



Commissioning Skills Training

Procurement and Contracting

Procurement and contracting are...

Procurement is the process of acquiring goods, works or services from (usually) external providers/suppliers and managing these through to the end of contract.

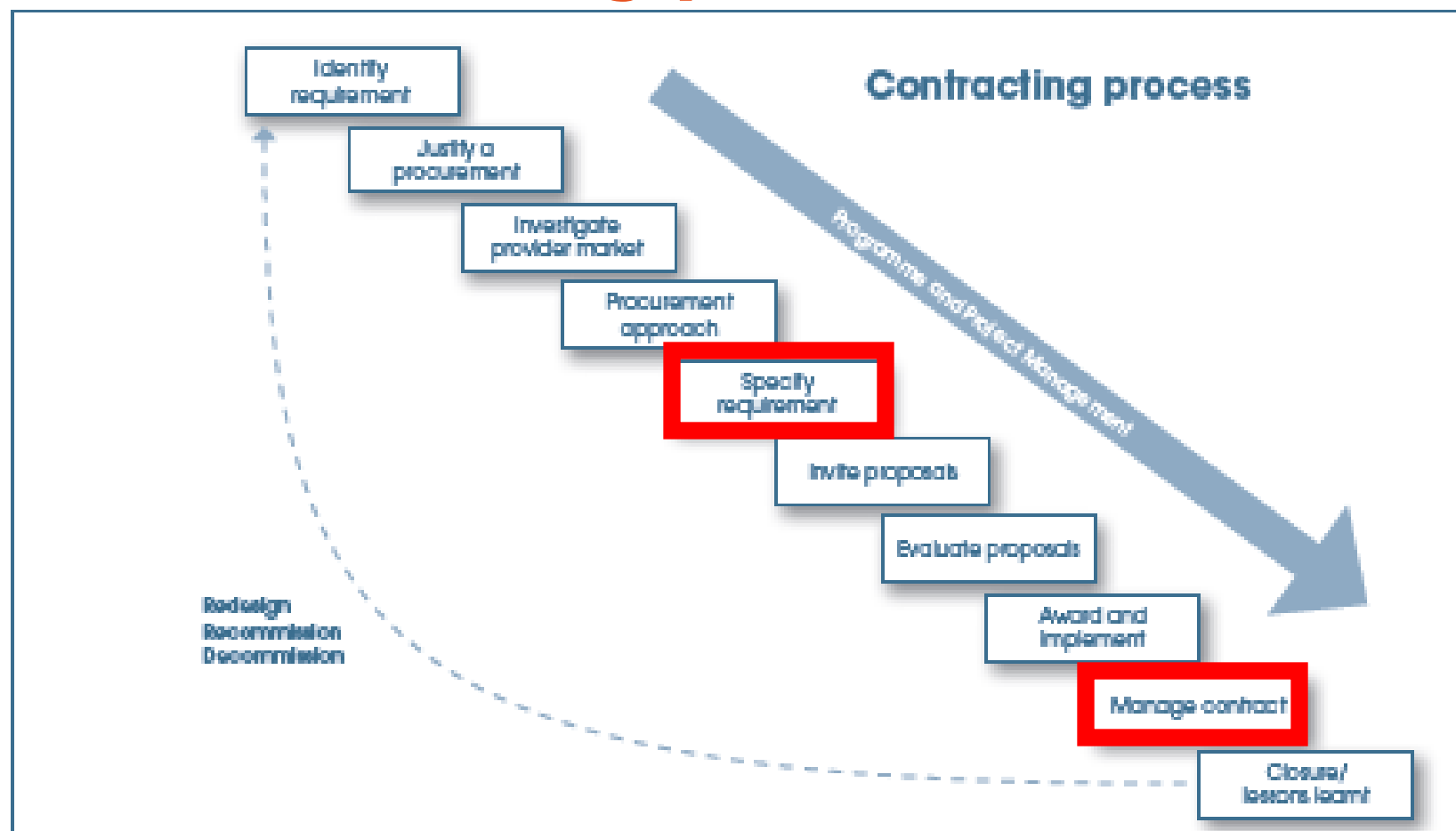
Contracting is the process of negotiating and agreeing the terms of a contract for services, and on-going management of the contract including payment and monitoring.

Key principles

1. Efficiency: enabling commissioners to achieve quality services at value for money.
2. Sustainability: embodying a general approach to a proper working relationship which fosters sustainable, long-term provision (where appropriate) in the interests of service users.
3. Proportionality: achieving what is necessary or highly desirable in the simplest possible way. Document length should be reduced as much as possible and the “kitchen sink” approach abandoned.
4. Suitability: reflecting the service that is required and the actual agreement between parties.
5. Simplicity: Plain English wherever possible, with clear explanations of jargon.
6. Fairness: Reflecting a fair and proper balance between commissioner and provider, with risk properly allocated.
7. Equality: Contracts should be the same for every sector.

Department of Health (2006), *Report of the third sector commissioning task force: part II*

The contracting process



DCSF – procurement document number 4

OXFORD
BROOKES
UNIVERSITY

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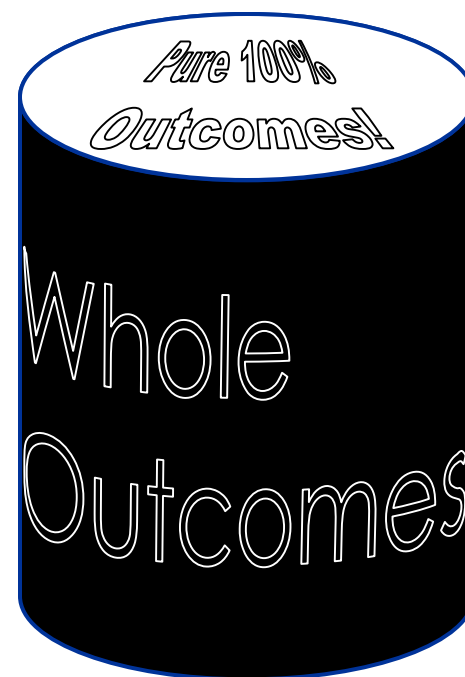
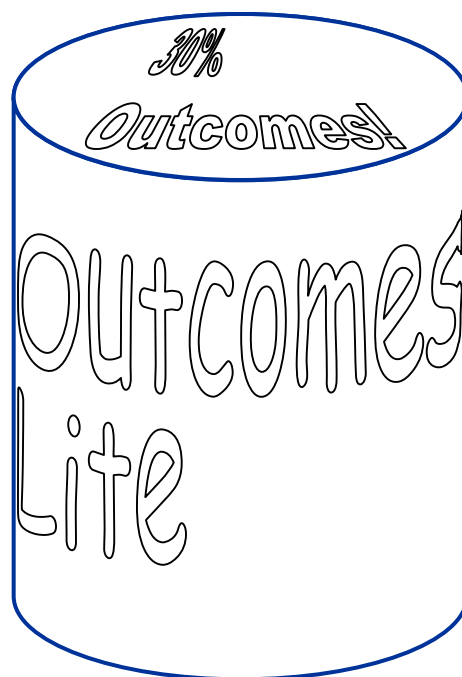
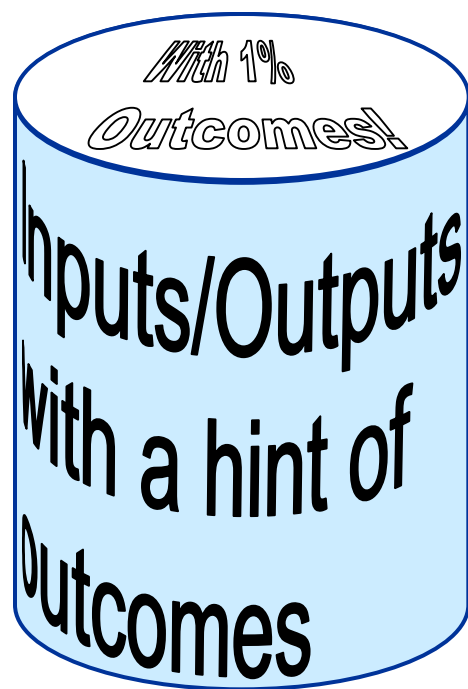
Exercise

- What is a contract?
- What's involved in the contracting process?
- What are the links to service specifications?
- What are the differences?

Key functions of a specification

- To describe the nature and scope of the service to be bought.
- To define the people for whom that service should be provided.
- To set the outcomes that are required.
- To set the value base within which the service should be provided.
- To describe the monitoring arrangements to determine whether or not all the requirements are being met.

Spectrum of specifications



Contents of a specification

- Introduction
- Description of service to be provided
- Specific standards and targets for the service
- Monitoring arrangements

Developing a specification

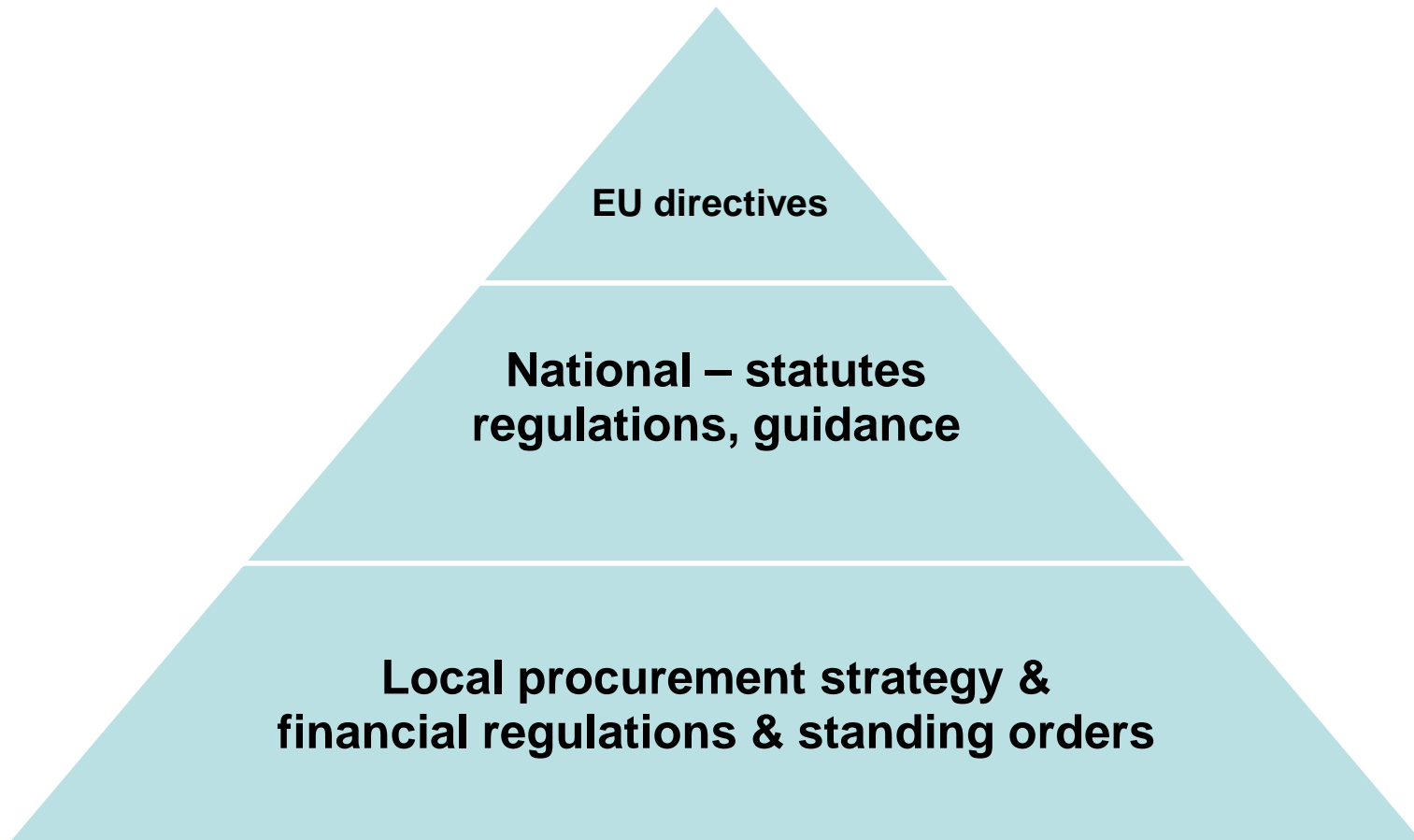
- Who should be involved in and who should take the lead in writing the specification?
- How are values to be agreed and defined?
- How will outcomes be defined and written down?
- How else is quality to be specified?
- How are the outputs to be specified?
- How much detail will be written about the service processes?
- How are inputs to be specified, eg, numbers and qualifications of staff?
- How will the contract be measured and monitored?

Exercise

In groups compare the service specification examples.
Discuss the Following:

1. How do they differ?
2. Do you feel that any of the differences are crucial?
3. Does this raise any questions for you?
4. Are there any changes you feel could be made to your future specifications?

The legal procurement framework



EU procurement directives

£Ms



- The regulations have 2 levels – a full regime for priority services (Part A) and a lighter regime for other services (Part B).
- Health, education and social care services are **Part B** services.

£156k

Threshold of £156,442 (net of VAT)



£0

- Key principles of equality of treatment, non-discrimination, transparency, proportionality still apply

Main requirements of regulations

- Non discriminatory technical specs e.g. no brand names
A B
- Must prescribe and publicise criteria for the selection of tenderers and contract award A B
- Competition through a tender advertised in the Official Journal of the EU A
- Comply with minimum timescales A
- Provision of feedback to unsuccessful providers and issue of contract award notice A B

Stages in the procurement process

- Specification stage – agree and publicise the selection criteria.
- Selection stage – rejection or selection of candidates based on legal, financial or technical grounds.
- Award stage – basis of most economically advantageous to the purchaser i.e. overall best value
- Post tender negotiations – cannot renegotiate the principal terms and conditions of the contract, particularly if using open or restricted tender procedures.

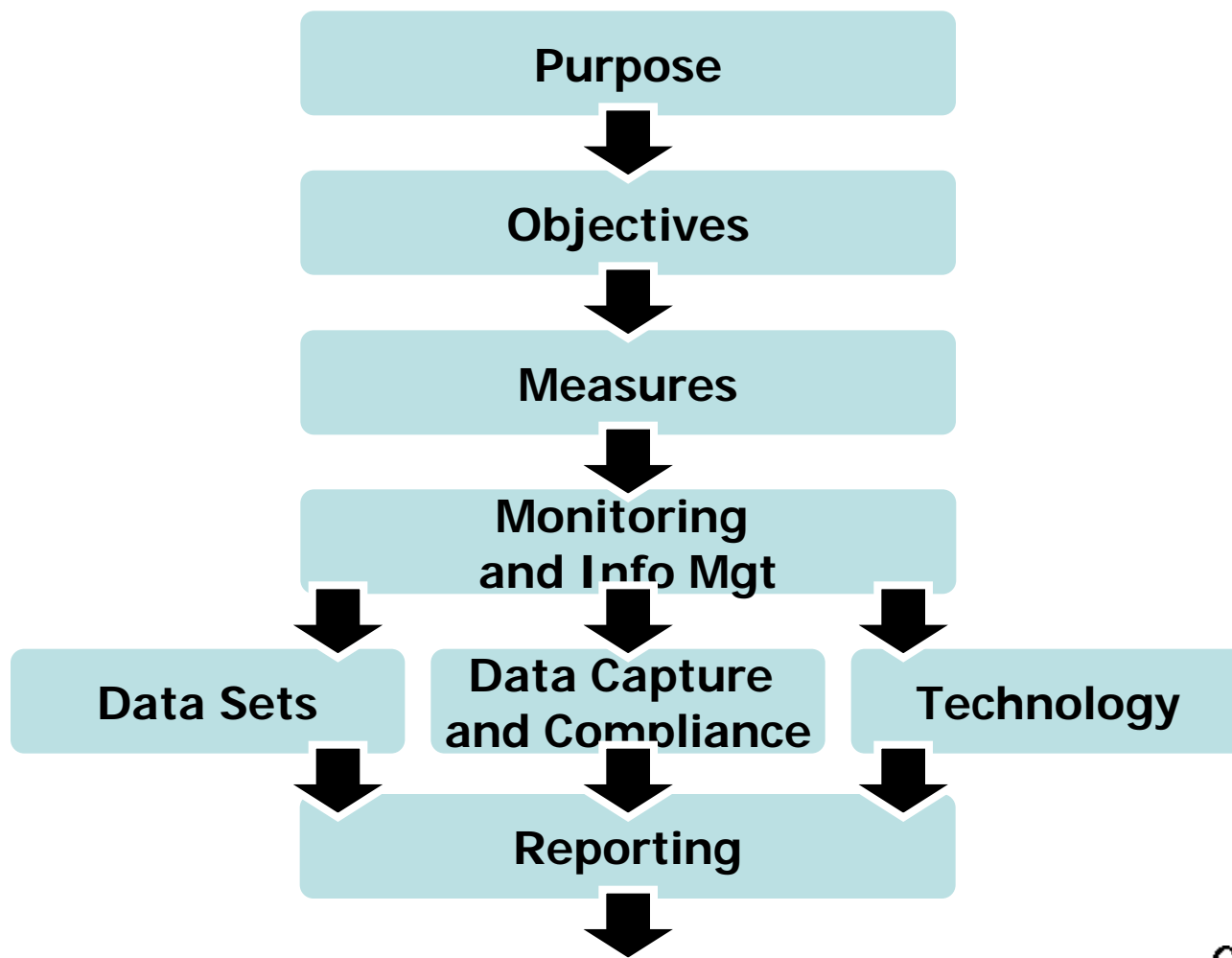
Choice of procurement procedures

- Open tendering:
 - One stage process.
 - Invitation to tender (ITT) is advertised and all interested parties can submit their bids.
- Restricted tendering:
 - A short list of providers who have been pre-vetted, usually using a pre-tender/qualification questionnaire (PQQ), are invited to tender.
- Competitive dialogue:
 - Use for complex contracts where a dialogue between providers and purchasers is necessary to identify the solution(s) to best meet needs.
- Negotiated tendering:
 - Direct negotiation with a single or a few select providers.

Competitive tendering

- Tenders are evaluated on an equal footing.
- Contract opportunities are publicised with good notice.
- A performance specification or outcome-based specification is used, so as to encourage innovation.
- The market is tested if new services are involved or little information is available on the likely response from providers.

Measurement and Monitoring



Performance Measurement Categories

	Quantity	Quality
Effort	How much did we do?	How well did we do it?
Effect	Is anyone better off?	
	#	%

Performance measures

<u>How much did we do?</u>	<u>How well did we do it?</u>
# Customers served (by customer characteristic)	% Common measures Workload ratio, staff turnover rate, staff morale, percent of staff fully trained, worker safety, unit cost, customer satisfaction: <i>Did we treat you well?</i>
# Activities (by type of activity)	% Activity-specific measures Percent of actions timely and correct, percent clients completing activity, percent of actions meeting standards
<u>Is Anyone Better Off?</u>	
# Skills / Knowledge	% Skills / Knowledge
# Attitude / Opinion	% Attitude / Opinion including customer satisfaction: <i>Did we help you with your problems?</i>
# Behavior	% Behavior
# Circumstance	% Circumstance

Effective performance monitoring

- Proportional investment in monitoring with levels of action based on risk.
- Collate information from contract monitoring with other sources.
- Rely on providers' q.a systems.
- Agree protocols on intervention with underperforming providers.
- Set-up systems to ensure action is taken.
- Publicise performance against standards.

Managing poor performance

Developmental approach	Punitive approach
Mistakes happen. Everyone should have the chance to learn from them and change. Support may be needed to prevent recurrence.	Performance can never be below required standards. Financial or other punishments will prevent recurrence of problems.
Purchaser and provider agree on what has gone wrong and why. Develop a CAP, which may include additional monitoring and support.	The threat or implementation of fine or restriction of new business. Suspension from accredited list. The contract must contain explicit powers.
Reflects mutual dependence and partnership. Can enable 'business as usual' whilst some matters are resolved.	Clear relationship between performance and payments. Shows purchaser's serious intent from the outset.
No immediate consequences for provider – long term deterrent? CAP may not resolve the problem; termination may only be delayed	Judgements open to legal challenge. Purchaser may be drawn into terminating contract sooner than they would want.

Gosling 2006

What determines your approach?

- The seriousness of the matter
- The risk(s) involved
- Has the contract been breached?
- The relationship with the provider
- The providers response to poor performance

Taking action

- Remember – monitoring performance alerts you to the fact that a problem exists, not why it exists.
- Explain rather than describe problems, including how they will be addressed.
- In order to address poor performance you need to analyse reasons behind it and take action.
- Give providers time to analyse and develop a corrective action plan (CAP) before information is published.