

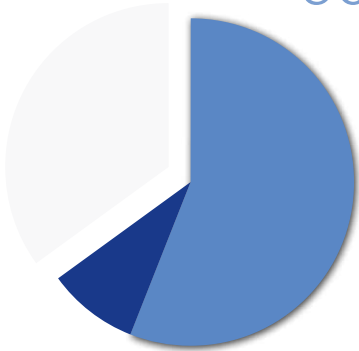
# A fresh look at procurement

Survey results and recommendations



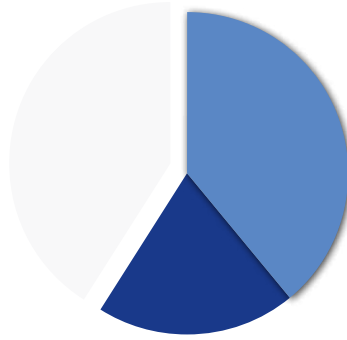
# Headline results

56% satisfied



The industry is broadly satisfied the procurement process in the UK is fair and transparent.

39% dissatisfied



The industry is broadly dissatisfied with the inefficiency and cost of the procurement process.

9% dissatisfied

20% satisfied



61% of respondents

think cost is a significant barrier to the private sector engaging with public procurement, particularly for SMEs.



To facilitate greater engagement with public procurement, many identified the need for a more streamlined process whilst retaining the qualities of fairness and transparency in the current system.

“A slicker, streamlined version of a negotiation procedure, applicable to all categories is required.”

“[Procurement] practice demonstrates a process to behave in a transparent and fair way. And there is scrutiny and recourse in place.”

# A fresh look at procurement

At MIPIM 2017 Trowers & Hamblins launched a survey to take a fresh look at the procurement process. It is clear to us that “Brexit” represents an opportunity for procurement practice to be improved which could streamline procurement processes and accelerate delivery.

From 151 responses the results demonstrate that there is a lot of confidence in the process as a fair and valuable tool, however, many see an opportunity for changes to make the process faster, cheaper and more efficient.

In this report, we set out the results of the survey along with our recommendations as to how those ideas, together with ideas of our own, could be implemented. Ultimately we hope to provide suggestions that could be adopted by the government and which could be beneficial to public, private and not-for-profit partners to help address the challenges and demands the real estate sector will face over the coming decades.



# Key themes

<b>Certainty on when the rules do not apply</b>	Procurement rules do not apply to simple land deals, but can catch other public sector development deals where it is often impractical to run a procurement process. This key area of disconnect and potential ambiguity between EU procurement law and UK development practice should be addressed and reconciled, in order to speed up delivery and increase confidence in the market-place.
<b>Skills and training</b>	More commercial training is required to give public sector procurement officers the confidence to know whether a deal has to be procured or not and if it does then what is required under the regulations. This training needs to be sector specific - the person running the procurement for a construction project needs to understand the construction industry, not just procurement. More training would also equip procurement officers to make better informed judgement calls when faced with obstacles within a procurement process.
<b>Clear goals</b>	The procurement process is sometimes perceived as a way for the public sector to reduce risk by making it easier to make the safe decision for a specific project. However, there is a danger that the procurement process can become an end in itself rather than the means to an end where procurement rules are applied without reference to the strategic objectives to be answered and without questioning what is required. Some respondents to our survey commented that the process can be so arduous that the procuring body loses sight of the end goal. This criticism is more likely to be relevant for more complex procurements and procedures that are structured over an extended period of time.
<b>Compliance, legal challenge and transparency</b>	The issue of de-risking is largely to avoid the possibility of legal challenges to the contract award. Public authorities are fearful of the delays, costs and associated reputational views of being challenged, that the procurement process becomes devoid of any value judgement. Again, training might assist procurement officers to reduce the risk of a legal challenge, but ensures that the overall aims and objectives remain in focus throughout the procurement procedure.
<b>Frameworks</b>	Frameworks are cited as both a positive element to retain, to speed up the procurement process and offer cost effective and time efficient building solutions, as well as a negative in terms of their operation often not being flexible enough and becoming frequently costly to set up. Frameworks often set out to reduce the need for a full procurement process for every project. However, procurement arrangements are only effective for public and private sector partners when there is a flow of work to justify the initial investment and they are operated in a way that avoids collusion between providers or an allocation of projects on non-objective or irrelevant criteria.

## Cost and time

£12.8 billion of public sector procurement was channelled through the Crown Commercial Service's centralised arrangement, according to its 2015/16 accounts. With such a large figure that does not even take into account private sector procurement, it is clear that streamlining the process could make significant cost savings.

Biddings costs can be prohibitive and therefore procurement processes tend to favour larger businesses rather than SMEs. The questions in the procurement process also often favour larger businesses that are able to demonstrate specific experience rather than broadly relevant experience.

Simplification of the structure and the content of procurement procedures could reduce cost. The government has already recognised this and the reforms introduced into the procurement regime in England, Wales and Northern Ireland, addressing the recommendations of Lord Young's report "Growing Your Business" should start to make a difference in terms of making public sector procurement more accessible to SMEs.

## Advertising of opportunities

There is suggestion that current approaches to advertising opportunities could be improved, whilst others hold a positive view of current advertising offering transparency. This is likely to change following Brexit – with the government's Contracts Finder service presumably replacing the Official Journal of the European Union as the primary location for all relevant contract opportunities.

## Pre-tender consultation

Some respondents suggested a period of pre-procurement consultation / market engagement would help the process and lead to more focused tender documentation. The current regulations already allow (and recommend) such pre-market engagement and focussed training for procurement officers would ensure that they do not favour particular bidders in such a process and that they guarantee a level of transparency that can then be tracked through into the procurement itself.

**“ Having pre-designed routes to market (open, restricted) is good as it ensures everyone is doing the same thing which makes for easy audit processes and maintains a standard approach throughout the public sector.”**

**“ The actual process is solid, however, I would change the ability to challenge the outcome.”**

# Our recommendations

## Standardisation

There are already elements of standardisation in terms of what information is required for public tenders – with the Crown Commercial Service publishing and mandating the use of its Selection Questionnaire. However, there remain differences between each procuring body and each tender. This is hugely inefficient and creates unnecessary workloads. In order to continue the standardisation of pre-qualification information, a UK-wide document for basic company information, accreditations and policies would enable bidders to avoid repeating this work for each project and free up public authorities to focus on the important, project specific response. This would extend the idea of frameworks or panels to create one national qualification system or standard. Information could be submitted via a secure national online portal and applicants could be graded according to how compliant they are. Some flexibility would also be needed to cater for SMEs.

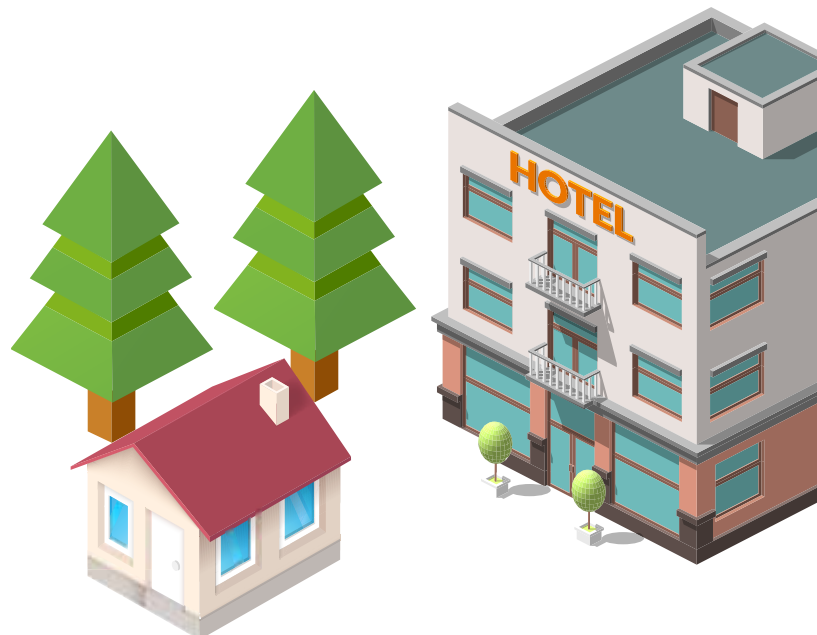
## Clear objectives and communication

The solution for this might be closely linked to the market consultation points which have been raised, as well as having the right expertise on the team. Clear objectives require planning and understanding and this can be gained from consultation.

Communication might be improved as procurement moves to portals as this creates a central forum rather than relying on emails. A central forum is more transparent than emails as the forum can be checked by a number of bidders and removes the risk that an email is sent to some but not all bidders.

## Clarity on exemptions

Whilst recognising the value in procurement as a means for delivering value for money and enhancement of market opportunities, procurement should not be used unless required by law. Too often money is wasted, or projects are stalled by uncertainty about whether exemptions to the rules apply or not.



## Increased thresholds

Higher value threshold for public tenders would allow public authorities more flexibility in their decision making and award of contracts beneath the thresholds. However, it was also recognised that procurement practices for below-threshold contracts vary widely, and a standardised approach and/or documents for such procurement would assist in SME access to those contracts. This might be achieved through the extension of the light-touch procurement regime.

## Quality of tender documents

More extensive soft market testing in an open forum could improve the quality of tender documentation and using the right sector knowledge experts to inform the documents. Further, more time set aside at the planning stage of each procurement project would also improve quality, by building in time for genuine consultation, review and reflection by the procuring body ahead of publication.

## Long term value

We asked specifically about the way in which long term value can be assessed including design quality, sustainability as well as benefits to well-being and the community. This is an area we have been working on for some time through our award-winning Highly Valued, Hard to Value initiative ([www.trowers.com/highlyvalued](http://www.trowers.com/highlyvalued)) and indeed the government announced in the Housing White Paper plans to review the way public bodies demonstrate the “Best consideration” value achieved for the publically owned assets.

Clearer evaluation for longer term and broader criteria could help address this. It may be helpful to standardise these and their measurement for the long-term or even implement mandatory weightings for social value. Award based on output (or life-cycle) not capital cost could be another approach to consider.



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