



Crown
Commercial
Service

Mystery Shopper Progress Report 2015-2016

1. Purpose, Vision and Aim of the Service

The Mystery Shopper Service sits within the Crown Commercial Service and allows government suppliers and potential government suppliers to raise concerns anonymously about potentially poor public sector procurement practice.

The service was launched in February 2011 as part of a range of measures to build the commercial capability of contracting authorities through their adoption of good procurement policy and practice and to ensure that public procurements do not impose unnecessary barriers to small businesses when bidding for public contracts.

In 2015 the Small Business Enterprise and Employment Act strengthened this service by providing a statutory basis for our investigations.

We aim to provide our customers with a service that is accessible, clearly defined, open and transparent, efficient and delivering quality outcomes for all.

We also run a programme of proactive “spot checks” to review compliance with small business friendly legislation introduced in 2015.

We strive to meet the Crown Commercial Service values of Listen, Respect, Collaborate and Trust in order to deliver our service with confidence.

2. Executive Summary 2015 - 2016

Customers of the Mystery Shopper service are predominantly small businesses who would like to supply the public sector, but have found barriers to doing so.

New public contracts regulations were brought in during 2015 and some of these new regulations are aimed at reforming public procurement so that barriers to entry are reduced and simplified, with the hope that the experience of public procurement is improved. The numbers of cases brought to the service from April 2015 to March

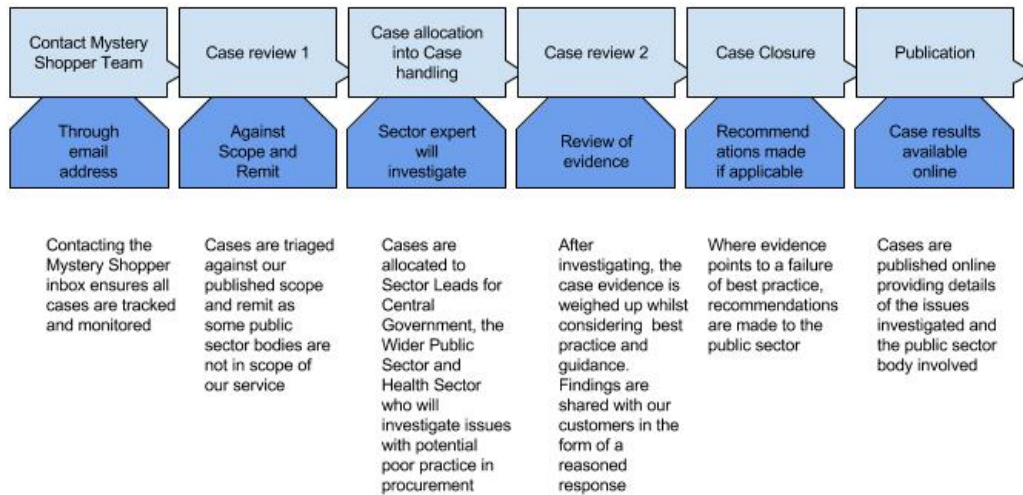
2016 has **reduced by 18%** since a peak in 2013. There is more work to do to understand whether this is because the new reforms are making a difference.

That said, the service has received **189 cases** in the past year and whilst new public contracts regulations came into force during our last year, our users have told us that the procurement process continues to be the main issue with public sector procurement when problems are encountered. **Over 50%** of all the issues we investigated were due to problems with the process, in particular procurement documents being long and difficult to complete. We have achieved a positive outcome in **95%** of all our investigations.

We are also seeing new issues arise as the new public contracts regulations puts new obligations on the public sector. We are monitoring emerging issues such as prompt payment and transparency of contract opportunities through our spot checks programme so that we can stop problems before they arise.

3. Process

Our customers are able to raise issues with us anonymously and we pride ourselves on keeping the names of customers anonymous throughout the process, including when we publish the results of our cases on Gov.UK



4. Mystery Shopper Case Overview

We have received **over 1,000 cases** since the service began in February 2011



The service reached a peak in 2013 with **233 cases**.

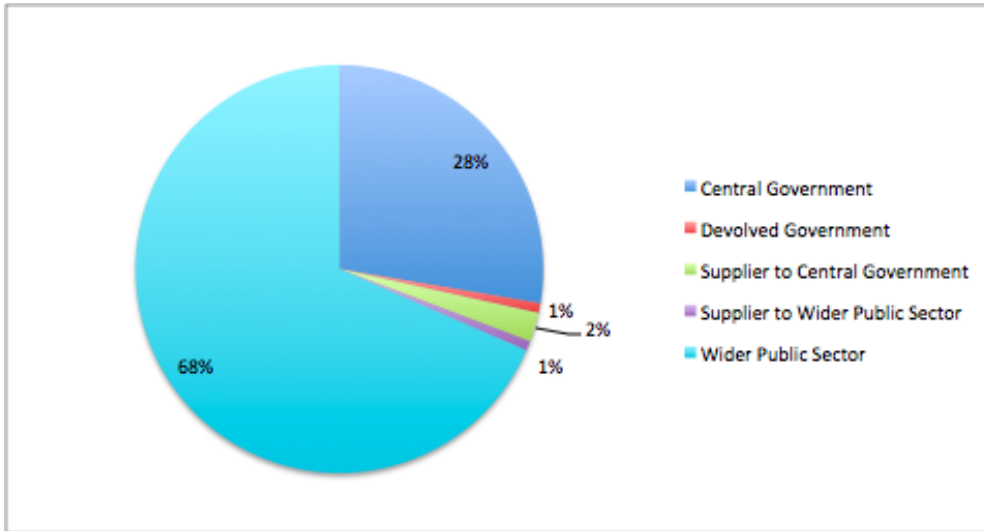
From March 2015 to April 2016, we received **189 cases** - a reduction of **18.9 %** since 2013.

New Public Contracts Regulations

were introduced in 2015, and these included several reforms aimed at helping small businesses. Although we cannot say that these reforms have led to a drop in cases being received, it is a positive trend.

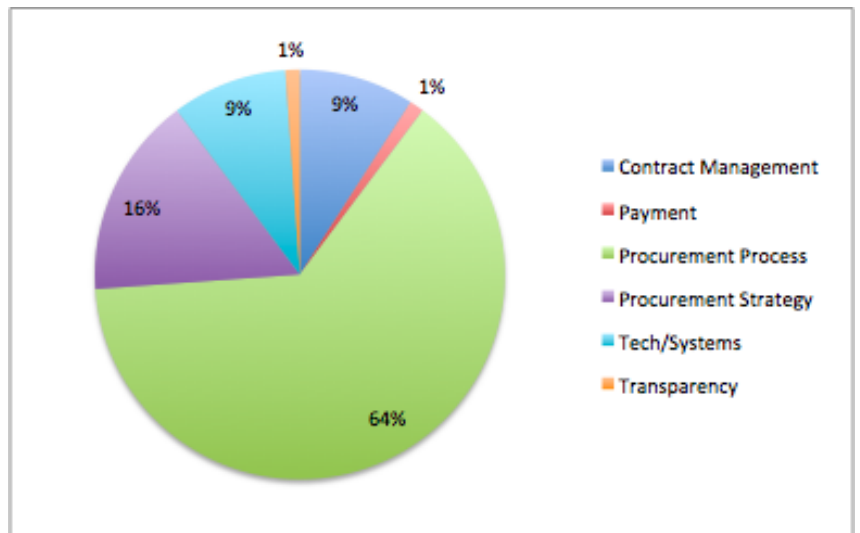
Our results from April 2015 - March 2016

68% of the cases we received from March 2015 - April 2016 were due to issues found in the wider public sector.



28% of cases were due to issues in Central Government departments.

When we look at the classification of the types of procurement problems we have concluded across the whole public sector in the last 12 months, we see that



64% of issues were with the procurement process. Although only **1%** of procurement issues were found to be about payment, we know this continues to be a problem in some sectors and we will be continuing to monitor this over the next year.

Positive Outcomes

We are proud to report that our overall positive outcome rating overall is currently at

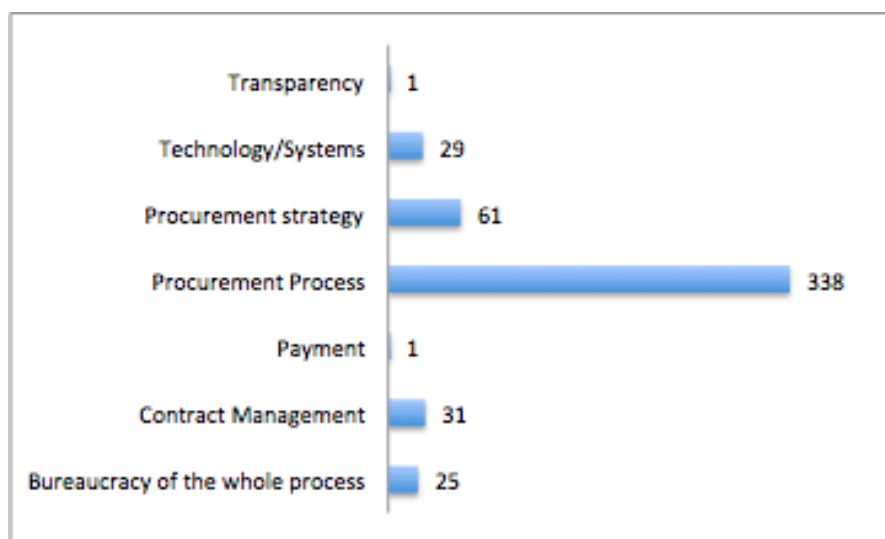
95%.

This means that in 95% of cases, we were able to take action to improve the procurement practice within the public sector (either immediately on an active procurement or by making recommendations that are accepted for future procurements) or we are able to offer advice to our customers that helps them to understand the process better as potential suppliers. Our positive outcomes have continued at this rate over the past year.

5. Sector-Specific Cases Overview

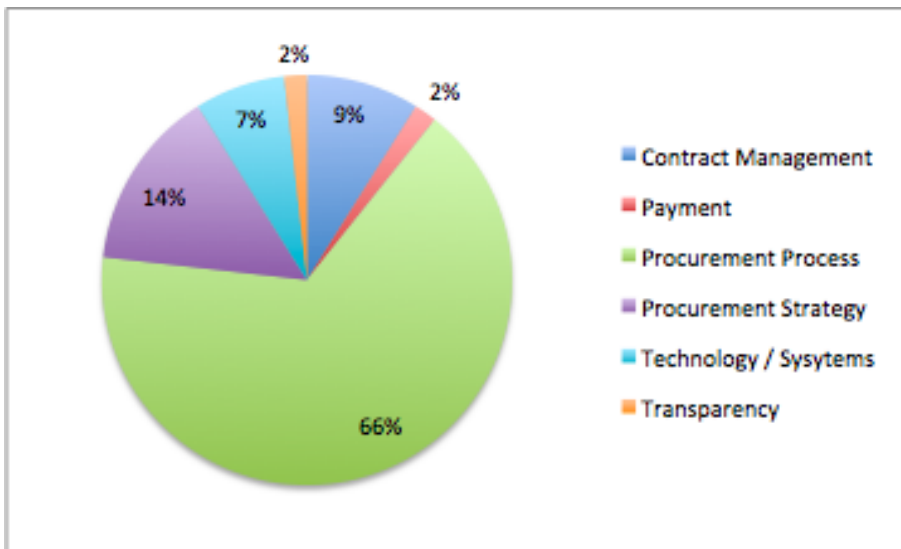
The Wider Public Sector

The Wider Public Sector represents many different types of public body, from councils to housing associations. We have **investigated over 400** issues since the service began in 2011.



During this time, we have seen that these issues were overwhelmingly with the procurement process, and in particular we have seen that it has been pre qualification questionnaires that have been overly burdensome.

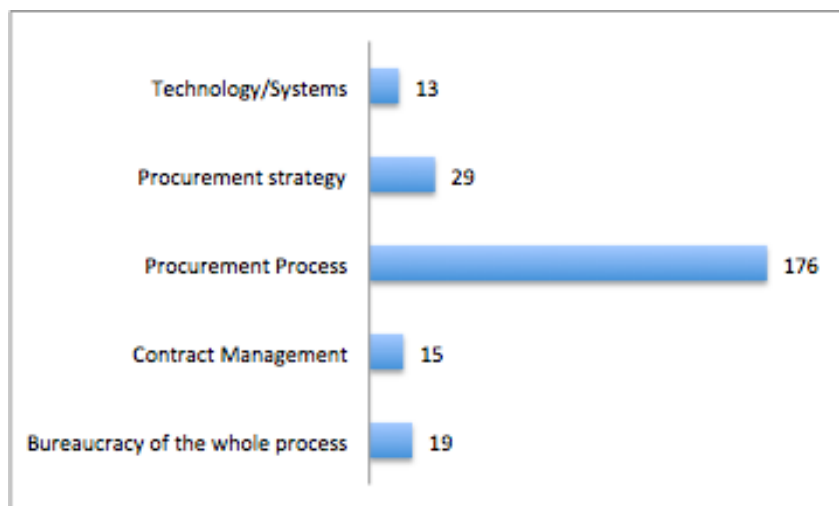
Wider Public Sector Results from April 2015 - March 2016



Throughout the past 12 months, the trend within the wider public sector continues to be issues with the procurement process. We see that **two thirds** of the issues we have investigated were process type issues such as the length and relevance of questions used in procurement documents, in particular where a pre-qualification questionnaire has been used for above threshold contracts.

Central Government Departments

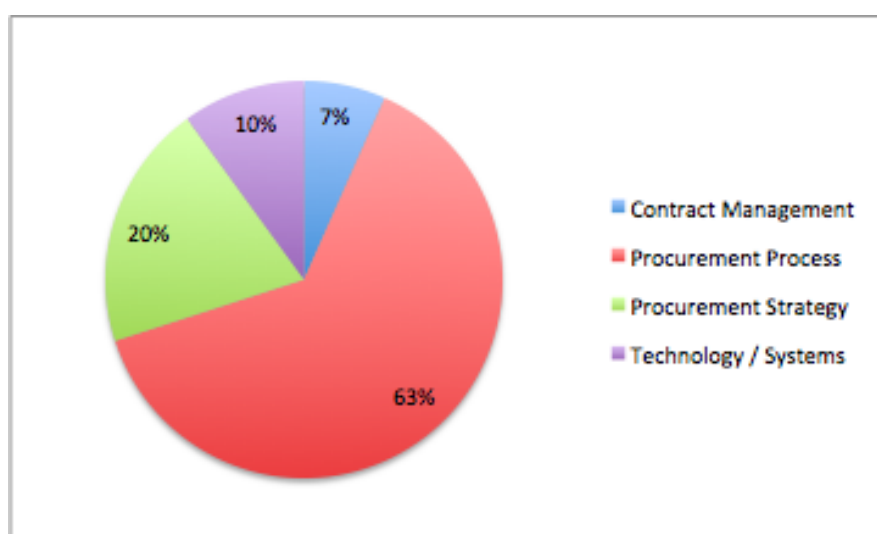
Since the service started, we have investigated **over 250 issues** found with procurement practice in Central Government Departments. When we investigated these, we identified that the majority of concerns were with the procurement process.



The difference when compared with the Wider Public Sector is that process issues in Central Government have been more evenly split between problems with pre qualification questionnaires and the invitation to tender documentation, where these documents have been found to be difficult to complete by our customers.

We have been able to secure **99% positive outcomes** from our investigations in Central Government.

Central Government results from April 2015 - March 2016

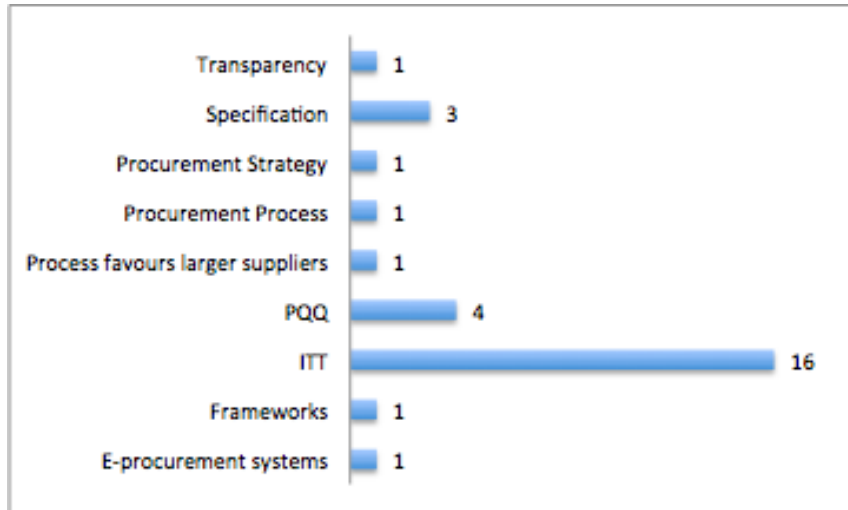


In the past 12 months **over half** of our investigations were due to problems within the procurement process.

Crown Commercial Service

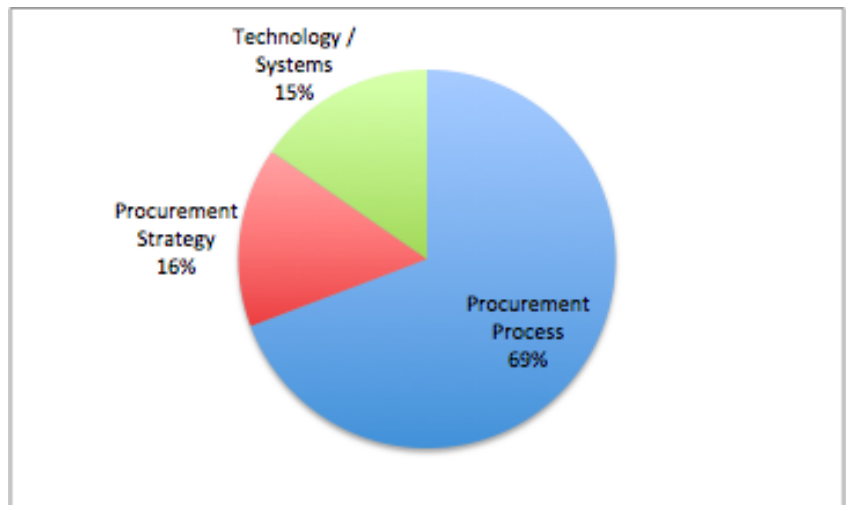
We have investigated **over 40 issues** raised against the Crown Commercial Service since the agency started operating in April 2014.

66% of the 40 issues were raised when our customers found difficulty with the procurement process, the largest area concern for our users has been with Invitation To Tender documents being too long and difficult to navigate through.



Crown Commercial Service Results April 2015 - March 2016

Over the past year we have continued to see that the majority of the issues we investigated were about the procurement process.



When we have investigated issues with CCS we have been able to resolve **100%** of these with a positive outcome for our customers.

We know in CCS that there is more we can do to radically reduce the length of our tender documentation as well as to simplify our Terms & Conditions whilst remaining compliant with Procurement Directives. We have embarked on a piece of work that will address this.

Health

12% of all our received cases have been with the Health sector. In line with our other investigations, process problems have represented **60%** of all our Health sector issues we received since the service began.

91% of all our Health sector investigations have resulted in a positive outcome for our users.

Health results from April 2015 - March 2016

The total number of Health sector cases **halved** between 2013 and 2014 and this has continued into 2015 with fewer than 20 cases received in 2015/16.

There has been a shift in the types of cases too. In 2013 long and complicated pre qualification questionnaires were the commonest area of concern, but we saw a sharp decline to just **2 cases** in 2015.

We are noticing that payment issues, both directly and those experienced indirectly down the supply chain, are being received at a consistent level, including concerns that two NHS Trusts had informed suppliers that they were extending payment terms beyond 30 days as a measure aimed to both improve their cashflow and increase certainty of payment to suppliers.

We will be monitoring the situation with Department of Health.

Spot checks

In February 2015, Government introduced legislation aimed at supporting smaller businesses and our spot checks programme has focused on ensuring that these new reforms are being implemented in the public sector. The reforms we have been checking in 2015-2016 include:

- Access to Opportunities
- Elimination of pre-qualification questionnaires in lower value procurements
- Prompt Payment

Access to Opportunities

Contracts Finder was launched in February 2011 as a one-stop shop for free access to contract opportunities in central government in response to requests from SMEs to make government business more accessible. A refreshed version of the site was launched in Beta in February 2015, and we have been checking that public sector bodies are signed up to it and are using it.

We are able to report that

- all central government departments have signed up
- 95% of police authorities have signed up
- 86% of English councils and
- 75% of all NHS bodies have used the site at least once and many are regularly advertising opportunities there.

Visibility of Opportunities

We conducted sampling of 395 opportunities published by nearly 200 councils on their own portals. We initially found 64% had been published on Contract Finder. By working with councils the proportion of these eligible opportunities appearing on

Contracts Finder **increased to 86%.**



Source: Sample of 395 opportunities published by nearly 200 councils in 2015

Those public bodies that have not yet used Contracts Finder have told us that they have low procurement spend, have shared procurement functions with other, larger, authorities or due to internal process, have opted not to advertise below a certain threshold.

We have worked with authorities to increase the proportion making use of the site by:

- a. Increasing awareness of the requirements to publish.
- b. Helping authorities to check whether all of their eligible contracts are being published on Contracts Finder and working with them to identify and address technical issues and user error.
- c. Providing additional guidance to authorities to ensure that information contained in the advert is consistent across platforms, so that opportunities are easier to find.

Elimination of pre-qualification questionnaires in lower value procurements

Pre-qualification questionnaires have been **abolished in lower value procurements** in an effort to make the tendering process more accessible to small businesses.

In the last 12 months, we undertook a sampling exercise to check compliance of new regulations within Local Government. Our survey of 56 councils found that

93% no longer use a PQQ in below threshold procurements. The remainder still use some form of PQQ in some circumstances, mainly contracts for works.

In a different sampling exercise, we looked at whether pre-qualification style questions were being used in other procurement documents. We reviewed 50 Invitation To Tender documents from all across the public sector and found that

78% of these documents either did not include assessment questions at all or assessment was conducted in line with best practice guidance.

We continue to work with councils on compliance with the new regulations.

Prompt Payment

Based on sampling, we found that standard payment terms have been adopted, but there is more to do on monitoring performance in the supply chain

We conducted a survey of 40 councils. **83%** have adopted 30 day payment flow-down to suppliers and a further 10% have plans to adopt them.