

Mystery Shopper Publication Table October to December 2016

Payment

New

Contracting Authority / Prime Contractor complaint against - Norfolk County Council

Issue: A subcontractor in a major construction contract contacted the Mystery Shopper team regarding non payment of invoices by a Tier 2 supplier, as this was becoming a regular problem.

Outcome: The council investigated the complaint and found that the delay had been due to the implementation of new computer systems by the Tier 2 supplier. The issue has now been resolved and payments released to the subcontractor. The council have also agreed to revisit the auditing of the supply chain below Tier 1 to ensure all future payments within the supply chain are not delayed.

Contracting Authority / Prime Contractor complaint against - Bristol City Council

Issue: A supplier contacted the Mystery Shopper team to express concerns that the council had awarded contracts for care services to a particular supplier without competition.

Outcome: The council responded fully to our communication, indicating that the services were purchased in relation to a complex childcare case involving court direction, and with best judgement exercised as to the needs of the children involved. The services fell within the scope of those subject to the "Light Touch Regime" as defined by the Public Contract Regulations 2015 but the contract values fell below those for the relevant threshold.

Contracting Authority / Prime Contractor complaint against - Broadband UK

Issue: A small supplier raised concerns that an invoice for consultancy work had not been paid.

Outcome: The Mystery Shopper team drew the Trust's attention to the statutory guidance on prompt payment. The Trust told us that there were issues with the invoice value that they needed to discuss with the supplier. We advised the small supplier to contact the Trust and it was agreed that a lesser amount, comparable with the level of work agreed to have been undertaken, would be paid. The small supplier submitted an invoice for the agreed lesser amount and this invoice has now been paid.

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Contracting Authority / Prime Contractor complaint against - West Yorkshire Police

Issue: A supplier raised concerns that an invoice for translation services had not been paid within 30 days. As a result the supplier was also claiming statutory interest on the late payment.

Outcome: West Yorkshire Police (WYP) confirmed that the late payment had occurred because processes for ordering items and services had not been followed in this instance. WYP explained that a Purchase Order number was not raised until after the invoice was received by the payment team, thus causing delays in verifying and validating the invoice. WYP accepted a recommendation that a reminder is issued to ensure established processes are followed when items are ordered to prevent payment delays. The invoice and claim for statutory interest have been paid to the supplier.

Contracting Authority / Prime Contractor complaint against - Chelsea and Westminster Hospital NHS Foundation Trust

Issue: A small supplier raised concerns that the payment of an invoice had been slow.

Outcome: The Trust reported that it had changed its internal systems over the summer and this had led to problems with the prompt payment of invoices. Measures have been put into place to rectify these issues and they have also put in place mechanisms to ensure that the suppliers could contact the Trust about any issues arising. The Trust expect to have worked through their backlog by the end of October.

Contracting Authority / Prime Contractor complaint against - Shropshire Council

Issue: A small supplier raised concerns about the payment of an invoice being late.

Outcome: When the Mystery Shopper team contacted the council they confirmed that there had been a delay but said that the invoice was now ready for payment and would be paid in the next few days.

Procurement Process**New****Contracting Authority / Prime Contractor complaint against - Barnsley Metropolitan Borough Council**

Issue: A supplier contacted the Mystery Shopper Team regarding the evaluation of their tender for the Council's Enforcement Agency procurement.

Outcome: Using information provided by the Council, the Mystery Shopper Team were able to reassure the supplier that the outcome of the procurement was sound. To help avoid future misunderstandings we made some recommendations to the council about ensuring the clarity of the requirements and the management of communications

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<p>New Contracting Authority / Prime Contractor complaint against - Central and North West London NHS Foundation Trust</p> <p>Issue: A supplier contacted the Mystery Shopper Team about a procurement for framework agreements for architectural services being undertaken by the Central & North-West London NHS Foundation Trust and the Trust's requirement for potential suppliers to have an annual turnover of £1M.</p> <p>Outcome: The Trust considered the point made by the supplier and decided to lower the turnover requirement to £200K, and to extend procurement timescales to reflect the change to the requirements.</p>
<p>New Contracting Authority / Prime Contractor complaint against - Bexley Heath Clinical Commissioning Group</p> <p>Issue: A supplier contacted the Mystery Shopper Team about a procurement for professional services undertaken by the Clinical Commissioning Group (CCG). They expressed concerns regarding the CCG's insurance requirements needed for a procurement of this scale.</p> <p>Outcome: The CCG responded quickly and fully to our communications. They accepted both of the recommendations made to ensure future insurance requirements are targeted at the circumstances of specific procurements.</p>
<p>New Contracting Authority / Prime Contractor complaint against - East Sussex County Council</p> <p>Issue: A supplier contacted the Mystery Shopper Team about two requirements incorporated into the Council's Professional & Technical Services framework procurement. One requirement was that successful suppliers had to pay a charge to the Council to support framework management. The other requirement was that successful suppliers were to undertake activities to deliver social value to the Council's community, and this had a specific annual value mandated.</p> <p>Outcome: The Council responded promptly and fully to our communications, explaining the rationale behind the requirements and making clear that they were focused on working effectively with SMEs. We agreed with the Council that they will review the success of the project, particularly the impact of the two requirements, and consider whether it is appropriate to adopt the same approach for similar future procurements.</p>
<p>Contracting Authority / Prime Contractor complaint against - Surrey County Council</p> <p>Issue: A supplier contacted the Mystery Shopper team about a procurement for advocacy services being run by the council. The supplier expressed concerns about the provision of data relating to the current service provider's workforce. This data was essential to prospective new suppliers in taking account of TUPE liabilities in any tendered pricing.</p> <p>Outcome: The council responded quickly indicating that they had used best endeavours to obtain the necessary information from the current service provider and had published this for access by interested suppliers as quickly as they could. The Mystery Shopper team recommended that the council review their contracts for the inclusion of provisions obliging suppliers to provide this kind of data in a timely fashion to facilitate re-procurement.</p>

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Contracting Authority / Prime Contractor complaint against - Oxleas NHS Foundation Trust

Issue: A supplier contacted the Mystery Shopper team about a procurement for legal services in support of a competitive dialogue procurement. They expressed concerns that either the choice of service provider had already been determined in favour of an incumbent or that the procurement was intended purely as a benchmarking exercise in respect of the incumbent's fees.

Outcome: The Trust responded by indicating that the procurement was being run as a fair and competitive exercise and that there was no preference for any specific outcome. A service provider had been engaged to provide input on the early stages of the project, but it had since become apparent that the scope of the support required went wider than expected. This meant that the broader requirement should be opened to the market. The Mystery Shopper team accepted that the procurement was being conducted in an impartial manner, but noted that the incumbent supplier was bound to benefit from their experience of the project. Ideally the complete scope of the requirement would have been competed at the outset.

Contracting Authority / Prime Contractor complaint against - Health Trust Europe

Issue: A supplier contacted the Mystery Shopper team to express concerns about the evaluation of their tender for the Total Workforce Solutions framework agreement procurement conducted by Health Trust Europe (HTE). They considered the marking of a case study to be unduly harsh. The mark awarded was below the minimum acceptable.

Outcome: HTE responded noting that the mark awarded for the relevant question was based on the lack of supporting evidence supplied with the response. HTE had contacted the supplier pointing to the lack of evidence. The supplier sought to rectify the omission but unfortunately the information provided still did not satisfy the criteria specified in the Invitation To Tender and on that basis the low mark had to be awarded.

Contracting Authority / Prime Contractor complaint against - Barnet, Enfield & Haringey Mental Health Trust

Issue: A supplier contacted the Mystery Shopper team about a procurement being carried out by the Trust. The supplier was concerned that they had raised a number of clarification questions on the Invitation to Tender (ITT) and that these had not yet been answered although the deadline for doing so had expired.

Outcome: The Trust responded quickly and fully indicating that the procurement had attracted a lot of interest and hence the number of clarification questions received had been large. The Trust therefore extended the deadline for submission of questions and also tenders.

Contracting Authority / Prime Contractor complaint against - Cranfield University

Issue: A supplier contacted the Mystery Shopper team about a procurement undertaken by Cranfield University, for Asbestos Survey work. The supplier suggested that the timescales to register an interest were too short, and also questioned why the opportunity had not appeared on Contracts Finder.

Outcome: The University responded quickly, indicating that they were not a contracting authority for the purposes of the Public Contracts Regulations and therefore don't have to publish opportunities on Contracts Finder. The University explained that they had published details of the requirement but this had not been seen by the supplier. This meant that the timescales for registering an interest were not as compressed as the supplier had perceived.

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Contracting Authority / Prime Contractor complaint against - City University of London

Issue: A supplier contacted the Mystery Shopper team about a procurement for a replacement legacy bus bar conducted by the Higher Education Institution, suggesting that requirements for suppliers to have a turnover of at least £5M and £10M of Professional Indemnity Insurance were not appropriate for a procurement on the scale advertised.

Outcome: The Institution responded very positively by significantly reducing both requirements and extending the deadline for submission of to ensure any suppliers previously dissuaded from bidding had the chance to compete for the business.

Contracting Authority / Prime Contractor complaint against - A2 Dominion Housing Association

Issue: A supplier contacted the Mystery Shopper team about a procurement for works being undertaken by the Housing Association, expressing concerns that the supplier financial assessment requirements included a pass / fail requirement for suppliers to meet a particular Acid Test. The supplier felt that this effectively penalised suppliers with cash tied up in stock.

Outcome: The Housing Association responded quickly and positively to our communication. They accepted our recommendation to review the use of the single metric pass / fail approach on a case by case basis in order to assess whether it is essential for it to be adopted. They also accepted our recommendation to consider an approach using a more broad based appraisal of supplier financial status.

Procurement Strategy

Contracting Authority / Prime Contractor complaint against - Cheshire East and Cheshire West & Chester Councils

Issue: A supplier contacted the Mystery Shopper team about the council's procurement of a framework agreement for a Business Services Support Solution. They asked why the requirement had not been divided into lots and why the maximum call-off contract duration was for 12 years.

Outcome: The councils responded to the questions raised indicating that they required a single solution with a consistent look and feel to meet all requirements, although this would preclude a bidder offering a solution based on the integration of components from different sub-contractors. They took the view that the solution needed to be in operation for an appropriate length of time to maximise net value to citizens - hence the call-off contract duration.

Contracting Authority / Prime Contractor complaint against - Broadland District Council

Issue: A supplier contacted us to express concern at the prospect of the council awarding a contract for waste disposal services to a provider on the basis of a "Teckal" exemption from competition.

Outcome: The council responded swiftly and fully to our communications and after detailed consideration decided to award the contract via an open competition.

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Contracting Authority / Prime Contractor complaint against - University of Sheffield

Issue: A supplier contacted the Mystery Shopper team in relation to the procurement approach for the University's Pearl Building Design Project. They suggested that the Open Procedure adopted was inefficient, placed a heavy burden on potential tenderers and was fraught with risk of project failure.

Outcome: The University responded in detail to our communication, indicating that they had adopted the Open Procedure on the basis that it would facilitate a high response rate and meet project timescales. The amount of work requested from bidders was relatively moderate, and the level of market interest had been high, with a large number of tenders submitted before the appointed deadline. On that basis the University was satisfied that the approach they'd adopted was robust

Contracting Authority / Prime Contractor complaint against - Brompton and Harefield NHS Trust

Issue: A supplier contacted the Mystery Shopper team raising concerns in relation to a GCloud procurement that the Trust was undertaking.

Outcome: The Trust indicated that the requirement should not have been put through the GCloud framework, and that as soon as the issue became apparent the procurement was cancelled and the requirement put through the Digital Outcomes Framework instead.

Contracting Authority / Prime Contractor complaint against - Leicester City Council

Issue: A supplier contacted the Mystery Shopper team about a framework agreement for photographic services let by the council. The supplier had tendered to get on the framework but had subsequently won no business under it. The supplier suggested it was unsatisfactory for SMEs to undergo a stringent procurement process only for there to be no commercial return when successful.

Outcome: The council advised that it had always been clear that there was no guarantee of any business resulting from the appointment to the framework. Budgetary constraints introduced since the framework was let meant that wherever possible the council used in-house resources to satisfy requirements that might have gone through the framework. This meant that the amount of work put through the framework had been lower than might have been expected.