



## Scope and Remit - Procurement Compliance Service (PCS)

What is the Service?

The Procurement Compliance Service (PCS) is a service provided by the Procurement Review Unit (PRU) within the Cabinet Office.

The PCS will exercise the powers granted in Part 10 of the Procurement Act 2023 (the Act) to carry out investigations into non compliance with requirements of the Act by relevant contracting authorities, issue recommendations to those contracting authorities where necessary and publish guidance for all contracting authorities within scope when required. It may also undertake investigations into compliance with requirements of the Act by a government department on a non-statutory basis.

Investigations may vary in scope and complexity. The majority of investigations will commence as either a basic or enhanced level investigation. More involved cases will form a complex investigation. (See below for levels of investigation.)

Acceptance Criteria for Cases

PCS investigations may commence via one of the following ways, where the case meets the acceptance criteria:

- the PCS will scan the procurement landscape for evidence of non-compliance with requirements of the Act, utilising as its main source of information data collected via the central digital platform;
- referrals made via the form on the PRU GOV.UK webpage, which can be submitted by anyone;
- referrals from the Public Procurement Review Service (PPRS). If the PPRS team becomes aware of repeated patterns of poor procurement practice, they may refer the information to PCS for further investigation.

The PCS will review the information provided in each case to determine if it meets the following acceptance criteria , before an investigation is formally commenced:

- does the issue concern a procurement process under the Act, carried out by an in-scope contracting authority (this is

defined in greater detail in the section headed 'What bodies are covered by investigations?');

- does the issue raise matters of systemic or institutional non-compliance with requirements of the Act? (it is not essential to demonstrate systemic or institutional non-compliance, but the ability to do so will provide strong justification for a PCS investigation);
- are there any other reasons to support a PCS investigation?

Once an initial assessment that the referral meets the scope of a PCS investigation, the case will be reviewed to determine the level of investigation.

The PCS anticipates having three levels of investigation:

1. Basic: a desk based investigation for simpler instances of potential non-compliance;
2. Enhanced: which may be used for possible systemic or institutional non-compliance, including more involved engagement with contracting authority personnel, document reviews, process reviews and root cause analysis;
3. Complex: which may be used where the subject matter, financial implications and/or breadth of impact in contracting authorities or wider public sector are substantial. It may include more involved and/or detailed investigation, potentially with additional expertise and resources required. The complexity could also derive from volume of instances. Report and any recommendations or guidance may require Ministerial approval. Any investigation may progress up to a complex investigation due to the presentation of new information.

The PCS will use its own resources to carry out basic and enhanced investigations. For complex investigations, resources from other parts of the Government Commercial Function (GCF), subject matter experts, and Senior Civil Service (SCS) personnel, may be required.

Following a basic or enhanced investigation, the PCS will set out its findings and recommendations in a report. The report will be sent to the contracting authority/ies under investigation, and may be published on GOV.UK to ensure transparency.

	<p>For complex investigations, proposed recommendations will be passed to the appropriate Minister for a final decision, including as to any recommendations that will be given to the contracting authority to implement. The contracting authority/ies may be required to develop an action plan, and must, where the recommendation so specifies, submit a progress report to demonstrate the implementation of the recommendations. The PCS will monitor the provision of these reports and may publish a progress report or, where the relevant contracting authority fails to submit one, notice of that fact.</p> <p>Following an investigation, the PCS may also, where applicable, work with GCF Commercial Policy, to develop and publish statutory guidance under section 110 of the Act, ensuring all relevant contracting authorities can benefit from the lessons learnt from the investigation.</p>
<p>What is the role of the PCS?</p>	<p>The PCS will:</p> <ul style="list-style-type: none"> <li>a) Review the procurement landscape to identify potential breaches of the Act.</li> <li>b) Focus on, but not be limited to, identifying systemic and institutional breaches for investigation: <ul style="list-style-type: none"> <li>- <b>Systemic:</b> actual or potential breaches common across multiple contracting authorities;</li> <li>- <b>Institutional:</b> breaches that are regularly being made (or are anticipated to be made) by one particular contracting authority due to their policy, practice, or beliefs (e.g. about their obligations under the Act) that has been established throughout the contracting authority.</li> </ul> </li> <li>c) Manage and conduct investigations.</li> <li>d) For complex cases, submit findings to the Minister, including any proposed recommendations, and issue the report and any recommendations following the Minister's decision.</li> <li>e) Publish selected investigation findings, recommendations, progress reports and guidance on GOV.UK, which will include details of the contracting authority/ies.</li> <li>f) Monitor contracting authority progress reports to ensure that recommendations have been implemented.</li> </ul>
<p>What bodies</p>	<p>The PCS can conduct statutory investigations under section 108</p>

<p>are covered by investigations?</p>	<p>of the Act into relevant contracting authorities as defined in the Act. This includes most public sector bodies including local authorities, the emergency services and health bodies.</p> <p>The PCS can conduct non-statutory reviews of central government bodies including:</p> <ul style="list-style-type: none"> <li>a) government departments,</li> <li>b) executive agencies, and</li> <li>c) non-departmental public bodies.</li> </ul> <p>All central government bodies and relevant contracting authorities are therefore considered to be in-scope bodies for the PCS.</p> <p>The following bodies are either excluded authorities under the Act or not relevant contracting authorities under section 108, and accordingly not subject to investigation (whether statutory or non-statutory) by the PCS:</p> <ul style="list-style-type: none"> <li>a) devolved Welsh authorities;</li> <li>b) transferred Northern Ireland authorities;</li> <li>c) devolved Scottish authorities;</li> <li>d) Security and Intelligence Services, including GCHQ;</li> <li>e) Advanced Research and Invention Agency;</li> <li>f) an individual subject to public authority oversight only by reference to one of (c), (d) or (e);</li> <li>g) the Corporate Officer of the House of Commons;</li> <li>h) the Corporate Officer of the House of Lords;</li> <li>i) private utilities.</li> </ul> <p>In respect of contracts that are exempt under Schedule 2 to the Act, the PCS can investigate whether the exemption has been correctly applied, but once established that the contract is exempt the PCS cannot investigate any further aspect in respect of the contract.</p>
<p>What can you expect from the PCS?</p>	<p>An investigation may involve reviewing information and/or speaking with individuals in the contracting authority to understand the cause of compliance issues. Contracting authorities are required to provide any documentation reasonably required for the investigation and give other assistance as required.</p>
<p>What resolution can you expect?</p>	<p>Findings and recommendations will be captured in a report which may be published. As part of the findings and recommendations, a contracting authority may be requested to provide an action plan and progress reports, to demonstrate that recommendations are being implemented. These may also be published.</p> <p>The PCS will also consider if the provision of statutory guidance</p>

	<p>that all contracting authorities will need to have regard to, is appropriate, to ensure all in-scope contracting authorities can benefit from the lessons learnt from an investigation.</p>
<p>Queries we will not normally investigate</p>	<p>The PCS is focused on ensuring contracting authorities are meeting their obligations under the Act. We will not investigate referrals if it relates to an authority that is not in-scope (see ‘What bodies are covered by investigations?’ above).</p> <p>In general, all covered procurements under the Act, will be considered in scope for the PCS.</p> <p>PCS investigations will normally not be undertaken in the following circumstances:</p> <ul style="list-style-type: none"> <li>a) Where you are taking legal action. You must inform us if you start legal proceedings (including by sending a pre-action letter) whilst we are considering your case and we will suspend our involvement until the legal action is concluded.</li> <li>b) If it involves a dispute that is already subject to formal proceedings whether administrative (e.g. an internal appeal process) or legal (e.g. action in the UK courts or European Infraction proceedings).</li> <li>c) The query is either expressed in abusive terms, or appears to be malicious or vexatious in nature.</li> <li>d) It concerns an unsubstantiated or generalised suspicion of poor practice that lacks sufficient evidence for us to take up with a contracting authority..</li> <li>e) It concerns procurements undertaken by devolved Scottish authorities, devolved Welsh authorities or transferred Northern Ireland authorities, including the Northern Ireland Executive, Scottish Ministers or Welsh Ministers.</li> <li>f) It concerns procurements undertaken by an academy or maintained school directly.</li> <li>g) It concerns procurements of health care services for the purposes of the NHS undertaken under the Health Care Services (Provider Selection Regime) Regulations 2023.</li> </ul>
<p>What happens if the contracting authority refuses to assist in the investigation?</p>	<p>Part 10 of the Act gives powers to investigate compliance with requirements of the Act and make recommendations to address non-compliance. Contracting authorities have an obligation to assist the PCS with its investigations, including providing relevant documents and giving reasonable assistance. Where a contracting authority fails to comply with these obligations the investigation may proceed regardless. The Act obliges a contracting authority that receives recommendations to have regard to those recommendations when considering how to comply with the requirements of the Act, and where required to do</p>

	<p>so, to provide progress reports detailing any action taken as a result of the recommendation. Both recommendations and progress reports may be published.</p> <p>Additionally, following a compliance investigation, statutory “lessons learned” guidance may be published, to which contracting authorities must have regard when considering how to comply with the requirements of the Act.</p>
<p>Other Limitations of the Service</p>	<p><b>Legislation</b></p> <p>Procurements subject to other legislation are outside of the PCS’s scope, such as:</p> <ul style="list-style-type: none"> <li>a) National Health Service Act 2006;</li> <li>b) Health Care Services (Provider Selection Regime) Regulations 2023;</li> <li>c) Public service obligations covered by the Railways Act 1993.</li> </ul> <p><b>Exempted contracts</b></p> <p>Procurements in respect of exempted contracts are excluded from the scope of the Act and accordingly are generally outside of the scope of the PCS. The PCS can investigate whether the exemption has been correctly applied, but once established that the contract is exempt the PCS cannot investigate any further aspect in respect of the contract. Exempted contracts are set out in Schedule 2 to the Act and include:</p> <ul style="list-style-type: none"> <li>a) Contracts between contracting authorities;</li> <li>b) Some utility and concession contracts;</li> <li>c) Some land and buildings contracts;</li> <li>d) Broadcasting and electronic communications contracts;</li> <li>e) Contracts for Alternative Dispute Resolution services and some legal services;</li> <li>f) Financial services contracts;</li> <li>g) Employment contracts;</li> <li>h) Contracts for provision of emergency services;</li> <li>i) Research and development contracts;</li> </ul>

	<p>j) Contracts awarded in accordance with procedures stipulated by an international agreement or organisation.</p> <p>We cannot provide legal advice to you or help you to seek compensation. You should not regard the PCS as a precursor to legal action, or a potential means to obtain redress of a type that would otherwise require legal action. If you are considering whether to seek legal redress, we advise you to consult your own legal advisors to determine the most appropriate course of action.</p>
<p>Disclosure pursuant to the Freedom of Information Act 2000</p>	<p>In accordance with the obligations placed upon public authorities by the Freedom of Information Act 2000 (FoIA), all information submitted may be subject to disclosure by the Cabinet Office in response to a request made pursuant to FoIA.</p> <p>In respect of any information submitted by an enquirer or contracting authority that it considers to be commercially sensitive the party should:</p> <ul style="list-style-type: none"> <li>a) clearly identify such information as commercially sensitive,</li> <li>b) explain the potential implications of disclosure of such information, and</li> <li>c) provide an estimate of the period of time during which the party believes that such information will remain commercially sensitive.</li> </ul> <p>Where information is identified as commercially sensitive by a party, we will endeavour to maintain confidentiality, subject to our legal obligations under FoIA. You should note, in particular, that even where information is identified as commercially sensitive, we might be required to disclose such information in accordance with FoIA. Accordingly, while the PCS will always seek to respect confidentiality, if information is required to be disclosed under FoIA then we cannot guarantee that any information provided by either party will not be disclosed even where it is marked as "confidential".</p> <p>We will handle your personal information in line with the Data Protection Act 2018. Our privacy notice is available on GOV.UK.</p>
<p>How to contact the service.</p>	<p>Contact the Procurement Compliance Service by completing a referral form <a href="#">Raise a query concerning compliance with the Procurement Act 2023</a></p> <p>The team will confirm receipt and the next actions.</p>

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link

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