

Cabinet Office Public Procurement Consultation

Submission

September 2025

QUESTION 1a: To what extent do you agree or disagree that mandating large contracting authorities with spend over £100m p.a. to set 3-year targets for their procurement spend with SMEs and VCSEs and publish annual progress against these targets, would help increase spend with SMEs and VCSEs? [Strongly agree/ agree/ neither agree nor disagree/ disagree/ strongly disagree]

Agree

QUESTION 1b: If you wish to explain why you do or do not agree that the proposed measure reflects or delivers the policy intent described above, please do so here.

1. We are supportive of efforts to improve the use of especially VCSEs in national and local government procurement (though note authorities will set their own targets). They are not motivated by making profit and are therefore more likely to be focused on providing a high-quality service which respects the rights of individual service users. For example, University of Oxford [research](#) (2024) has found that public and third-sector providers of adult care homes and children services consistently outperform on quality and have higher inspection ratings than for-profit provision.¹ The Cabinet Office has long recognised that VCSEs can be experts in the needs of service users and we would welcome attempts to increase their use (particularly in people-focused services, see q4).

QUESTION 2a: To what extent do you agree or disagree that extending the requirements of section 70 of the Act to publish information on (i) all payments made under public contracts and (ii) payments under notifiable below-threshold contracts, would help increase spend with SMEs and VCSEs? [Strongly agree/ agree/ neither agree nor disagree/ disagree/ strongly disagree]

Agree

QUESTION 2b: If you wish to explain why you do or do not agree that the proposed measure reflects or delivers the policy intent described above, please do so here.

2. We agree with the [Open Contracting Partnership](#) that transparency is a 'precondition of accountability' and allows 'government to shape procurement to better meet user needs'.² As their [Mythbuster report](#) has evidenced, greater disclosure can increase bidder numbers, decrease prices and reactive disclosure is more expensive than systematic, pro-active disclosure.³

3. Greater transparency is even more essential if certain contracts are to be awarded without competition (as suggested below) to ensure accountability. The requirement for public authorities to publish KPIs and annual performance reports is potentially game-changing. However, the current threshold for this requirement (contracts worth over £5 million) is too high and we recommend that it should apply to all contracts which are medium or high-risk on individual rights (see q4 and q7).
4. Our [report](#) also called for improved pro-active transparency from public authorities.⁴ We found significant disparities in the publication of key government contracts, for example eleven prison contracts had no published performance information. This should include robustly monitoring the new enhanced Central Digital Platform to ensure that key contracts are fully uploaded and that redactions are limited and proportionate. Artificial Intelligence could be harnessed for this task. There should be a clear target across central, local and devolved government to achieve the Open Contracting Data Standard, ensuring that information is user-friendly and accessible. Finally, Freedom of Information laws have not kept pace with the growth of outsourcing: the Government should bring forward proposals to meet the commitment to extend FOIA to private companies in its [New Deal for Working People](#).⁵ We recommend this is done in line with the recommendations of the ICO's [Outsourcing Oversight](#) report.⁶

QUESTION 4a: To what extent do you agree or disagree that there should be flexibility for contracts for people focused services to be awarded without competition? [Strongly agree/ agree/ neither agree nor disagree/ disagree/ strongly disagree]

Agree

QUESTION 4b: If you wish to explain why you do or do not agree that the proposed measure reflects or delivers the policy intent described above, please do so here.

5. We strongly welcome the focus on people focused services, prioritising the interests of service users especially with vulnerabilities. Our [report](#) shows that the best way to identify such services is to focus on service users rights (meaning the state's legal obligations to individuals under human rights law, equality law and public law principles like procedural fairness).
6. The rights of service users are crucial. First, they ensure services are high-quality and focused on the public's needs. Second, the state already has legal obligations to the rights of service users and can incur significant time and legal costs when they are not upheld. These rights are central to the government's missions. Economic growth is impacted by the failure of government contracts. Well-functioning prison and probation services are critical to safety on the streets. Barriers of opportunity will only be broken down when services, such as welfare and housing, respect the rights of all.
7. The proposed legislation should identify people-focused services as those where, following an early rights impact assessment, there are medium or high risks to

individual rights. Such services should have the option of a more flexible procurement process focused on long-term value and service users, provided (a) there is proper justification for why this is required and (b) there is increased accountability and transparency. It is crucial this does not allow cronyism, corruption or reward poor performance. As protections, legislation should require early engagement with service users, clear training requirements, blind bid assessment of quality separate to cost, contractual protections for rights, independent performance audits and the required publication of annual performance against KPIs (see our [report](#)).⁷

8. The Cabinet Office should support this by publishing guidance, such as Individual Rights Focused Model Contract Guidance to identify best practice in areas such as training and contract oversight.

QUESTION 5: Are there other services delivered to vulnerable citizens (beyond adult and children's social care) that warrant procurement processes not permitted in the Procurement Act 2023? Please include i) the CPV code where possible and description of the services; ii) the nature of the problem faced; iii) the optimal policy solution(s).

9. People-focused services should be identified following the proposed early rights impact assessment (see above); as examples, JUSTICE's [report](#) highlighted several such services involving vulnerable service users. First, the use of outsourced homelessness assessments by local authorities to identify vulnerable individuals in need of priority need. Our report found that many councils were using a company that produced cheap but poor quality paper-based assessment reports, where the individual was not even spoken to. Concerningly, many councils told us they did not even have a written contract with the provider and could not disclose basic details about the service, like data about the outcome of cases following assessments. The Department for Housing, Communities and Local Government should carry out an independent review into such services.
10. Second, DWP benefit assessments have been repeatedly extended despite clear concerns about the performance of contractors, with significant impacts on the rights of particularly disabled benefit applicants. We note some positive developments in the new Functional Assessment Service contracts which increase the DWP's oversight of such assessments but remain concerned about their quality given the high overturn rate at appeal.
11. Third, contracts to deliver prison and immigration detention centres involve giving private providers considerable powers to carry out state functions, such as strip-searches, enforced deportation action and restrictions of liberty. The lack of human rights protections and contractual oversight has led to serious rights breaches, such as Brook House IRC and Rainsbrook STC (see our [report](#))⁸.
12. Our solution to the issues identified is to have an early rights impact assessment to identify medium and high-risk services for individual rights: for such services, there

should be a public interest test before each sourcing decision (see q7) and they should be classed as people-focused services (see q4).

QUESTION 6: Do you have any examples where people-focused services have been procured well? Do you have any suggestions for changes to the processes available under the Procurement Act or guidance that could improve procurement of these services?

13. It is important to involve service users in the procurement process for people-focused services. Early engagement, encouraged under the Procurement Act, should include service users to better identify their needs and how the service will work in practice. The OECD and LGA have highlighted the value of such engagement (see our [report](#))⁹; e.g. the LGA have [cited](#) how involving carers and children in the co-design of a Newcastle Council/ NHS speech and language therapy service made it more comprehensive by uncovering gaps in the previous service, giving users greater investment in the process and producing a more comprehensive service design. Service users should be viewed as the experiential experts of people-focused services.¹⁰
14. Independent oversight bodies, such as inspectorates or ombudsman, already do an effective job of scrutinising the delivery of people-focused services. For example, our report cites how an LGSCO [investigation](#) into the unsafe treatment of a disabled person at a care home led not only to improvements in the care home but also critically a change in how the council oversaw contractors.¹¹ Such bodies are often an untapped resource; they should play a pivotal role in the public interest test (see q7), contract oversight and service users should be given clear information on how to access them.
15. Public authorities should be encouraged to think about training requirements for people-focused services early as failure to do so can lead to serious rights breaches (see the prison strip-searching case of [LW & Ors](#) in our report¹²). By contrast, Durham County Council's [Care Academy](#) is an innovative example of how they have considered their obligations to ensure high-quality training. The Academy pays for and arranges training for all commissioned social care services, meaning that smaller providers can access specialist training and providers can be better accountable for poor performance when free specialist training is available.¹³

QUESTION 7a: To what extent do you agree or disagree that contracting authorities should be required to undertake a public interest test and publish it when making sourcing decisions? [Strongly agree/ agree/ neither agree nor disagree/ disagree/ strongly disagree]

Strongly agree

QUESTION 7b: If you wish to explain why you do or do not agree that the proposed measure reflects or delivers the policy intent described above, please do so here.

16. We welcome a legislative public interest test when making sourcing decisions, including re-awarding contracts. For this test to work, it should include an assessment of which delivery model is most likely to ensure the rights of individual service users (defined in q4) are upheld.
17. There are serious consequences for breaching rights. The sidelining of detainee welfare at Brook House IRC meant the provider could not be fined properly for detainee abuse and a public inquiry cost millions of pounds. At Rainsbrook STC, children were held in prison cells for 23.5 hours a day but the provider's contract was extended.¹⁴ The public interest test should include an assessment of whether the state's legal obligations to individual rights have been or will likely be met.
18. When a service has already been contracted out, this should include an assessment of whether individual rights have been breached. This should involve speaking to individual service users, considering independent oversight body reports (such as ombudsman and inspectorates), and analysing relevant legal claims (such as judicial review). If there have been serious rights breaches, and practical steps such as improved oversight or contractual protections would not be enough to address them, the service should be insourced where possible. Insourcing is not a silver bullet - institutional knowledge may have been lost for example - but it does give the public authority a clear responsibility to fix issues and, crucially, ensures poor past performance is not rewarded.
19. The proposed £5 million threshold is too high. As set out in q4, we recommend that all services have a rights impact assessment incorporating equality law, human rights law and public law rights, like the proportionate process in the NI Executive's Human Rights in Public Procurement PPN¹⁵. All medium and high-risk services (people focused services under our proposed definition) should be subject to the public interest test before a sourcing decision is made.

QUESTION 11a: To what extent do you agree or disagree that contracting authorities should be permitted to define the geographical location of where social value will be delivered as described above? Do you have any suggestions for innovative ways of delivering social value including by creating more flexibility in the current requirements in the Act on relevance and proportionality? [Strongly agree/ agree/ neither agree nor disagree/ disagree/ strongly disagree]

20. Neither agree nor disagree

QUESTION 11b: If you wish to explain why you do or do not agree that the proposed measure reflects or delivers the policy intent described above, please do so here.

21. There is a tension between the requirement in section 23 Procurement Act for award criteria to 'relate to the subject-matter of the contract' and the proposal to remove the geographical location. Whilst we can envisage circumstances where this is justifiable, we are concerned that too much flexibility here will allow contracting authorities and contractors to separate social value, both physically and substantively, from the core purpose of the service. For example, if the social value of contract is located away from the prison estate or social care home.
22. The rights-based approach highlighted above, which we believe has a role in procurement reform for people-focused services and the public interest test, should focus minds on core improvements for individual service users and allay some of these concerns.

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