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CONTRACTING AUTHORITY / PRIME CONTRACTOR COMPLAINT AGAINST	ISSUE WITH PROCUREMENT	DESCRIPTION OF COMPLAINT	OUTCOME OF CASE / RECOMMENDATIONS
NEW Procurement for Housing (procurement organisation for social housing)	Procurement Process	A Mystery Shopper raised concerns about their bid for a contract for electronic payment systems as they had not been informed of the outcome. The governance arrangements were also queried, regarding a potential conflict of interest.	The authority advised that there had been delays in the procurement process and the evaluation was still in progress at the time of the enquiry. The original procurement collapsed due to a challenge from a bidder and was rescheduled when no additional resources were available. The authority also clarified governance arrangements, demonstrating that there was no conflict of interest.
NEW OFCOM	Procurement Process	A concern was raised about a specification used on a Drupral upgrade contract which did not contain enough technical information. As a result, the supplier had to make assumptions about the existing site in order to meet the procurement deadlines. Additionally, the Mystery Shopper team was concerned that the contract had not been widely advertised.	Ofcom responded quickly to the concern. They were asked to consider whether the specification presented prospective suppliers with a clear, accurate and full description of the organisation's needs and they felt the specification did fulfil those criteria. The Mystery Shopper team also recommended that Ofcom advertise its low value opportunities.
NEW	Procurement	A supplier advised they had been	CCS responded quickly to the

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Crown Commercial Service (CCS)	Process	unsuccessful in two lots on the Technology Services framework due to failing a pass/fail question and they were concerned that their response had been evaluated inconsistently against the criteria.	concerns raised and accepted the recommendation that in future procurements this type of question should no longer be evaluated as a pass/fail.
NEW Staffordshire Police Authority	Procurement Process	A supplier raised several concerns about Staffordshire Police Authority's procurement of IT. Specifically, the application of an £80 million turnover cap in a strategic IT programme, feedback provided on a bid for a separate IT procurement and the authority's general approach to IT procurement.	The authority provided a comprehensive response that demonstrated that the turnover cap was proportionate for the value and complexity of the services being sought and provided clarification on their approach to IT procurement in general. They also committed to meet the enquirer to provide more detailed feedback on their bid.
NEW London Borough of Barking and Dagenham Council (LBBD)	Procurement Process	A Mystery Shopper was concerned that they had not received any notification of the award decision after bidding for the LBBD's corporate learning and development programme.	LBBD explained that this was the first procurement on this scale that the team had undertaken and they were unprepared for the volume of responses that it generated. As such there were delays in evaluating all of the bidders. LBBD acknowledged that they could have been more proactive in informing bidders of the delays. They subsequently informed the enquirer of the outcome and have also confirmed that lessons learned from this exercise will be used to ensure that future procurements run more smoothly.

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<p>NEW Ministry of Defence (MOD)</p>	<p>Contract Management</p>	<p>A Mystery Shopper raised concerns in April that they had not been paid by a subcontractor, Gryson Air Conditioning Ltd, for work on an MOD contract.</p>	<p>Gryson initially confirmed that the supplier had been paid after initial enquiries had been made. However this proved not to be the case so the team continued to press Gryson and the Mystery Shopper subsequently confirmed that the outstanding invoice had been paid.</p>
<p>Yorkshire Purchasing Organisation (YPO)</p>	<p>Procurement Strategy</p>	<p>A Mystery Shopper was concerned about a YPO Dynamic Purchasing System (DPS) imposing a % charge on suppliers at call off stage. The Mystery Shopper felt this was out of line with regulation 34 (29) of the Public Contracts Regulations 2015 which states "no charges may be billed, prior to or during the period of validity of the dynamic purchasing system, to the economic operators which are interested in or party to the dynamic purchasing system".</p>	<p>We do not believe that the intention of this regulation is designed to prevent successful suppliers being charged a levy based on business won under a DPS, as this is permitted under other types of contracting arrangements such as frameworks. We recommend that contracting authorities consider seeking legal advice regarding the inclusion of levies in their Dynamic Purchasing Systems. YPO have accepted this recommendation.</p>
<p>Bedfordshire and Cambridgeshire Fire and Rescue Services</p>	<p>Procurement Process</p>	<p>A Mystery Shopper raised concerns about the length of a Supplier Information Document (SID) and questioned what the information would be used for.</p>	<p>The contracting authority advised that the document is not for pre-qualifying suppliers and only the winning bidder will be required to complete it. The contracting authority advised that the document was to gather information as required by their standing orders. They will replace this document with a version that uses questions from the CCS standard pre-qualification</p>

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			questionnaire and will develop a shorter version for lower value contracts.
Great Ormond Street Hospital	Contract Management	A supplier complained that his contract with the authority had been terminated and re-let without his knowledge.	<p>A lack of communication between an incumbent supplier and the contracting authority led to confusion regarding the termination of one contract and the procurement of a different service by single action tender.</p> <p>The authority accepted recommendations that they should:</p> <ul style="list-style-type: none"> ● ensure contracts are formally documented. ● monitor contract performance so issues can be resolved. ● ensure that termination of services are justified and communicated clearly and in a timely manner. ● carry out market engagement prior to a single action tender to justify the approach.
Kent County Council	Procurement Process	A supplier complained that Kent County Council had postponed a contract lot and subsequently not re-arranged it. The supplier felt they had wasted their time which was costly as a small supplier.	There were two elements to the lot: a training package that was no longer required and another requirement that the Council had decided to re-tender due to unavoidable delays in the original process. We agreed the Council was

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			right to re-tender if problems had arisen but reminded them to consider the impact of postponements or cancellations on small businesses and communicate changes as soon as possible and they accepted that recommendation.
East of England Broadband Network (E2BN)	Procurement Process	A supplier viewing an E2BN framework tender felt the PQQ was not aligned with new government guidelines and policy supporting small business.	We directed E2BN to PPN 02/13 section 9, which recommends that 2 years of accounts are required rather than 3 years; and to PPN 04/09 which recommends that specific marks and weightings in a PQQ should be disclosed to suppliers. Subsequently the authority highlighted that 40% of the suppliers on the framework were small businesses but we felt that implementing these recommendations could have further increased the number of small businesses and this was accepted for future procurements. http://webarchive.nationalarchives.gov.uk/20110822131357/http://www.ogc.gov.uk/documents/PPN0409.pdf
Cumbria County Council	Payment	A Mystery Shopper complained that they had not been paid for work carried out in May 2015. The supplier did not want to be named, so we offered to contact Cumbria Council to ask if there	It was recommended that Cumbria Council update their supplier terms and conditions in line with r113 of the Public Contract Regulations 2015 for future contracts. Cumbria responded quickly to the

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		had been a problem with payment recently and to remind Cumbria of their obligations to pay suppliers within 30 days.	recommendation and has since updated their terms.
NHS North West London Trust	Procurement Process	A Mystery Shopper raised a concern that following their bid for a contract, they had not received any notification of the award decision.	The contracting authority advised that “due to a change in business requirements, the procurement had not yet concluded. Due to a clerical omission, letters informing the bidders of this decision had not been sent.” This has now been rectified.
Crown Commercial Service (CCS)	Transparency	A Mystery Shopper raised concerns about receiving an email alert for a contract opportunity on Contracts Finder on 12 July 2015 with a deadline of 14 July 2015 thereby giving the impression that they had only 2 days to submit a bid.	CCS confirmed that the notice was actually published on 30 June 2015. The supplier and the Contracts Finder Team both reviewed their email alert settings. CCS also extended the deadline to 16 July to give bidders additional time to submit bids.
Innovate UK	Payment	A Mystery Shopper raised a concern that Innovate UK had not paid their invoice promptly.	Innovate UK advised that the Mystery Shopper had submitted an invoice that needed to be queried and that it had been paid once the query was resolved. The investigation also identified that Innovate UK were not meeting the Government’s requirement to pay 80% of undisputed invoices within 5 days. Innovate UK explained that there had been an embargo for system improvements pending a potential move of the finance division into a shared service centre.

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			This move did not take place and Innovate UK are now reviewing their options. Innovate UK have committed to improve and publish payment performance in line with the requirements of the Public Contracts Regulations 2015.
Cheshire West and Chester Council	Procurement Strategy	A Mystery Shopper felt that the payment terms were unclear on a contract notice (OJEU) issued for a domestic energy partner by Cheshire West and Chester Council.	The council explained that the service provider would be required to provide information, advice and assistance to householders on the current domestic energy schemes, offers and eligibility criteria. The key part of the contract/payment terms that the Mystery Shopper queried was that the service provider would not receive any revenue support to fund their service delivery costs so would be expected to secure operational costs from other sources and also to work with the local authorities to bid for resources to support future activity.
Northumberland Council	Transparency	A Mystery Shopper questioned why they were unaware of a tender opportunity for an Employment Land and Premises Demand Study from Northumberland County Council, as they are registered on the North East Procurement Organisation (NEPO) site which	Northumberland County Council explained that the NEPO portal was not used in this instance as there was already a compliant framework agreement in place to procure professional services contracts via NEPO. This is NEPRO - a national solution for the public sector to engage consultants and professional

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		the authority state they use.	services . The supplier has been given the NEPRO website details and been advised to register so they can be notified of any future opportunities.
Crown Commercial Service (CCS)	Procurement Process	A Mystery Shopper raised an issue about how services are categorised on G-Cloud to ensure suppliers have access to all opportunities.	CCS explained that G-Cloud customers follow a buying process and use multiple search terms that best fit their requirements. Suppliers are asked to submit short descriptions (as part of their tender submission) using technologies that best describe their service.
Wirral Council	Evaluation	A Mystery Shopper complained about the inclusion of clauses on a contract which appeared to give weighting for public sector experience.	Public Procurement Note 01/12 - Use of Pre Qualification Questionnaires was highlighted to the council. This emphasises that all contract experience (public and private) can be provided as experience and this should be made clear to bidders in future procurements.
Crown Commercial Service (CCS)	Technology	A Mystery Shopper raised a concern about the CCS eProcurement system. The system had not accepted the supplier's application to bid for ICT for Education.	CCS responded quickly to investigate the issue and found that the supplier had not completed the bid process fully. Screenshots of login histories were shared with the supplier so they could see why their application had failed on this occasion. A link to how to register using the CCS eSourcing tool was sent to the Mystery Shopper for guidance for future bids. https://www.gov.uk/government/publi

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			cations/esourcing-tool-guidance-for-suppliers
Cheshire West Council	Procurement Process	A Mystery Shopper raised concerns over a request by Cheshire West asking bidders to provide a case study showing how they had implemented Oracle for a previous customer. The Mystery Shopper wanted to know why other ePayment systems were not counted as equivalent experience.	Cheshire West responded quickly and following feedback from other suppliers, reviewed the requirement and amended the question to allow bidders to submit a case study for other systems, if an Oracle case study could not be provided. Cheshire West also extended the deadline of the tender to allow any bidders who may have opted out due to the original request.
Crown Commercial Service (CCS) and the Government Digital Service (GDS)	Procurement Process	A Mystery Shopper raised concerns that the process for submitting a bid for G-Cloud 6 was overly complex as suppliers were expected to provide submissions on two separate systems. The enquirer was particularly concerned that the process for submitting a service on the GDS platform did not make it clear when a service had been formally submitted.	We found that instructions for using the two systems were clear and appropriate to the audience of IT suppliers. CCS had contacted all bidders prior to the deadline reminding them to submit their service information and tenders on time. We acknowledge that having two separate systems adds complexity to the process and we have recommended that the process is consolidated into one system. We also made a number of recommendations to improve the usability of the GDS platform in the interim. GDS have accepted these recommendations and are already redesigning the system to make it simpler to use for G-Cloud 7 submissions which are expected to

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			<p>begin in August. GDS will be discussing improvements to this process through a blog at: https://digitalmarketplace.blog.gov.uk/. The Mystery Shopper team will continue to monitor progress of addressing these concerns through our programme of spot checks.</p>
Natural England	Procurement Process	<p>A Mystery Shopper raised concerns that Natural England's financial assessment of suppliers in its procurement for Genesis IT hosting application system disadvantaged SMEs.</p>	<p>There was a substantial level of risk in this contract relating to disallowance under the Common Agricultural Policy (CAP) regulations. In layman's terms, the IT application is used to manage the grant payments under the CAP. The implications of an IT failure could result in a significant cost to the government in lost grant payments (in the region of £300 million). Natural England therefore applied a stronger assessment of the financial standing of suppliers on the basis that the level of risk, both in financial and business criticality terms arising from the procurement, is far in excess of the actual value of the contract. We found that the assessment was appropriate under the circumstances, and reminded Natural England to ensure they take a proportionate approach to financial assessment in other, less risky, procurements.</p>

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Ministry of Defence (MoD)	Contract Management	A Mystery Shopper raised concerns that a number of invoices had not been paid within 30 days.	The MoD investigated this quickly and advised that this was due to a Procure to Pay (P2P) process error. The supplier concerned has now been paid.
Social Care Institute for Excellence (SCIE)	Procurement Process	A Mystery Shopper raised concerns that Social Care Institute for Excellence (SCIE) had requested three hard copies of tender submissions in addition to an electronic copy.	The SCIE was reminded that the Public Contracts Regulations 2015 established the principle that communications during the bid process should be made electronically, unless there are specific circumstances where an electronic bid is not feasible - such as where scale models need to be provided. These principles also apply to procurements below the EU threshold. SCIE has agreed to remove this requirement and has communicated this change to bidders.
Midlands and Lancashire Commissioning Support Unit	Procurement Process	A Mystery Shopper raised concerns about the provision of translation services to a number of NHS bodies.	NHS Midlands and Lancashire Commissioning Support Unit (the CSU) was able to provide clarity on their service level arrangements for providing interpreting and translation services to individual NHS bodies within the Birmingham, Solihull and Sandwell area through their internal service: Bespoke Interpreting Language & Communication Services (BILCS). Services are provided both directly through a panel of in-house

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			<p>interpreters and through a number of EU compliant contracts. The CSU provided justification for two single tender actions that were a concern of the Mystery Shopper and outlined steps they are taking to replace all of their contracts that are due to expire at the end of March 2016.</p>
NHS Bodies	Procurement Process	<p>A Mystery Shopper was concerned that three NHS bodies in the Birmingham area were using translation services provided by Midlands and Lancashire CSU (BILCS) without conducting an open competition.</p>	<p>BILCS offers a 'One Stop Shop' for interpreting and translation support for the NHS. They provide interpretation services to Birmingham Community Healthcare NHS Trust on an NHS to NHS basis. They also provide services under a service level agreement to four Clinical Commissioning Groups (CCGs) that together cover Birmingham, Solihull and Sandwell. Birmingham Queen Elizabeth Hospital is covered by NHS Birmingham South Central CCG. Services are provided both directly through a panel of in-house interpreters and through a number of EU compliant contracts managed by BILCS. By centrally managing the provision of interpreting and translation, CCGs and NHS Trusts are able to benefit from collective buying power and economies of scale. CCGs are free to use the services of BILCS and can also use</p>

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			alternative means of procuring interpreting services.
Health Trust Europe (HTE)	Procurement Process	A Mystery Shopper was concerned that Midlands and Lancashire CSU was bidding to supply interpretation services on a framework agreement being established by Health Trust Europe. They felt that BILCS did not have the skills in-house to provide services and would instead be reliant on subcontracting services with local interpreters, suppliers who could be bidding for places in the framework directly.	NHS Midlands and Lancashire Commissioning Support Unit (the CSU) and their internal service, Bespoke Interpreting Language and Communications Service (BILCS) were able to demonstrate that they provide a mixture of contracted and in-house interpretation services and are moving more towards providing in-house provision. Health Trust Europe (HTE) advised that the evaluation of the 'Technical' Envelope in the PQQ also included various experience and reference requirements, which a potential supplier may not be able to meet if they were a wholly sub-contracting organisation. BILCS bidding for a place would not prevent small suppliers from tendering directly or partnering with other NHS bodies. HTE demonstrated that there was no bias in favour of NHS bodies.
Cabinet Office	Procurement Process	A Mystery Shopper raised concerns with a procurement for consultancy services that had very short timescales for tendering. The supplier also had concerns that the tender documents showed unconscious bias towards a supplier, who had provided the	1. We advised the Cabinet Office the new directive has reduced minimum timescales to 35 days without a PIN and recommended that where project timescales are challenging, alternative routes to market are considered such as using an existing framework.

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		<p>services on a pro-bono basis, prior to the competition. The supplier commented further that pro-bono work was uneconomical for small businesses and was a barrier to entry.</p>	<p>2. To ensure fairness to all suppliers, additional measures should be put in place for future procurements, such as a statement at the start of the documentation explaining where any pilot has taken place, what was involved and how the new work is connected to this. If the documentation provided does not offer enough detail for the market additional Q&A time should be added to the procurement timetable.</p>
Crown Commercial Service (CCS)	Procurement Process	<p>A Mystery Shopper raised a concern that the number of man-hours needed to qualify for the Non-Medical/Non- Clinical (NMNC) framework equated to a pseudo-turnover threshold and was a barrier for small and new suppliers.</p>	<p>CCS has explained that the number of man-hours was established by discussions with the market and customers, and that the use of subcontracting hours could be used as part of a potential provider's submission. CCS accepted a recommendation that any future NMNC procurement would look to use any appropriate selection and award criteria, in addition to previous supply, and to engage with a wider range of stakeholders pre-procurement to consider alternative approaches.</p>