



House of Commons
Communities and Local
Government Committee

**Local Government
Procurement: Response
of the Local Government
Association to the
Committee's Sixth Report
of Session 2013–14**

Second Special Report of Session 2014–15

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The Communities and Local Government Committee

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Committee staff

The current staff of the Committee are Glenn McKee (Clerk), Sarah Coe (Second Clerk), Stephen Habberley (Inquiry Manager), Kevin Maddison (Committee Specialist), David Nicholas (Senior Committee Assistant), Eldon Gallagher (Committee Support Assistant), David Foster (Assistant Media Officer) and Jonathan Olivier Wright (Web and Publications Assistant).

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Second Special Report

On 13 March 2014 the Communities and Local Government Committee published its Sixth Report of Session 2013–14, *Local Government Procurement* [HC 712]. On 7 May 2014 the Committee received correspondence from the Chairman of the Local Government Association which contains a response to the Report. The correspondence is published as an appendix to this Report.

Appendix: Local Government Association response

I am pleased to provide the Local Government Association's (LGA) response to the House of Commons Communities and Local Government Select Committee report HC 712, on Local Government procurement that was published in March.

The LGA welcomes the report and agrees that there is some scope for further improvement of local government procurement.

As you are aware, the LGA is currently consulting on a new national procurement strategy for local government which will be launched at the LGA Conference in July. Your report broadly echoes the four themes of the draft strategy:

- Making savings
- Creating wealth and economic growth
- Influence and impact
- Modernising procurement.

I am particularly pleased to see your conclusion that councils should retain control over their procurement operations, and agree that a sector-led approach will maintain councils' freedoms and flexibilities.

I am attaching a paper which sets out in detail our response. If you have any further queries please do not hesitate to contact me.

Attached paper

This paper summarises the 29 conclusions and recommendations of the House of Commons Select Committee report on Local Government Procurement. The Local Government Association (LGA) is currently working on a new national procurement strategy for local government which will be launched at annual conference in July, and welcomes the Select Committee report as it broadly echoes very well with the current draft strategy.

The report recommendations are highlighted in bold and LGA responses are given in italics.

1. Summary

LGA and other bodies working with councils, as well as local authorities themselves, prioritise implementation of our recommendations in order to accelerate reform of local authority procurement across England. (Paragraph 6)

The LGA, through the National Advisory Group for Local Government Procurement (NAG) is currently consulting with councils and other stakeholders on a national procurement strategy (NPS) that looks to implement many of the recommendations in this report. The strategy will be launched at our Conference in July 2014.

Improving local government procurement

2. Improved procurement practices

LGA should provide a forum for sharing data on successful approaches and the information should also be used to inform its programme of support for councils. (Paragraph 11)

The NAG, working with the Society of Procurement Officers (SOPO) have hosted events and produced case studies and guidance (e.g. recently on Social Value, Contract Management, construction, ICT) and will continue to highlight best practice through its website, newsletters, social media and events.

We conclude that councils should 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)

We agree with the committee's conclusion, the NPS assumes that local control will be maintained.

4. Cost savings by increased aggregation and even national arrangements

LGA should review current procurement spend on key categories to identify potential routes to increase the use of aggregated spend for these products and services. (Paragraph 26)

We agree with the committee's recommendation. We are currently looking at national category spend in construction, ICT and energy and intend, through the NPS, to work more closely with the professional buying organisations to identify products and services that might benefit from this approach.

5. Aggregation and Collaboration

The LGA should conduct a review of collaborative approaches and produce best practice guidance for authorities on the most effective means of joining up procurement to deliver savings which reflect local priorities. (Paragraph 33)

Appropriate collaboration and achieving an optimal balance through the use of professional buying organisations and local shared services is a major part of our NPS, working with the Professional Buying Organisations as discussed above.

6. Aggregation with wider public sector

The LGA should conduct a review of collaborative public sector approaches at a local level and produce best practice guidance for authorities on the most effective means of joining-up procurement budgets across a range of local public sector bodies to help deliver joint local priorities. (Paragraph 35)

A number of collaborative approaches exist and are highlighted on our shared services map, which can be found at www.local.gov.uk/web/guest/productivity/-/journal_content/56/10180/3511353/ARTICLE

Collaboration in its wider sense, including with the wider public sector, is dealt with in the NPS.

7. Tenders should be split into smaller lots

The LGA should produce guidance on how the measures in the new EU Directive on public procurement could be used to encourage smaller companies to engage in procurement opportunities with local authorities. (Paragraph 39)

We are working with the Crown Commercial Service to develop and deliver training on the new EU Procurement Directives. The NPS deals with encouraging smaller companies and Voluntary, Community and Social Enterprise sector to engage in tender processes.

Delivering strategic objectives through procurement

8. Use procurement to improve economic, social and environmental well-being.

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. (Paragraph 44)

The leadership role of councillors and chief officers is dealt with in the NPS and your recommendation for an annual report has been included as a milestone. We agree with the

committee that procurement should be used to improve economic, social and environmental well-being.

9. Best practice dissemination re social, economic and environmental objectives

The LGA should disseminate best practice case studies on how to maximise the impact of procurement approaches to deliver local social, economic and environmental objectives.

This is part of the NPS, our approach might be for councils or groups of councils to have a role in dissemination of best practice with the LGA taking an overall view.

LGA should update guidance on the potential of new EU public procurement measures. (Paragraph 45)

As detailed above, point 7, we are working with Crown Commercial Service on disseminating guidance and training on the new EU public procurement measures.

10. Public Services (Social Value) Act 2012

We recommend that DCLG undertakes comprehensive post-legislative analysis of the Act to ensure assessment of its effectiveness before the end of 2015. (Paragraph 48)

The LGA would be pleased to participate. We held a ‘Social Value Act – one year on’ conference in February 2014 and highlighted a number of local authority case studies on implementation of the Act.

11. Community Right to Challenge

Government should undertake a review of the barriers to its uptake. (Paragraph 50)

The LGA would be pleased to participate in this review.

12. Procurement policies integrating support for small businesses

LGA should disseminate best practice case studies on how to integrate procurement and support for smaller businesses.

We accept this recommendation; councils are demonstrating good practice in this area. We have addressed the further dissemination of best practice in the NPS.

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)

We are discussing with Cabinet Office how the EU Directives training (outlined above) might address this issue.

Procurement processes

13. Simplify processes and make them proportionate

The LGA should produce guidance on this aspect of the new EU Directive on public procurement and disseminate best practice case studies. (Paragraph 59)

We support the simplification of procurement processes. This is addressed in the NPS. We are also engaging with Crown Commercial Service on a standard core PQQ for cross public sector procurements.

14. Reduce demand on bidders for excessive and complex information

The LGA should take the lead in ensuring that all Pre-Qualification Questionnaires are as simple and straightforward as possible.

We believe that simplified and proportionate processes will reduce demand on bidders. This this is addressed in the NPS.

We do not consider the argument to be fully made for the removal of Pre-Qualification Questionnaires. (Paragraph 64)

We welcome the committee's conclusion on this matter, councils use PQQs in a different way to central government and we do not believe that complete abolition of the PQQ for low value procurements would be a further burden on small businesses and voluntary organisations that would now have to complete a full tender even if they had very little chance of winning the contract. Evaluation of a higher number of tenders would also provide a further burden for councils.

15. Prompt payment of subcontractors

Councils should publicise this policy and monitor implementation. (Paragraph 66)

We agree and this has been addressed in the NPS. The LGA has been working with councils, the Federation of Small Businesses and Federation of Master Builders to promote prompt payment terms in the whole supply chain.

Managing risk

16. Outsourcing and contract management

Councils must future-proof contracts so that contractors bear their share of the effect of any further budget cuts.

Councils should ensure clarity within contracts on the point of responsibility for contract delivery and on the provision of a seamless customer service to residents. (Paragraph 73)

We believe that good supplier relationships are vital to obtaining best value in all contracts including outsourced contracts. Both supplier relationship and contract management are addressed in the NPS.

17. Councils should embed appropriate risk management

LGA should undertake, with relevant professional bodies, a detailed assessment of the level of contract and risk management skills and resources available across the local authority sector. It should share best practice. (Paragraph 74)

The LGA would not support a detailed assessment across the sector as such assessments would be costly and will only provide a ‘snapshot’ of skills at any one time. We do however recognise the importance of contract and risk management and recently produced guidance on this in partnership with the Audit Commission and we have seen a high number of downloads of the document from our website. The NPS addresses contract and risk management.

Outsourcing service delivery: employment issues

18. Employment issues in tender evaluation

LGA should produce guidance for councils on how the new EU Directive may affect councils’ ability to evaluate on employment issues including zero hours contracts. (Paragraph 78)

This will be dealt with as part of the Crown Commercial Service guidance as discussed above.

19. Policy in relation to monitoring of pay and conditions in social care sector

DCLG should 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)

Probity and governance

20. Procurement Fraud and 21. Collusion

The Government should provide support and guidance to councils on the best ways to identify and tackle fraud.

LGA should provide information on mitigating procurement fraud and collusion and disseminate best practice. (Paragraph 89)

Those responsible for managing contracts are alert to the potential for abuse of market power and collusion amongst potential suppliers and that they share information effectively. (Paragraph 90)

The NPS addresses procurement fraud and we are planning to launch guidance on this shortly.

22. Transparency

LGA should consider how greater transparency in private sector contracts can be achieved, without compromising councils' ability to attract a wide range of bidders.

We are exploring the effects of expecting Private sector contractors to publish information on performance and costs on the supply chain. The NPS suggests that councils should ensure they have the rights to the data created under contracts in order to achieve greater transparency.

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)

The LGA recently engaged with Cabinet Office and developing new model contracts which address this issue, our website links to the Cabinet Office guidance and we have discussed the guidance extensively with our stakeholders.

23. Whistleblowing

Government should 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.

All contractors should have a robust internal process for whistleblowers to report concerns. (Paragraph 97)

We believe that some councils already include whistleblowing policies in their procurement processes and have addressed the need for these policies in the NPS.

Achieving change

24. Leadership and councillor role

Councils should identify a lead cabinet member and a senior officer who will take overall responsibility for ensuring that procurement is as efficient as possible.

Councils should also ensure that frontline councillors have a clearly identified role in reviewing and scrutinising procurement. (Paragraph 102)

Leadership and the councillor role is addressed in the NPS. LGA delivered a Councillors Guide to procurement last year which is available on our website and we are developing a further offer specifically aimed at councillors (including Scrutiny).

25. Procurement skills

The LGA should consider supporting the establishment of a peripatetic procurement team—a ‘flying squad’ whose purpose would be to train regionally based teams of trainers and should disseminate good practice.

Cabinet Office should offer 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)

The LGA Productivity Expert offer, our work with SOPO and visibility at conferences satisfy this need.

Our preferred approach would be to engage with councils and groups of councils to identify skills need and we are working with CIPS to develop a ‘Corporate Award’ for professional buyer training as well as planning a ‘mentoring’ offer to be launched later in 2014.

We support the Cabinet Office Commissioning Academy offer and hope to work with them further on more ‘commercial-skills’ programmes.

26. Establishment of a task-force

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.

Cabinet Office should dedicate resources for building procurement capacity in local government. (Paragraph 111)

The LGA is already engaging, through consultation with stakeholders, including those mentioned above in developing the NPS. We have links to business through CBI, FSB, FMB and to the VCSE sector through NAVCA, NCVO SEUK.

We welcome the offer of help from Crown Commercial Service and we will take this up as appropriate. We believe that improvement in local government procurement should be very much sector led and believe that the NPS provides the action plan for the sector to improve.

Conclusion

27. Conclusion

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. (Paragraph 112)

We agree with the Committee's conclusion and would add there being a 'commitment from the top of each council to procurement excellence' The NPS addresses these key priorities.

28. Effective partnership with central government

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;**
- **with local government sector organisations, disseminating advice to councils, for example on tackling fraud.** (Paragraph 113)

29. Government should support local government

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. (Paragraph 114).

We agree with the Committee's conclusions in relation to Government. We will continue to work with central government on this.

May 2014