategy based on the report findings and will provide project plans and guidance once the strategy has been agreed by fire and rescue authorities.

### 3. Delivering strategic objectives through procurement

#### The Committee's comments and recommendations:

- **There is a judgment to be made by each council, and for each contract, as to the correct balance for their community between letting a contract at the lowest price and requiring contractors to deliver additional economic and social value, sometimes at an additional cost. We are clear, however, that councils can and should adopt policies which enable them to maximise their procurement spend to deliver local priorities by requiring contracts to be let on the basis of wider best value, not simply lowest price. Such approaches will best ensure procurement is conducted so as to support and improve communities' long-term economic, social and environmental well-being. Many local authorities are already successfully linking their procurement approaches to delivering such objectives but all councils should assess the potential of each procurement exercise, and of their overall procurement policies, to assist delivery of the council's corporate objectives. Furthermore, they should raise awareness of the value of this linkage through more explicit demonstration of successful approaches. All councils should present an annual report to a full Council meeting setting out the authority's strategy for incorporating economic, social and environmental value in its procurement, including employment terms and conditions, impact on local economies and small businesses, relationships between contractors and customers, and the role of councillors. (Paragraph 44)**
- **We acknowledge Ministers' wish to ensure that the Public Services (Social Value) Act 2012 is given sufficient time to bed in and become fully effective. Nonetheless, it is clear that there are concerns that the limited range of**

**contracts to which its provisions apply might be undermining the Act's impact. We recommend that DCLG undertakes comprehensive post-legislative analysis of the Act to ensure assessment of its effectiveness before the end of 2015. This assessment should consider whether provisions should be extended such that local authorities must consider the potential for a contract of any value to deliver social benefits. Such assessment must take into account the views of all interested parties, including local government and business. (Paragraph 48)**

- Government policies to encourage communities to engage in service delivery through mechanisms such as the Community Right to Challenge do not appear to be being used to any great extent. We recommend that the Government undertake within six months a review of the barriers to its uptake, including costs to councils and would-be suppliers of entering into a full-scale procurement exercise and how these might disadvantage some sectors, in particular the voluntary and community sector. (Paragraph 50)**
- We recognise that council policies which disproportionately favour local or smaller firms are not in communities' longer-term interests since these approaches could exclude cost-effective options offered by non-local or larger businesses, as well as ultimately weakening rather than strengthening local economies or regional economies as a whole. However, carefully framed policies that give local and smaller firms the same opportunities as larger firms to compete for contracts have had benefits for local economies. We support targeted council approaches which effectively balance support for local businesses whilst not precluding value for money or undermining the effective operation of markets. We conclude that the Local Government Association should work with local authorities to disseminate best practice case studies on how to integrate procurement and support for smaller businesses. The Cabinet Office, working with the LGA, should produce guidance on how councils can apply the provisions of the new EU Directive on public procurement to better support smaller businesses and local economies. (Paragraph 55)**

The Government's Response:

- The driving principle behind public procurement policy is to award contracts on the basis of value for money, which means the optimum combination of cost and quality over the lifetime of the contract, not just price alone. Wider socio-economic criteria can be included in procurement if they relate directly to the subject matter or performance of a contract from the point of view of the contracting authority.
- The Government published Best Value Statutory Guidance in September 2011. Under the Duty of Best Value local authorities should consider overall value, including economic, environmental and social value, when reviewing service provision. As a concept, social value is about seeking to maximise the additional benefit that can be created by procuring or commissioning goods and services,



above and beyond the benefit of merely the goods and services themselves.

- It is just over a year since the Social Value Act came into effect and the Government is encouraged by the way public sector commissioners are responding to it. Over the coming year, the Government will be taking a range of further actions to promote the Social Value Act and these are set out in a 'one year on' update published in January 2014. As we committed to doing in that update, we will undertake a further review of progress in late 2014 and consider any further action that could be taken.
- The Department for Environment, Food and Rural Affairs has put in place a series of tools to assist public procurers take into account environmental costs, including for example operational costs relating to energy use as well as end of life waste disposal costs. These include the Government Buying Standards, a series of training modules, and a guidance document known as the Flexible Framework which is reflected in the British Standard for sustainable procurement BS 8903. BS 8903 sets out a comprehensive framework for procuring sustainably to help management with sustainable and economic development. These tools are all of assistance in helping make the difficult task of public procurement simpler for local authorities and other public bodies. For example, when deciding what furniture to buy, procurers are directed by the Government Buying Standard to buy furniture which is easier to repair and towards a limited set of designs that makes it easier for furniture, which is no longer needed, to be reused by others.
- We are committed to reviewing the impact of the Community Right to Challenge policy. We are gathering information from organisations which have used or are using the Community Right to Challenge to understand their experience and the barriers they face. This will feed into the review, which we will carry out in 2015. The Support Service for the Community Right to Challenge is helping voluntary and community groups to improve their contract readiness and bid for local government contracts.
- Over the past three years the Government has implemented a wide range of measures to open up central government procurement to small and medium enterprises:
  - We have appointed a Crown Representative for small and medium enterprises to be a "strong voice for small and medium enterprises at the top table".
  - We have eliminated the use of Pre-Qualification Questionnaires for procurements below the European Union threshold of approximately £100k.
  - We have made public procurement more transparent and accessible by publishing tenders and contracts through the 'Contracts Finder' website.
  - We have introduced a 'Mystery Shopper' scheme to allow suppliers to report bad procurement practice.
- The Government is now implementing reforms recommended by the Prime Minister's Enterprise Adviser, Lord Young of Graffham, to level the playing field for small and medium enterprises and streamline procurement across the public sector.

- The Government agrees that the new European Union Procurement Directive will help reduce unnecessary bureaucracy and obstacles to small and medium enterprises bidding for public contracts. Improvements include: simplified assessment of supplier suitability; encouragement to break contracts into lots; a ban on unnecessary turnover requirements; improved access to contract documents; and reduced paperwork replaced by electronic processes. The Government will use the opportunity of the new rules to include further small and medium enterprise friendly restrictions on Pre-Qualification Questionnaires, to require central advertising of contracts including many below the European Union rules threshold, and to ensure prompt payment through the supply chain.
- The Crown Commercial Service is putting in place a free and wide-reaching training programme, including an E-learning package, for public procurers on the new rules. The Crown Commercial Service will continue to work with the Local Government Association on detailed guidance.

#### 4. Procurement processes

##### The Committee's comments and recommendations:

- **It is imperative that councils act swiftly to cut costs for those wishing to do business with them. Too many councils apply EU regulations over-zealously, using them as a self-serving justification to retain overly bureaucratic approaches. This approach is pervasive, and a cultural change is needed. Local authorities need to become more confident in their application of EU rules. The first step is for the Government and sector leaders, including the Local Government Association, to spell out what constitutes a sensible approach which will meet regulations in a proportionate manner. The LGA should produce guidance on this aspect of the new EU Directive on public procurement and work with local authorities to disseminate best practice case studies of those councils already minimising costs to suppliers and potential suppliers. (Paragraph 59)**
- **Whilst some councils have streamlined their processes and are taking a proportionate approach to the pre-tender information they require potential suppliers to provide, the default option in too many procurement exercises appears to be to demand excessive information not commensurate with the specific contract needs. Furthermore, suppliers who wish to work with more than one council are frequently required to complete similar, complex forms. There is clear scope for more standardisation and simplification across the sector to cut the suppliers' costs and to facilitate the use of community budgets to deliver joined-up local services. We therefore support the Government's proposals to standardise on a national basis data collection from tenderers. The Local Government Association should take the lead in ensuring that all Pre-Qualification Questionnaires are as simple and straightforward as possible. This would entail potential suppliers filling in a**

**form once only for use by any public body. However, whilst we concede that some council data collection processes for lower-value contracts can be unduly burdensome, we do not consider the argument to be fully made for the removal of Pre-Qualification Questionnaires for such contracts. There are financial benefits to be gained from weeding out unviable tenders at an early stage, prior to more costly full evaluation of bids. (Paragraph 64)**

- **Councils should as a matter of course pay contractors promptly and include a requirement in contracts requiring contractors to ensure their sub-contractors are paid promptly right down the supply chain. Councils should publicise this policy and monitor closely the implementation of these terms through spot checks. Contracts must also require contractors to report failure to comply with these conditions. Local authorities should take into account any failure by a contractor to comply with the conditions when assessing tenders for any future work. (Paragraph 66)**

The Government's Response:

- We agree that some councils have been overly zealous in their interpretation of European Union procurement rules and have adopted overly bureaucratic procurement procedures. The Government is implementing reforms recommended by the Prime Minister's Enterprise Adviser, Lord Young of Graffham in order to level the playing field on small and medium enterprises and streamline procurement across the public sector.
- The new European Union Directive on public procurement published on 28 March 2014, offers the opportunity to transform public procurement and support the Government's priorities of economic growth and deficit reduction by making the public procurement process faster, less costly, and more effective for business and procurers alike. The new rules represent an excellent overall outcome for the United Kingdom, with progress achieved on all of our priority objectives. These changes will provide a much more modern, flexible and commercial approach compared to the existing regime. Outdated and superfluous constraints have been removed and many new reforms have been included to streamline and modernise public procurement.
- For contracting authorities, this means being able to run procurement exercises faster, with less red tape, and more focus on getting the right supplier and the best tender. For suppliers, the process of bidding for public contracts should be quicker, less costly, and less bureaucratic, enabling suppliers to compete more effectively.
- As detailed earlier, the Crown Commercial Service is putting in place a number of free training packages and the Government will be introducing legislation to streamline the whole procurement process.
- When contracting authorities are very clear about their minimum selection requirements at the outset, suppliers are far better placed to decide if it is worth

bidding. Suppliers will then be able to focus their efforts on getting their tender right (which is where they can best demonstrate their ideas and innovation), rather than being confronted with the excessive costs of completing Pre-Qualification Questionnaires.

- In 2013 an independent review of the Public Sector Equality Duty was undertaken to examine whether the duty was operating as intended. The review identified a number of issues and as a result made a number of recommendations. The Government has stated that it would like these recommendations fully implemented as soon as possible and in particular the one on the need to reduce procurement gold-plating by the public sector.
- The Government recognises that being paid on time is vital to suppliers, particularly small businesses. It is already a legal requirement for public bodies to pay suppliers within 30 days or be liable for the interest resulting from paying late.
- Additionally the Government will legislate to ensure that all public bodies have to report on how well they pay their suppliers and what interest they have paid, or should have paid, during the previous twelve months. The Government will also legislate to make sure small firms get treated fairly by mandating prompt payment terms all the way down a public procurement supply chain. Suppliers can refer instances of late payment on public procurement contracts or in public procurement supply chains to the Cabinet Office's Mystery Shopper Scheme.

## 5. Outsourcing service delivery: employment issues

### The Committee's comments and recommendations:

- **Whilst councils must be free to develop locally appropriate employment approaches, with the flexibility to adapt to changing circumstances, we commend those councils which adopt fair working conditions and terms of employment, including pay. We recognise that the rising demand for social care services at a time of financial constraints on council budgets represents a challenge for councils wishing to adopt optimum pay and conditions for staff working in the sector. We have not had the opportunity in this inquiry to take a detailed look at the specific issues affecting procurement of social care, but we wish to highlight the need for employment challenges to be taken into consideration in development of Government policy on the sector. In its response to this report, we recommend that DCLG explain how it will monitor the ability of the social care sector to maintain effective pay and conditions for employees against a background of rising demand for services and constrained council budgets. (Paragraph 80)**

### The Government's response:

- The Government allocates resources to local authorities who make decisions on what proportion of their budgets will be spent on adult social care. Local authorities

have to ensure that they and the service providers they commission from offer best value and a high quality service.

- The Government does not set or recommend the fees that local authorities pay for care services, but we are working to ensure that the providers they commission services from have a high quality workforce, with fair terms and conditions.
- The Government is clear that social care providers must abide by the existing law regarding payment of the National Minimum Wage and that all workers, including social care workers are entitled to receive it. Non-compliance with minimum wage regulations is not acceptable under any circumstances and will be dealt with accordingly by Her Majesty's Revenue and Customs.
- The Government will continue to investigate national minimum wage non-compliance in the social care sector. Social Care providers who have not paid the national minimum wage previously will be required to pay workers the money owed to them, to pay a penalty for failing to meet their legal obligations and to change their practices to ensure future compliance. Enforcement action has taken place in a number of cases and it has resulted in employees receiving arrears of pay.
- As part of the Government's response to the Cavendish review, we are issuing statutory guidance based on powers in the Care Act 2014 for local authorities about commissioning services, which will require them to have regard to ensuring provider organisations adhere to minimum wage legislation. This will help local authorities be assured that the companies they contract with comply with the law.
- The Government recognises that zero hours contracts which are widely used in a number of sectors, including social care, have a role to play in a modern and responsive labour market. However it is also important that workers are treated fairly and we acknowledge that the idea of a zero-hours contract is, in many cases, incompatible with a model of high quality care, in which the individual really gets to know the care worker.
- In December 2013 the Government launched a consultation on the use of zero-hours contracts. The consultation has gathered further evidence and views on a range of potential actions the Government and employers can take. The consultation is now closed, and the Government will respond in due course by setting out any actions we intend to take.

## 6. Probity and governance

### **The Committee's comments and recommendations:**

- **Councils need to be one step ahead of the fraudster. Councils must tackle fraud proactively. This is essential during not only the tender process, but also during the implementation of contracts. It is not sufficient for councils to 'let and forget' contracts: rather close monitoring of their delivery is essential to**

**detect potential fraud. We recommend that the Government provides support and guidance to councils on the best ways to identify and tackle fraud. The LGA should work with councils to provide information on potential abuses of tendering processes and contract implementation and disseminate best practice examples of effective approaches. (Paragraph 89)**

- **Contracts let by public bodies must be transparent and performance against them auditable. The Local Government Association should consider how greater transparency in private sector contracts can be achieved, without compromising councils' ability to attract a wide range of bidders. For example consideration should be given to extending the publication of information requirements on contractors relating to performance delivery and contract costs and greater use should be made by local authorities of open book accounting. Councils should consider when seeking tenders establishing a level playing-field for all potential bidders, both private and public, by mirroring in contract terms the regulatory requirements on public bodies to provide information. This may be particularly applicable to long-term or larger contracts. Furthermore, contracts should include terms which require contractors to notify the commissioning council of any identified impropriety relating to the contractor or its sub-contractors. Any such notifications should be published. We recommend that the Government provide guidance on how central government experience of such approaches as open book accounting can be further utilised by the local government sector in order to improve procurement transparency. (Paragraph 95)**
- **Whistleblowing has a vital role to play in detecting fraud and impropriety since those working on, or close to, procurement exercises and contract management will frequently have the best perspective on whether regulations are being adhered to or if suspicious practices have been adopted. We recommend that the Government publicise arrangements, including the role of the National Audit Office, for the provision of an anonymous channel for reports by potential whistleblowers concerned at local authority procurement operations. Furthermore, as part of contractual requirements all contractors should have a robust internal process for whistleblowers to report concerns. Any notification to a contractor by a whistleblower of impropriety relating to a local authority contract should be required under the terms of that contract to be notified to the council client by the contractor. Contract terms should also specify employee rights to report concerns over a contractor's actions without reprisal. (Paragraph 97)**

The Government's response:

- In December 2013 the Government announced £16.6 million of funding over the next two years to help increase local capacity in tackling non-benefit counter fraud activity. This funding offers a real opportunity to change the behaviour and perception of tackling fraud in local authorities including fraud in local government procurement.
- The Government's work to promote transparency means that a wide range of

contracts between public authorities and private contractors are already made public. Central Government contracts over £10,000 and Local Government spend over £500 are now published proactively. These documents set out the terms of the contract and performance requirements and indicators, and are vital to ensuring transparency. It is important not to confuse transparency in terms of making information publicly available with the use of Open Book contracting provisions which are designed to improve the visibility between contracting authorities and suppliers in individual contracts and provide for the sharing of highly sensitive commercial data.

- Part 2 of the Local Government Transparency Code 2014 states that local authorities must publish on a quarterly basis details of every invitation to tender for contracts to provide goods and/or services with a value that exceeds £5,000. The Code also states that local authorities must publish details of any contract, commissioned activity, purchase order, framework agreement and any other legally enforceable agreement with a value that exceeds £5,000. These requirements will become mandatory when regulations, made under section 3 of the Local Government, Planning and Land Act 1980, come into force later this year, subject to Parliamentary approval. In addition, part 3 of the Code will recommend that local authorities place on Contracts Finder, as well as any other local portal, every invitation to tender or invitation to quote for contracts to provide goods and/or services with a value that exceeds £10,000.
- While the Local Audit and Accountability Act 2014 progressed through the House, the Government committed to make the Comptroller and Auditor General a prescribed person - as well as local auditors. This will replace the role of the former Audit Commission in relation to whistleblowing. Changes to the Prescribed Persons list contained within the Employments Rights Act 1996 will be achieved through secondary legislation and will be implemented along side wider changes to the prescribed persons list the Government plans to make.
- The Whistleblowing Framework, established in 1998 as part of the Employment Rights Act 1996, provides employment protection to workers who suffer a detriment (such as mistreatment or dismissal) as a result of blowing the whistle on a public interest matter. The Government has recently concluded a call for evidence on the framework to identify where the framework could be strengthened and will publish its response to this shortly.
- With regard to incorporating whistleblowing policies within employment contracts, the Government welcomes any steps that organisations may take to clarify the employment protections and support whistleblowers are entitled to, especially in more complex employment relationships where a third party, such as a contractor, is involved.
- The Local Government Association's draft National Procurement Strategy recommends that local authorities include whistleblowing policies as part of their contracts and this will be addressed in more detail in the Local Government Association's response to the report.

## 7. Achieving change

### **The Committee's comments and recommendations:**

- **If all councils are to procure at the optimum level, including procuring in the most effective manner for delivering social, economic and environmental objectives, most need to improve their procurement skills. This will require investment but more cost-effective ways of sharing capabilities need to be found if councils are to address their skills shortages at a time of financial constraint. The Local Government Association should consider supporting the establishment of a peripatetic procurement team - a 'flying squad' whose purpose would be to train regionally based teams of trainers. These would be available to augment council capacity for complex procurement exercises where there is a current lack of in-house capacity or to plug short-term skills deficits. We recognise that such approaches are only a stopgap and that a more comprehensive, long-term programme is needed to train enough staff to high enough standards to meet the challenges of managing the sector's multi-billion pound investment. Much greater use must be made of toolkits, such as that developed by Sheffield City Council, and the LGA must ensure that these are disseminated across the sector. Councils should also make fuller use of initiatives such as the Commissioning Academy. We recommend that the Cabinet Office offers Commissioning Academy programmes to council participants in order to raise the procurement skill levels and status of far greater numbers of local authority staff. (Paragraph 107)**
- **We commend the work undertaken to date by many councils and by the Local Government Association to improve approaches for procuring goods and services for local communities. We endorse this sector-led approach to supporting council action since it is an effective means of tailoring procurement to local needs. Nevertheless, a change in effort is now required in order for successes to be fully replicated across the country and for detailed support to be provided to tackle all the complex aspects of procurement, particularly given the reduction in some support such as that provided by the Audit Commission. This will require renewed commitment across local and central government. We therefore conclude that the LGA, with the support of DCLG, should establish a task-force with representatives of the private and third sectors to develop an action plan for improving council capacity to conduct effective procurement. We recommend that the Cabinet Office dedicate resources for building procurement capacity in local government and for ensuring that lessons learnt in central government are translated into effective council action where appropriate. The Government should also ensure that full guidance on the implications of new EU public procurement measures is provided during the transposition of the Directive into UK law. (Paragraph 111)**



## The Government's Response:

- The Commissioning Academy brings together commissioners from different parts of the public sector, including councils, to learn from examples of the most successful commissioning organisations. Groups from over 50 councils have participated in the academy programme thus far and the Crown Commercial Service is working closely with the Local Government Association to encourage further take up on future programmes.
- The Cabinet Office already makes a wide range of resources on best practice in procurement available to local government and the rest of the public sector. These include:
  - Publishing standard operating procedures for 'lean' procurement and Procurement Policy Notes which share guidance and information.
  - Making recommendations on procurement best practice to local councils that have been investigated by the Cabinet Office's Mystery Shopper scheme.
  - Arranging a free and wide-reaching training programme for public procurers on the new European Union Directive.
- In addition, the Crown Commercial Service is actively supporting the Local Government Association's National Procurement Strategy and works in partnership with the major local authority buying organisations (Yorkshire Purchasing Organisation, Eastern Shires Purchasing Organisation, North East Purchasing Organisation, Central Buying Consortium) to deliver collaborative approaches to commodity markets, including travel, insurance, multi-functional devices, and information technology markets.

## 8. The Committee's conclusions:

- **This report makes a wide range of recommendations for improving local authority culture and processes in recognition that procurement should not be seen as a niche function conducted in silos, rather as an activity central to delivering high value, cost effective services to communities. Evidence to this inquiry demonstrates a drive by local government to improve its procurement practices. However, this is a work in progress and requires sustained commitment to partnership working from local authorities, central government and from the third and private sectors in order to raise standards. Devoting resources to bringing the performance of all local authorities up to the levels of the best is more than a worthwhile investment. At a time of financial constraint, spend now will enable savings both now and in years to come which should pay back initial costs many times over. Embedding effective approaches across all council functions will require leadership from the top and a focus on new commercial skills to manage the challenges of procuring in new ways and for different purposes. In keeping with our support for a localist approach, most of the action recommended in this report is for the sector itself to deliver, but we recognise that this requires leadership and co-ordination, not least from the Local Government Association. Key areas for**

**the sector to focus on are:**

- **improving collaboration across councils;**
- **spreading best practice on how to maximise the social, economic and environmental impact of procurement;**
- **developing streamlined processes to minimise costs to councils and suppliers and potential suppliers;**
- **managing complex contracts to secure better value, and to reduce risks to service delivery and the likelihood of fraud; and**
- **skills development, particularly of new commercial skills for an increasingly complex procurement landscape.**

**Local government has a responsibility to show that it can put its own house in order. If it does not, we fear DCLG will opt for compulsion.**

- **Nonetheless, local government can learn from central government and vice-versa. We have emphasised in this report the need for effective partnership with, as well as support from, DCLG and other central government departments. Key areas for central government to focus on are:**
  - **providing councils with guidance, for example on how new EU public procurement measures enable and require new council approaches to procurement;**
  - **supporting councils in capacity building to ensure all councils have access to adequate skills, including through access to the Commissioning Academy;**
  - **maximising the effectiveness of current statutory measures, for example in enabling procurement to deliver strategic public sector objectives and reviewing the effectiveness of the Community Right to Challenge;**
  - **monitoring national patterns such as social care sector pay and conditions; and**
  - **with local government sector organisations, disseminating advice to councils, for example on tackling fraud.**
- **We make a number of recommendations for the Government to provide the right support and policy framework to enable councils to reform their procurement approaches and we commend them for urgent action.**

**The Government's response:**

- **The Government has been working with the local government sector to identify areas where it can help and support the sector to improve the ways in which it procures its services and goods. Key examples of government action include:**
  - **Sharing guidance and information with local authorities on procurement and providing free training on the new European Union Directive.**
  - **Making recommendations on procurement best practice to local councils that have been investigated by the Cabinet Office's Mystery Shopper scheme.**

- The Commissioning Academy which is open to different parts of the public sector, including local authorities, brings together people to learn from examples of the most successful commissioning organisations. Crown Commercial Service is working closely with the Local Government Association to encourage further take up on future programmes.
- Issuing Best Value Guidance for local authorities on the need to take into account overall value and a commitment to reviewing the impact of the Community Right to Challenge policy.
- Making it clear that social care providers must abide by the existing law regarding payment of the National Minimum Wage. The Government will continue to investigate national minimum wage non-compliance in the social care sector. Enforcement action has taken place in a number of cases and it has resulted in employees receiving arrears of pay.
- £16.6 million of funding over the next two years offering a real opportunity to change the behaviour and perception of tackling fraud in local authorities including fraud in local government procurement.

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