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# Contract Management and Procurement

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# Procurement and contracting are...

**Procurement** is the entire process of sourcing goods, works or services from (usually) external providers/suppliers, risk management, and overall supplier management (including performance tracking) and managing these through to the end of contract.

**Contracting** is an essential part of procurement – it is the process of negotiating and agreeing the terms of a contract for services, and on-going management of the contract including payment, performance monitoring, and relationship maintenance.

# Contract management is...

- Ensuring the right people are in place to carry out the contract management activities
- Setting up administration systems
- Managing performance to ensure that the service is provided in line with the contract, including improving supplier performance and capability
- Ensuring payments are made to the supplier in line with the contract and that appropriate incentive mechanisms are in place
- Understanding and managing contractual and supplier risk
- Handling of changes to the contract

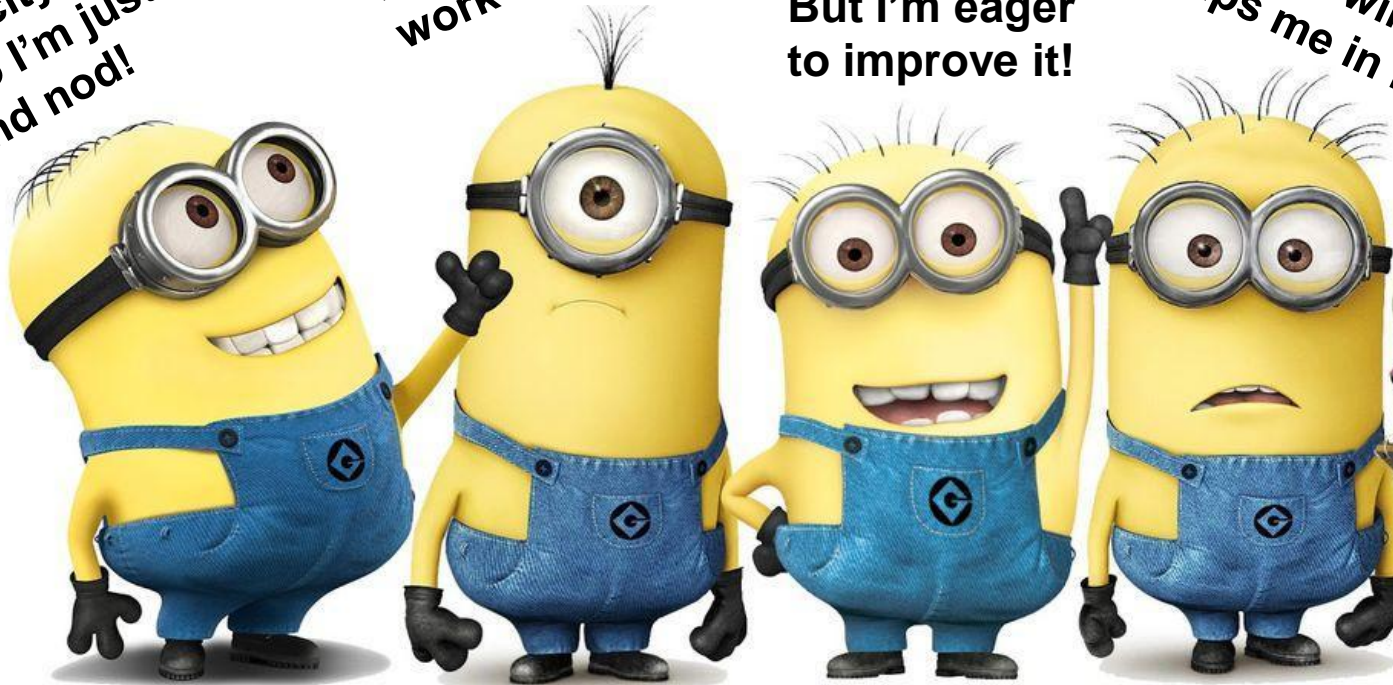
# What is your relationship like with your Procurement / contract management colleagues?

1. Poor but I have no time/capacity to improve things so I'm just going to smile and nod!

2. Ermm...there is work to be done!

3. It's okay!  
But I'm eager to improve it!

4. I know they are there but I'm not sure how knowing more helps me in my role



# Getting good results from your contracts

- Good results depend on:
  - Good contract administration
  - Good provider relationship management
  - Strong contracts and specification
  - Contract management is an integral part of the procurement cycle

# Contracts or Grants?

- A contract is legal agreement between a purchaser and provider which establishes the mutual expectations of both parties.
- A grant is in essence a 'gift' although it may be accompanied by certain conditions.





# A specification is...

A document describing a buyer's needs, which enables providers to propose an appropriate, costed solution to meet those needs.

A Service Level Agreement (or SLA) defines what services a service provider will provide and the required level or standard for those services.

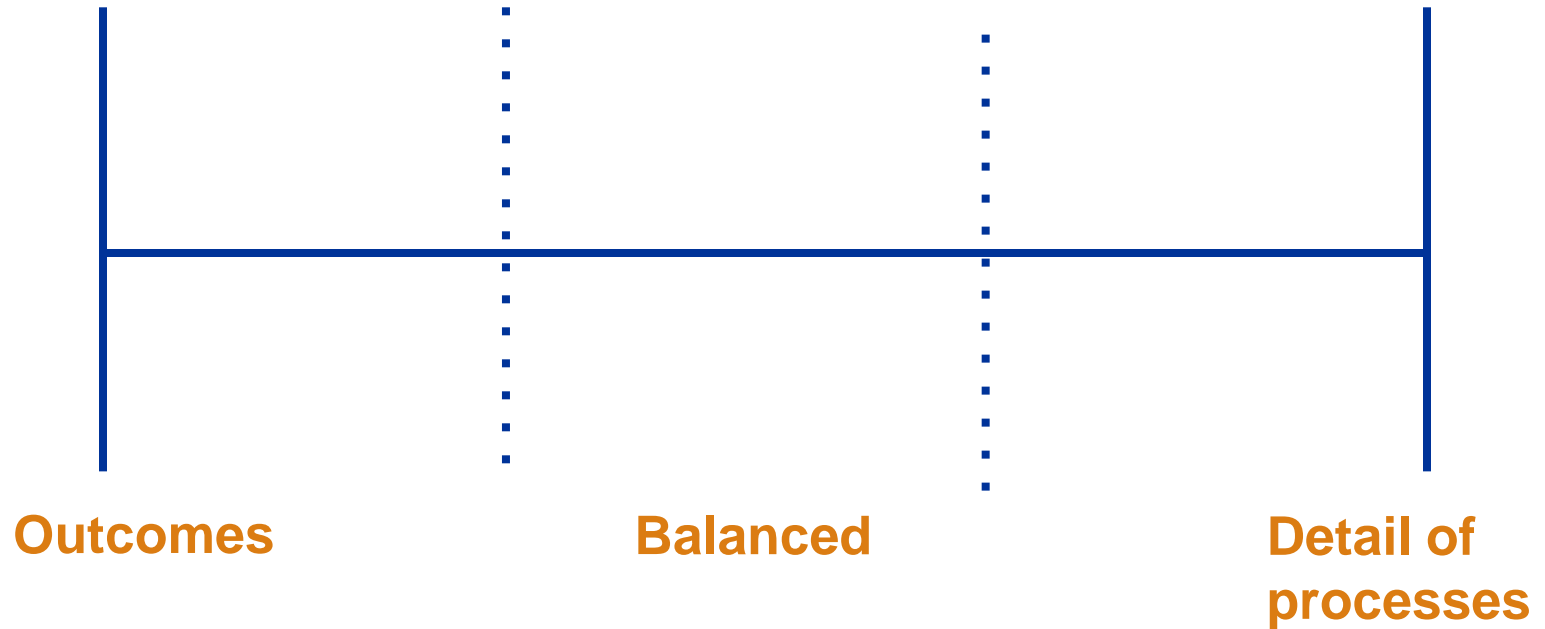


# Key functions of a specification

- To describe the nature and scope of the service to be bought.
- To define the people for whom that service should be provided.
- To set the outcomes that are required.
- To set the value base within which the service should be provided.
- To describe the monitoring arrangements to determine whether or not all the requirements are being met.



# Spectrum of specification



# Spectrum of specifications



# Developing a specification

- Who should be involved in the team and who should take the lead in writing the specification?
- How are values to be agreed and defined?
- What outcomes be defined and written down?
- How else is quality to be specified?
- How are the outputs to be specified?

# Developing a specification (2)

- How much detail will be written about the processes?
- Where does the service fit in the care and support pathway?
- How will we ensure that changes can be made over time to reflect national and local policy priorities?
- How are inputs to be specified e.g. numbers and qualifications of staff?
- How will it be measured and monitored?

# Good practice specifications and contracts

- Take a shared approach to risk and equity of benefits.
- Outline the channels of communication.
- Set clear targets and say how the success of the service will be measured.
- Specify the monitoring arrangements, which are proportionate.
- Build in flexibility and ability to change.
- Have sensible, do-able timescales.
- Use plain language.

# Develop a model specification

In your groups, discuss what the elements of a good specification might be and the key themes that you would include in a specification for your target population service.



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# Procurement



# Institute of Public Care Commissioning Cycle



# The legal procurement framework (UK)



**The Procurement Act  
OR  
PSR**

Local procurement strategy, financial regs and  
standing orders

# Transforming Public Procurement

**The Procurement Act (2023) –went live on 24<sup>th</sup> February 2025**

Legal principles of public procurement: delivering value for money, maximising the public good, transparency, acting with integrity, & treating suppliers with fairness

- Duty to ‘have regard’ to – must follow these principles unless there is a good reason not to
- Open procedure for simpler, ‘off the shelf’ competitions
- A limited tendering procedure that buyers can use in certain circumstances, such as in crisis or extreme urgency

# Transforming Public Procurement

## Key features

1. Simplified  
Procedures

2. Increased  
Transparency

3. Value for  
Money

4. Social Value  
&  
Sustainability

5. Streamlined  
Challenge  
Process

6. Centralised  
Procurement  
Review Unit

7. Debarment  
of “Unfit”  
Suppliers

8. Innovation  
and SMEs

9. Digital  
Transformation

# Transforming Public Procurement

- Opening up public procurement to a more diverse supply base, making it easier for new entrants and small businesses and social enterprises
- Bidding to be simpler, with procedures that are quicker and cheaper to participate in and information on contracts easier to find
- Single digital platform for suppliers – Find a Tender
- Requirement for early market engagement & publish notices – e.g., pipeline notices, preliminary market engagement notices, transparency notices, contract award etc.
- £5m contract value and KPIs

# Light Touch Regime – key changes

Still required to follow the legal principles of the act (when above the financial threshold value)

- List of services captured under the new Light Touch regime – generally categories of social care, welfare and education (as the case with the previous PCR)
- Direct Award justifications – user choice contracts
- Award Criteria includes:
  - Views of an individual or their carer, and varied needs of different service recipient(s)
  - May also include where the proximity of the supplier and service recipients) is important



Procurement Act 2023 Knowledge Drop  
for contracting authorities

## Light touch

Accompanying factsheet for **light touch contracts**  
designed to be reviewed alongside this part of the  
Procurement Act 2023 Knowledge Drop for contracting  
authorities.

This factsheet is intended to highlight some of the  
**exemptions or differences** to the main rules of the act  
for light touch contracts. You should assume that the  
obligations detailed in the Knowledge Drop series apply  
unless stated within this factsheet.



<https://assets.publishing.service.gov.uk/media/6569fcae1104cf000dfa73bd/20231127-factsheet-light-touch.pdf>

## Light Touch Regime key changes

### Differences

- Light touch contracts have different thresholds.
- Light touch contracts may also include the needs of the end user in the award criteria often referred to as 'user choice'.
- Minimum timescales for light touch contracts are not mandated.
- There is no maximum term specified for a framework that is a light touch contract.
- Light touch contracts also have the benefit of undertaking a direct award on the basis of user choice.
- The contract details notice must be published within 120 days, rather than 30 days.
- There are increased flexibilities for modifications made to light touch contracts during their term, which may be substantial or above threshold or outside the scope of permitted modifications.

### Exemptions

- Light touch contracts are defined by CPV codes and are exempted from certain parts of the act.
- The requirement to publish the transparency notice does not apply to direct awards for user choice contracts.
- The requirement to observe a standstill period does not apply to light touch contracts though you may choose to have a voluntary one.
- Setting, assessing and publishing KPIs does not apply for light touch contracts.
- The requirement to publish contract performance notices for poor performance or breaches of contract does not apply to light touch contracts.
- The requirement to publish a contract change notice (or a copy of the amended contract) does not apply to light touch contracts.



# Financial thresholds for LTR

Contracting authority must have due regard to:

- delivering value for money
- maximizing public benefit
- sharing information for the purpose of allowing suppliers and others to understand the contracting authority's procurement
- policies and decisions; and
- acting with integrity.
- Treat all suppliers the same, and reduce / remove any barriers that may prevent SME participation

**Threshold of £663,540 (inclusive of VAT) Or £552,950 (net of VAT)**

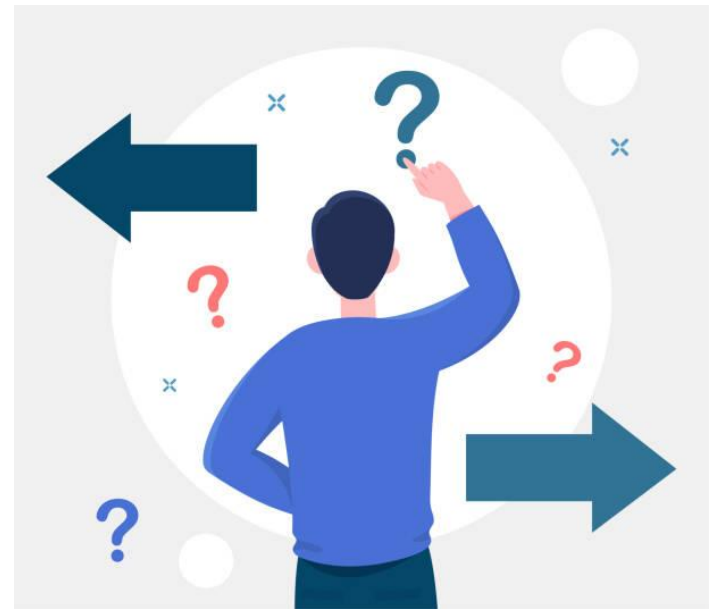
It is still good practice to follow principles:

- Equal Treatment
- Non-discrimination
- Transparency
- Proportionality

# Procurement approaches

How services are procured can have a big impact:

- Block contracts
- DPS
- Framework Agreement
- Spot purchasing
- Fixed prices
- Direct Award



Each impacts differently upon providers

# Competitive procurement routes – Procurement Act 2023

- Only two competitive tendering procedures:
  - An open procedure
  - A competitive flexible procedure
- Minister direct award
- ‘More dynamic’ DPS’s

*“The 2023 reforms highlight the flexibility to embrace new forms of procurement and innovative ideas. But to be transformational, legislation must be understood as an enabler and not an inhibitor of*

# Choosing the right procedure

Open	Competitive Flexible	Direct Award
<ul style="list-style-type: none"><li>• Known requirement</li><li>• Simple Requirement</li><li>• Emerging Market (SMEs)</li><li>• Small market</li><li>• Established / known market</li></ul>	<ul style="list-style-type: none"><li>• Unknown solution</li><li>• Complex Requirement</li><li>• Novel / innovative goods and services</li><li>• Large market</li><li>• Would require formal engagement with bidders during the process (i.e. negotiation or dialogue)</li><li>• Small specialist market</li></ul>	<ul style="list-style-type: none"><li>• Prototypes and development</li><li>• Single supplier where only one supplier exists due to technical or IP reasons</li><li>• Purchase of any additional or repeat goods from existing suppliers</li><li>• Pursuant to regulations made by a Minister of the Crown</li><li>• Purchase of commodities</li><li>• Urgent requirements</li></ul>

# Competitive Flexible options

- **Competitive dialogue:** a selection is made of those who respond to the advertisement and the contracting authority enters into dialogue with potential bidders, to develop one or more suitable solutions for its requirements and on which chosen bidders will be invited to tender.
- **Competitive procedure with negotiation:** a selection is made of those who respond to the advertisement and only they are invited to submit an initial tender for the contract. The contracting authority may then open negotiations with the tenderers to seek improved offers.
- **Innovation Partnership:** selection is made of those who respond to the advertisement and the contracting authority uses a negotiated approach to invite suppliers to submit ideas to develop innovative works, supplies or services aimed at meeting a need for which there is no suitable existing 'product' on the market. The contracting authority is allowed to award partnerships to more than one supplier.

# Competitive Flexible options

- **Multi- Stage Procurement:** The flexibility in the 2023 Act encourages multi-staged procurement processes. These flow from assessment of concepts, through development – which may be funded by customer or research grants - to a final contract offer. There are options for working with multiple potential suppliers. Progressive elimination can be based on effectiveness and feasibility of the offered innovations, which can be judged through demonstration models
- See the Art of the Possible talks about ‘exploiting the competitive flexible procedure (in your packs)

# Subsidy Control Regime

- Legal framework that governs the giving of subsidies that are tailored to their local needs, and that support to drive economic growth
- The framework allows public authorities to use subsidies as a tool to meet their policy objectives, while at the same time avoiding unnecessary harm to fair competition between businesses
- Can be used legitimately to award grants to specific organisations (usually charities) that operate the fulfil the policy area you are seeking to meet e.g., VAWG or homelessness charities

<https://www.gov.uk/government/collections/subsidy-control-regime>



# Provider Selection Regime (01/01/24)

The Provider Selection Regime aims to replace the existing procurement rules for healthcare services. The aim of the Provider Selection Regime is to make it easier to integrate services and enhance collaboration, and to remove the rigidity associated with the current procurement rules, and the related bureaucracy and cost.

For:

- NHS and Public Health Services
- ICBS
- LAs who arrange healthcare services as part of Public Health or Section 75 arrangements

# Overview of the decision-making circumstances

## Direct award processes

## The most suitable provider process

## The competitive process

**A**

**B**

**C**

The existing provider is the only capable provider.

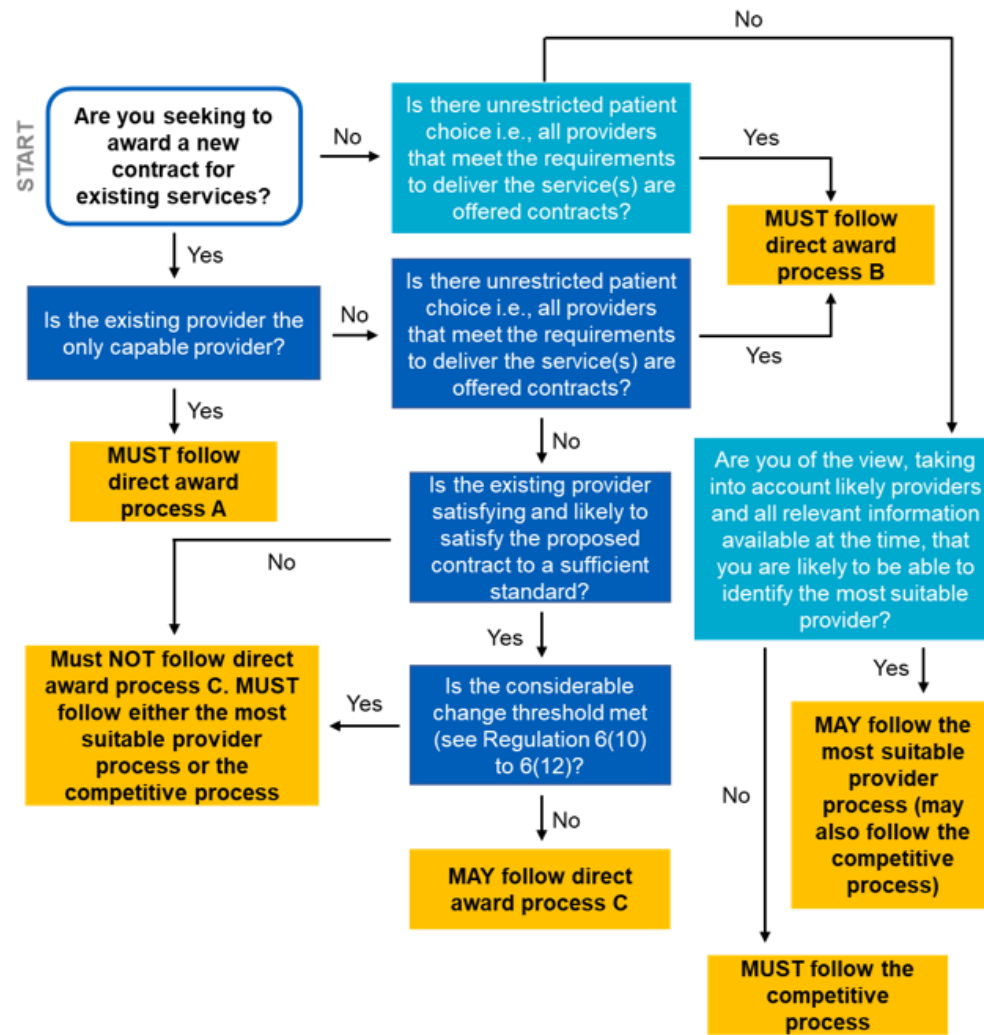
People have a choice of providers, and the number of providers is not restricted by the relevant authority.

The existing provider is satisfying the existing contract and will likely satisfy the proposed new contract, and the contract is not changing considerably.

Allows the relevant authority to make a judgement on which provider is most suitable based on consideration of the key criteria. Award without competitive tender.

Where the relevant authority cannot use any of the other processes or wishes to run a competitive exercise.

# Getting to the right decision



# Selection stage: tendering

- The open promotion of the tender opportunity, ensuring that all tenderers, and enquiries, are responded to equally and fairly.
- The rejection or selection of candidates based on:
  - legal;
  - financial; or
  - technical grounds.
- A comprehensive record is kept of the procurement activities undertaken and decisions made.

# Award stage

- Evaluate tenders on an equal footing, based on criteria and relative weighting that was stated in advance. (MSQ)
- The award of contracts is based on the most advantageous tender (MAT), looking at the most advantageous tender (Price? Quality? Social value? – *how do you decide?*)
- Prioritise key local concerns and be innovative about information requested from providers and/or the evidence used. (how do you evaluate this?)
- Feedback is given to unsuccessful tenderers / Notices.
- Take advice if post tender negotiation needed.
- Standstill Period.

# Public Services (Social Value) Act 2012

“The contracting authority must consider how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area, and; how, in conducting the process of procurement, it might act with a view to securing that improvement”.



The Act applies to contracts over the EU procurement threshold (set at old Part B level) – but the Revised Best Value Statutory Guidance 2015 “recommends that authorities consider social value for other contracts...where it is relevant to the subject matter of the contract and deemed to be beneficial to do so”.

# Procurement Act: Social Value



“All contracting authorities should consider the following national priority outcomes alongside local priorities in their procurement activities:

- Creating new businesses, new jobs and new skills;
- Tackling climate change and reducing waste and;
- Improving supplier diversity, innovation and resilience

Achieving these objectives requires social value to be integrated into commissioning and procurement strategies not treated as an ‘add on’”

*National Procurement Policy Statement (2023)*



# Abnormally low tenders

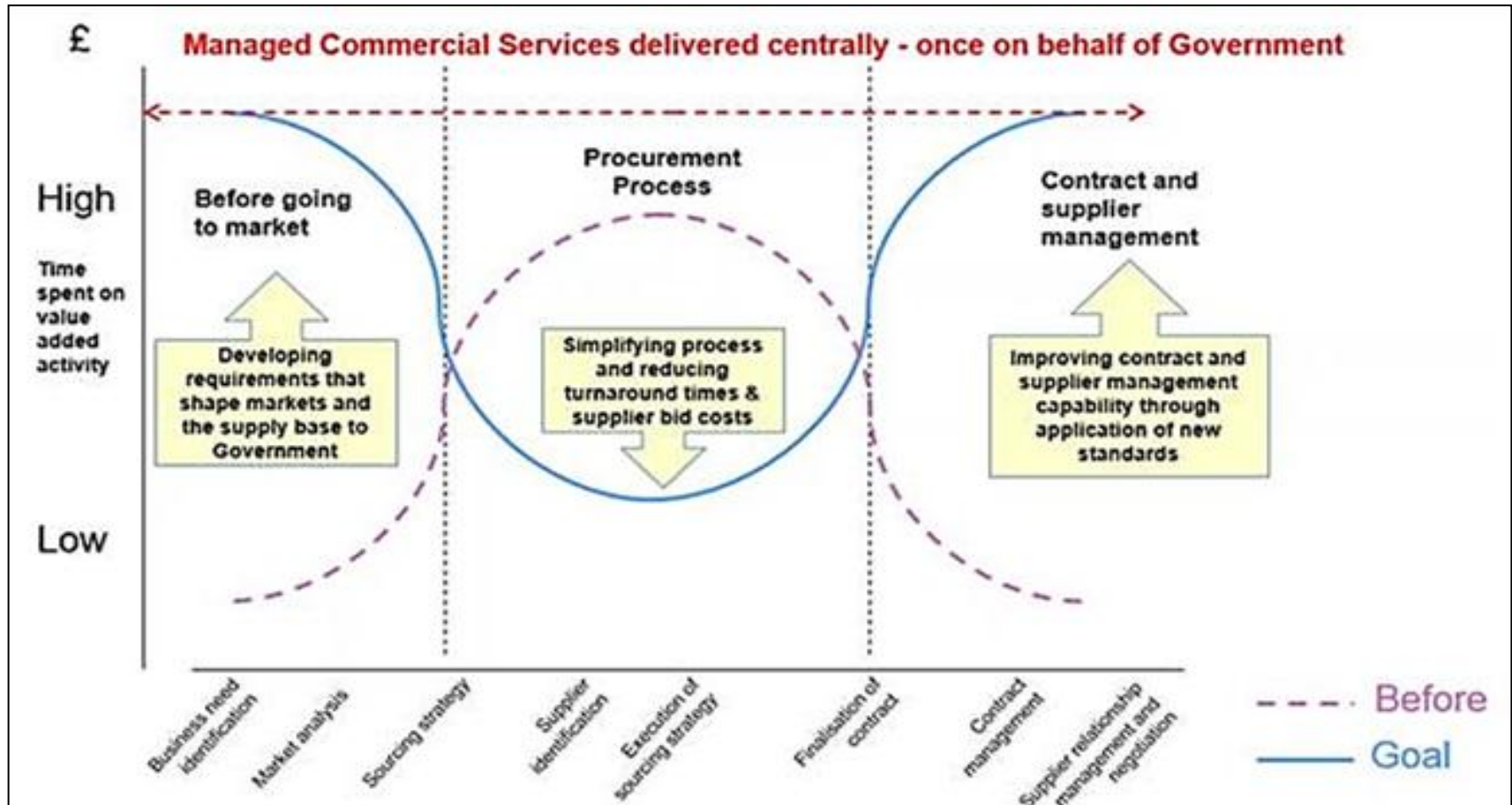
“Contracting authorities shall require tenderers to explain the price or costs proposed in the tender where tenders appear to be abnormally low in relation to the works, supplies or services.”

Public Contract Regulations 2015 (69:1)



- The tender may only be rejected where the evidence supplied does not satisfactorily account for the low level of price or costs proposed.
- The tender shall be rejected if it is established that the tender is abnormally low because it does not comply with applicable obligations (eg minimum wage).

# Getting the balance right



Source: Cornwall Council

# Group discussion

- Consider the key processes outlined so far relating to tendering, procurement and contracting:
- Share your recent and current experience, and reflect on:
  - Your own organisational arrangements
  - How you agree and evaluate selection criteria for potential providers.



# Reflections from Module 3



- What have been the main things you have heard today?
- What has struck you most about the discussions?
- What might this mean for you, your teams and organisation?
- How might you take some of this forward?

# Contact us



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