



Thriving in procurement?

In the first session from our virtual conference held in April this year, we were joined by four expert procurement professionals; they shared their thoughts on how we need to plan and respond to the changing landscape, and the key skills that would ensure success.

James Rockliffe, Director of Procurement at London Southbank University, Jasbinder Sandhu, Head of Procurement at the University of the Arts London, Jo Sibbald, Director of Procurement at the University of Oxford, and Rob Logan, Director of Procurement at the University of Bristol each shared their views on a number of topics:

We covered the Green paper and the pros and cons of the suggested reforms, the biggest challenges to different types of public sector organisations and how our teams can be best placed to progress and demonstrate excellence. You can listen to the whole session [here](#).

There were a few extra questions we didn't have time to answer on the day, the panel took these offline and we are pleased to now provide their thoughts below.

A general reminder, all of the comments included in the event webinar and below are opinions, they do differ from organisation to organisation and person to person; we encourage you to ask questions at networking events or to experts on topics which particularly affect or interest you.

Q: "Have you observed (and driven) commercial savings by going outside the Regulations?"

Jo Sibbald responded, "In practice there are advantages and disadvantages to operating outside of the Regulations. However, my view is that we have been able to use the additional freedoms afforded to drive out value for money. One of the key freedoms is the ability to form much longer term commercial relationships with suppliers where this is advantageous and amend the basis of those relationships more easily. For example, we have found this to be the case in certain categories where we would have typically competed a distributor relationship for branded consumables. Rather than periodically competing this relationship (which drives out limited value due to the margins involved), we have instead focussed our efforts on building the relationship between us, the manufacturer and distributor to enhance supported pricing. We are also able to develop more easily purchasing relationships with long term research collaborators to the University. We also have much more freedom in the way we negotiate post tender."

Q: "Everyone says that change is inevitable. However, there have been a number of changes to procurement legislation over the years and as staff are trained and become accustomed to using a specific 'new' set of rules the goal posts move. Here we are again! How do we cover off the need for change with the ongoing need for training? Procurement staff need training and then users need to be made aware, this takes a lot of time and resource".

Rob Logan responded “The need for training will be inevitable – certainly for procurement staff, and very possibly for key stakeholders. We need to be making senior leaders aware, now, that change is on the horizon, and that procurement resources (not least training) will need to be reassessed to reflect this. At present, I suspect that most colleagues outside procurement do not recognise how big a change (some of) the future regulations may be.

Q “Do you think innovative institutions could be 'weighed down' by the new transparency obligations, especially those currently working well and getting good value for money in the current set-up?”

James Rockliffe responded “I think there is a general acceptance across the public sector that current transparency requirements are rarely fully met by any institution. There are two sets of transparency requirements relating to public contracts prevalent in the UK – (1) those set out in the Public Contract Regulations 2015 (PCR15) that relate primarily to the publication of Award Notices and (2) those in the Cabinet Office Transparency Guidelines that include more ambitious timescales and more contractual information than mandated in PCR15. Failing to meet the requirements of either has very little practical impact on contracting authorities. The recent judicial review brought by the Good Law Project established that failing to comply with PCR15 or the CO Guidelines is unlawful, however there is no financial penalty or sanction. Therefore, I think enhancing transparency obligations without incentivising authorities to meet them will have little impact and will indeed lead to authorities becoming weighed down by what is already considered procurement admin.

Q: “What is your view on whether Universities outside of PCR15 will have their exemption removed and be made to be captured under the new Regs?”

Jasbinder Sandhu responded “On the basis that the intention is to create a single framework for public procurement in order to condense the array of regulations and processes, in my view it is likely that the exemption will be removed. Some of the flexibility that we have outside of the Regs may very well be lost due to the streamlining that is being undertaken. Certainly, some of the new processes will apply immediately such as publishing contracts over £25k, at the moment we do not have to follow this. The administration element involved in this step alone is likely to cause an administrative burden. I wonder whether it would be considered that as there is further flexibility for innovation and negotiation under the new Regs, only one set of rules should apply to all, and exemption is no longer required?”

Q: The Green paper states that moving from MEAT to MAT will allow to have more qualitative assessment. What are your thoughts on this? does it impact the way we do things now?

James Rockliffe responded “Contracting Authorities are currently required to specify one of two basis for evaluation when drafting a Contract Notice – Lowest Price (LP) or MEAT (Most Economically Advantageous Tender). MEAT allows tenders to be judged on criteria other than price – i.e., quality, social value, compliance etc. The proposed change to MAT (Most Advantageous Tender) simply removes the requirement for authorities to specify LP or MEAT. It is a technicality; in practice I think will have minimal impact. Authorities will still be able to design procurements using price as the sole criterion if they choose, but the default will be MAT.

Q: What are your views on whether a university should be 'Inside' or 'Outside' the regulations? What should be the specific determinants and how would these determinants be easily understood?

Rob Logan responded “The criteria are not grounded in the regulations themselves, but in case law where the rule of thumb is that organisations with public funding constituting more than 50% of their income must be within the regulations, but the definition of public funding has changed since the case law from the Cambridge case (notably following the ONS’s reclassification of student debt). In addition, in the past some institutions at the margin of ‘in or out’ have preferred to stay in in order to prevent have two sets of rules for EU-funded and other processes. This might change in future. We all agree it would be better if the terms were defined in the regulations themselves”.

Q: Will reporting requirements still be required for framework call-offs? Or only above threshold call-offs?

Rob Logan responded, “I do not envisage the reporting requirements becoming any less onerous”.