

PSTA Contract Management Open Programme Cohort Three

Spring 2024

The programme will run between April 2024 and June 2024 dates will be confirmed before Easter but all sessions will be Tuesday mornings.

	Topic	Speaker	Provisional Date	Provisional Time
1	Exploring the contracting lifecycle	Jim Nicholls	Tues	9.30 -11.30
2	Creating performance criteria and evaluating bids	Paul Rackham	Tues	9.30 -11.30
3	Contracting in the Public Sector	Gary Sturgess	Tues	9.30 – 11.30
4	Relational Contracting	Gary Sturgess	Tues	9.30 – 11.30
5	Monitoring performance and outcomes	Paul Rackham	Tues	9.30 – 11.30
6	Designing contracts and managing performance risks	Peter Ware - Browne Jacobson	Tues	9.30 – 11.30
7	Negotiating and re-negotiating contracts	Peter Ware - Browne Jacobson	Tues	9.30 – 11.30
8	What would you do? Experiential session	Jim Nicholls Paul Rackham	Tues	9.00 – 13.00

The Contract Management Development Programme is an opportunity for those involved in contract management to refresh their skills, build on their existing knowledge and expertise and refamiliarize themselves with key documents and guidance. The aim is to deepen learning and understanding around contract management and to support and challenge participants to work in new ways to deliver outcomes. This programme will build understanding, capacity, capability and confidence in and around contract management, ultimately to improve outcomes for citizens, VFM, social value and provide a stronger evidence base for future decision making. We recognise that many organisations including local authorities use contracts in many different areas and have reflected that in our choice of facilitators and guest speakers. For example, Paul Rackham has extensive experience around Health and Social Care, whilst Jim Nicholls has worked in many different areas of contracting both in the public and private sector. All our facilitators and guest speakers have experience of being on both sides of a contract so can share their ‘lived experience’ as well as the theory.

The programme consists of a series of 2 hour development sessions led by subject matter experts that take participants through the different stages of the contracting lifecycle homing in on various themes, challenges and opportunities. At the end of this programme there is a longer 4 hour session where participants will get the opportunity to demonstrate and apply their learning. By the end of the programme participants should have a thorough understanding of contract management, the different component parts, and be clear about the approach taken in their own organisation and wider system as well as opportunities for improvement/change.

This is a whole programme so wherever possible participants should attend all sessions. Delivery will be virtual via TEAMS and links to any additional material provided.

Output/outcomes

- Development of a community of practice around contract management
- Greater clarity on how contract management works and will evolve – key documents, etc and how they should be used
- Better understanding of what is possible and confidence to do things differently and to challenge and support others to do things differently

Alumni of this programme will be given priority access to future events as well as discounts on any related programmes.

The cost of the programme will be £1,250 plus VAT. Discounts are available for group bookings.

1. Exploring the contracting lifecycle

Date: TBC

Time: 14.00 – 16.00

Overview:

Contracts are the foundation of working in the public sector. 60-80% of business transactions are governed by contracts or agreements. They contain the details of an organisation's relationships with its partners, suppliers, customers and employees. As an organisation changes, so does the contract requirements and the ability to navigate these challenges is vital to effective contract management.

Objectives :

By the end of the session attendees should be able to:

- Understand the key stages of the contract lifecycle
- Apply these stages to their work
- Be clear as to what, at a high level, best practice should look like at each stage
- Plan the key step changes they want to make in their ability to manage contracts

Speaker:

Jim Nicholls, MSc, PGCE, BA(Hons) is an Organisation Effectiveness Specialist and a qualified Business Management Lecturer with a breadth of 25 years public, private and not-for-profit experience.

Jim's early career included several roles in the tertiary education sector and public sector IT and business process training leading the early adoption of IT networks to support organisational performance.

From 2000 to 2007 he worked at the global public service company, Serco Group plc initially as a Contracts Manager and then part of the leadership team for the Serco Best Practice Centre, which supported the organisation globally developing and consistently applying leadership, management and business process best practice.

In 2008 Jim joined Boots leading their IT function on CSR, leadership & management development, communications and capability development. This included the need to support over 5000 colleagues through four strategic partners over five continents on fourth generation TUPE.

In the past ten years Jim has worked as part of the people leadership of the States of Guernsey, led the global Organisation Effectiveness and Change function for Specsavers before launching his own business, 18 months ago, specialising in organisation, design, development and cultural change, and becoming a RedQuadrant consultant.

Jim's breadth of front line, mid-level and leadership experience will bring a practical reality of contract management underpinned by CIPS best practice.

2. Creating Performance Criteria and Evaluating Bids

Date: TBC

Time: 9.30 - 11.30 am

Overview:

To achieve value for money in the current rapidly changing environment relies upon the quality of the agreements you enter in to and the measurement of performance will play a vital role. To ensure that suppliers perform you'll need contract performance measures in place. This module will look at the varied ways performance can be achieved.

Bid evaluation is the process that takes place after the tender submission deadline. It involves the opening and examining of the bids to identify the preferred supplier(s) for the project. Negotiations may then be entered into with one or more suppliers, and the successful supplier awarded the contract. This module explores these elements in detail, including managing the involvement of subject matter experts and people who use the services who may not have experience in evaluating bids but have a valuable contribution to make.

Objectives:

By the end of these sessions' participants will be able to:

- Understand the variety of performance criteria
- Understand how, which and when to utilise performance measures
- Be able to create effective performance measures
- Plan best practice bid evaluation
- Have confidence leading the evaluation process
- Manage clarifications and bidders expectations

Speaker: Paul Rackham

Paul has extensive experience as a Head of Commissioning in Adult Social Care and now works as a freelance consultant in the public and private sector. Paul was involved in the formation of a shared services commissioning arrangement across three local authorities, developing new teams and new ways of working.

During this time, Paul was the commissioning lead for large scale procurements in home care and community equipment, as well as leading work to increase the involvement of the voluntary sector in preventative health and social care provision.

Paul has also managed Occupational Therapy and Social Work teams, and in-house provider services. Paul has developed his skills working in complex organisations and systems and will help you navigate your own best practice journey.

3. Contracting in the Public Sector

Date: TBC

Time: 9.30 – 11.30 am

Overview:

As a leading expert in public service contracting and commissioning Gary will share his deep understanding of contracting and the different steps within it. He will explore the challenges and opportunities of contracting in the public sector sharing best practice from around the world. He will challenge participants to recognise how the tools available to them can sometimes limit their ability to deliver the outcomes needed and encourage participants to use their understanding of the different steps to make their contracts more effective.

He will also explore how contracting best practice can be used to successfully bring services back in house using his recent work with the Prison service in New South Wales.

Objectives:

By the end of the session participants will have:

- A clear understanding of the pros and cons of contracting in the public sector and how it differs from contracting elsewhere
- The ability to recognise the limitations of contracting in the public sector at every stage of the process and be able to think/work around these limiting factors
- An understanding of how to use 'lessons from contracting' in evaluating and managing 'in-house' bids

Speaker: Gary Sturgess

Gary has held the NSW Premier's ANZSOG (the Australia and New Zealand School of Government) Chair in Public Service Delivery at the University of New South Wales since 2011. He is also Adjunct Professor of Public Service Innovation at Griffith University in Brisbane, Australia.

Gary was Cabinet Secretary in the New South Wales state government from 1988 to 1992 as well as a non-executive director of the global public service company, Serco Group plc. Between 2000 and 2011 he lived in London and headed the Serco Institute, a corporate think-tank funded by Serco which studied public service markets. In 2003, he helped to found the first industry association in the UK for the public services industry, serving as board adviser until his return to Australia in 2011. He has published extensively on commissioning, contestability and contracting of public services, and advised numerous government agencies and inquiries in Australia and New Zealand, the UK and Canada.

The focus of his research and teaching since taking up the position with ANZSOG has been commissioning and contestability across a range of services. Since 2016, he had chaired the Commissioning and Contestability Advisory Board advising the NSW Minister for Corrections on the transformation of prison management. Among other things, the board oversaw the market-test of an existing remand facility, with an in-house bid. The tender was won by the in-house team and has been operated successfully by them for the past four years.

4. Relational Contracting

Time TBC

Date 9.30 -11.30 am

Overview

The focus of this session is to explore the value of relational contracting within public services and when and how to move away from traditional contracting and move towards a more flexible dynamic approach which focuses on relationships, trust, shared risk, and shared resources to meet requirements/needs.

Often the outcomes we are trying to achieve are shared, complex and long term which can mean that traditional contracting can have unintended adverse effects on our real purpose. This session provides a practical toolbox for relational contracting that not only helps us decide when to use it but also helps avoid some of the risks of using it.

Several case studies will be used to demonstrate what has been achieved by taking a relational contracting approach and how this can improve outcomes and provide the flexibility needed for modern public service provision.

Objectives

- To explore how relational contracting works and the value of it if used properly
- To consider when and how to use relational contracting to improve outcomes, services, etc
- Equip participants with a practical toolbox for relational contracting

Speaker: Gary Sturgess

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5. Monitoring Performance and Outcomes

Date TBC

Time 9.30 - 11.30 am

Overview:

Monitoring performance assists with identifying potential issues with the contract, including under performance of the contractor or underuse / overuse of the contract. Whether outcomes are being achieved on time, on budget and to the required standard. Whether value for money is being achieved and benefits are truly being realised. This module will explore these factors.

The module will explore how we manage complexity in contracting especially around Health and Social Care and encourage participants to reflect on what performance and outcomes can mean to stakeholders with different perspectives, including people who use services

Objectives:

By the end of the session attendees should be able to:

- Identify and deal with issues, including outdated contracts and changing environments
- Create action plans for under performance
- Identify a variety of methods to monitor performance and outcomes and demonstrate contractual value for money

Speaker: Paul Rackham

Paul Rackham has extensive experience as a Head of Commissioning in Adult Social Care and now works as a freelance consultant in the public and private sector. Paul was involved in the formation of a shared services commissioning arrangement across three local authorities, developing new teams and new ways of working.

During this time, Paul was the commissioning lead for large scale procurements in home care and community equipment, as well as leading work to increase the involvement of the voluntary sector in preventative health and social care provision.

Paul has also managed Occupational Therapy and Social Work teams, and in-house provider services. Paul has developed his skills working in complex organisations and systems and will help you navigate your own best practice journey.

6. Designing Contracts and Managing Risks

Date: TBC

Time: 9.30 – 11.30 am

Overview:

A contract should give effect to the commercial bargain and explain the rights and obligations of each party to the deal. Good drafting should provide certainty and reduce the risk of disputes arising. Conversely, poor drafting may create obligations that don't work in practice, or don't reflect the commercial deal, requiring the parties to waste time clarifying ambiguity and significantly increasing the risk and likely cost of litigation and more importantly a break down in relations between partner organisations.

This session will also explore the impact co-design with stakeholders has on designing contracts.

What is risk and when is it acceptable to take it? The traditional approach of many public sector organisations is to try and transfer all risk in a commercial agreement to the supplier, often a private sector company. However, that is not always the cost-effective way to deal with risk, nor will it deliver the best contract outcomes. Often the public sector organisation is best placed to deal with some key risks. The key to a good contract and great contract management is to understand the commercial and legal reasons for risk to lie with a particular party and to ensure that it is documented clearly so that service delivery is not compromised during the term due to misunderstandings between the parties and time spent resolving it.

Objectives:

The session will allow delegates to have a basic overview of how contracts work under English Law and the key issues to be aware of. The session will cover:

- Contracts the basics
- Use of precedent documents the benefits and the pitfalls
- The need for clarity including some examples of bad drafting
- Drafting Specifications to insert in contracts
- Drafting appropriate service levels and performance management regime

- The allocation of risk and limitation of liability
- Identify risk early on in a procurement process
- Assess where the risk is best placed between the parties
- Take account of risk allocation when negotiating and/or evaluating tenders
- Document the risk allocation, processes and outcomes in the contract
- Future proof the contract against current unknown or unquantifiable risks

There will be opportunities to work on a case study and think about the drafting of specific clauses and pieces of specification

Speaker: Peter Ware

Peter is Head of the Government Sector at Browne Jacobson. He takes a lead on the commercial aspects of the local authority practice specialising in complex procurement, shared services, PFI, outsourcing and public sector joint ventures.

Prior to joining Browne Jacobson Peter worked as a special projects adviser for Nottinghamshire County Council. His extensive knowledge of the public sector and his time leading major projects, has given him a wealth of experience in advising clients across the sectors on commercial matters, in particular their public procurement, PPP and commercial work.

He is also Finance and Membership Secretary of the Procurement Lawyers Association, on the editorial board of CIPFA's TIS Online, on the editorial Board for Lexis Nexis Local Government and a regular public speaker.

7. Negotiating and re-negotiating contracts

Date TBC

Time 9.30 -11.30 am

Overview

It is important to understand the balance of power when it comes to negotiating contracts and also what the limitations are on public sector organisations when contracting with suppliers. Depending on the route chosen to award a contract, there may be opportunities to negotiate the terms with one or more bidders. However, that doesn't mean that all terms need to be negotiated; learning how to identify the key commercial and legal issues and focussing time on those points will deliver the best outcome.

Once you are in "in contract" that is not the end of the story. External factors may mean changes to the contract are necessary (the Covid pandemic being a case in point). Or you may experience poor performance by your supplier. These and other issues may lead to a legitimate need to renegotiate parts of your contract. How far does the public procurement regime allow you to go? How do you capture any changes that are necessary and make sure that there are not unintended consequences? These and more issues will be discussed during this session.

Objectives

Peter will use his experience of advising public sector bodies on their commercial contracts to deliver a session that will allow attendees to gain an understanding of:

- when it is possible for a public sector organisation to negotiate a contract
- what the key commercial and legal issues are likely to be and how to focus negotiation on the right areas
- how to capture any negotiated points
- what may trigger the need for a renegotiation of an existing contract
- the limitations on public sector organisations to renegotiate contract terms
- best practice of documenting any changes to the contract terms

Speaker: Peter Ware

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8. Give it a go....

Date: TBC

Time: 9.00 – 13.00

Overview:

The Contract Management Development programme will conclude with an extended experiential session where participants, working in small groups, will get the opportunity to demonstrate and apply their learning.

Objectives:

By the end of the session participants will have

- Applied their learning from previous programme sessions to a case study based on one or more contracts. The case study will cover the design, award, monitoring, and managing of contracts, albeit to varying degrees.
- Explored possible complications and how to plan for these.
- Presented their responses to the case study to the wider group and shared their learning

Facilitators: Paul and Jim