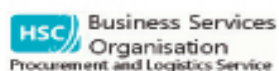


Northern Ireland Public Procurement Policy Handbook



**Education &
Library Boards**



Health Estates



INVESTOR IN PEOPLE



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Introduction

- 1.1 The purpose of this handbook is to present the framework within which public procurement operates in Northern Ireland (NI). The handbook supplements the Northern Ireland Public Procurement Policy, which was agreed by the Northern Ireland Executive in May 2002 and updated as and when required. The NI Public Procurement Policy can be accessed on the [CPD website](#)¹.
- 1.2 Within this context the handbook is designed to:
- provide greater clarification of the International and National context within which Northern Ireland Public Procurement Policy operates
 - set out more fully the structure and operation of procurement in the Northern Ireland public sector, and
 - clarify the roles and responsibilities of key players within the procurement process.
- 1.3 The handbook is not intended to replace an organisation's policy manual or sector specific guidance, but each Department and Centre of Procurement Expertise (CoPE) should review its policy and procedures to ensure they are consistent with the handbook.
- 1.4 This guidance should be applied within bodies covered by the [Northern Ireland Public Procurement Policy](#)². As regards District Councils, the Executive accepts that their different and separate framework of accountability must be recognised and, under existing legislation, compliance with this policy can only be on a voluntary basis. However as is the case for all NI public sector bodies, District Councils are subject to UK and EU Procurement Legislation.

¹ <http://www.dfpni.gov.uk/index/procurement-2/cpd/cpd-policy-and-legislation.htm>

² Bodies covered by Public Procurement Policy include Departments, their Agencies, Non Departmental Public Bodies (NDPBs) and Public Corporations. http://www.dfpni.gov.uk/index/procurement-2/cpd/cpd_publications/cpd-list-of-bodies-public-procurement-policy-applies.htm.

What is Public Procurement?

2.1 Public procurement is “the process of the acquisition, usually by means of a contractual arrangement after public competition, of goods, services and works and other supplies by the public service”³. Examples of each of these different kinds of procurement are given below:

- Supplies procurement (office supplies, vehicles, hospital equipment)
- Services procurement (e.g. externally managed ICT systems, consultancy, full facilities management services), and
- Works procurement (e.g. construction & maintenance of the infrastructure and Government Estate).

2.2 The definition of public procurement covers both conventionally funded contracts and more innovative types of procurement such as Public Private Partnerships (PPP) and Private Finance Initiatives (PFI).

2.3 The procurement process spans the whole life cycle of the procurement from conception and definition of need through to the end of the useful life of an asset or the end of a contract. It includes pre-contract activities such as market sounding, sourcing and post contract activities such as contract management and supplier relationship management activities.

³ Northern Ireland Public Procurement Policy. Procurement Policy Principles.

Legislative and Policy Framework

- 3.1 Public procurement is regulated throughout the European Union (EU) through the provisions of the Treaty on the Functioning of the European Union (TFEU, formerly known as the EC Treaty) and the EC Directives.
- 3.2 The internal market of the EU is a single market in which the free movement of goods, services, capital and persons is ensured and in which European citizens are free to live, work, study and do business. Since it was created in 1993, the single market has opened more to competition, created new jobs, defined more affordable prices for consumers and enabled businesses and citizens to benefit from a wide choice of goods and services.
- 3.3 Within the EU all public procurement is subject to the principles of TFEU and in particular the principles of:
- Freedom of movement of goods
 - Freedom of establishment, and
 - Freedom to provide services.

And the principles derived from these such as:

- Equal treatment
 - Non-discrimination
 - Mutual recognition
 - Proportionality, and
 - Transparency.
- 3.4 The award of contracts within the Member States is further subject to EC Directives, the purpose of which is to open up the public procurement market and to ensure the free movement of supplies, works and services within the EU. The Directives set Europe-wide standards which must be achieved in every Member State by transposition of the Directives into national legislation. Each

Directive specifies the date by which the national laws must be adapted - giving Member States the time necessary to take account of differing national legislative procedures. The development of Public Procurement Policy must be taken forward in the context of this legislative environment.

- 3.5 In addition to the requirements of EU law, public procurement must also comply with the World Trade Organisation's (WTO) Government Procurement Agreement (GPA).
- 3.6 Within this context the EU retains overall responsibility for the negotiation and development of WTO legislative proposals as they affect all Member States. The UK, as the Member State, retains overall responsibility for the negotiation and development of EU legislative proposals in relation to Devolved Administrations. The current EC Directives were transposed into UK National law on 31st January 2006 as The Public Contracts Regulations (2006) SI 2006 No.5⁴ (as amended) and The Utilities Contracts Regulations (2006) SI 2006 No.6⁵ (as amended).
- 3.7 Under the Northern Ireland Act 1998 procurement is a transferred matter. The Assembly may make its own laws in respect of all transferred matters but, as the UK Public Contracts and Utilities Contracts Regulations were made prior to the restoration of a Devolved Administration in Northern Ireland, the UK took the lead in drafting these Regulations and subsequent amendments. As a result, public sector procurement in Northern Ireland falls within the scope of UK Procurement Regulations (which cover England, Wales and Northern Ireland). Scotland separately transposed these Directives into Scottish Law.

⁴ Directive 2004/18/EC refers

⁵ Directive 2004/17/EC refers

The Relationship between the UK Government and the Northern Ireland Executive Committee

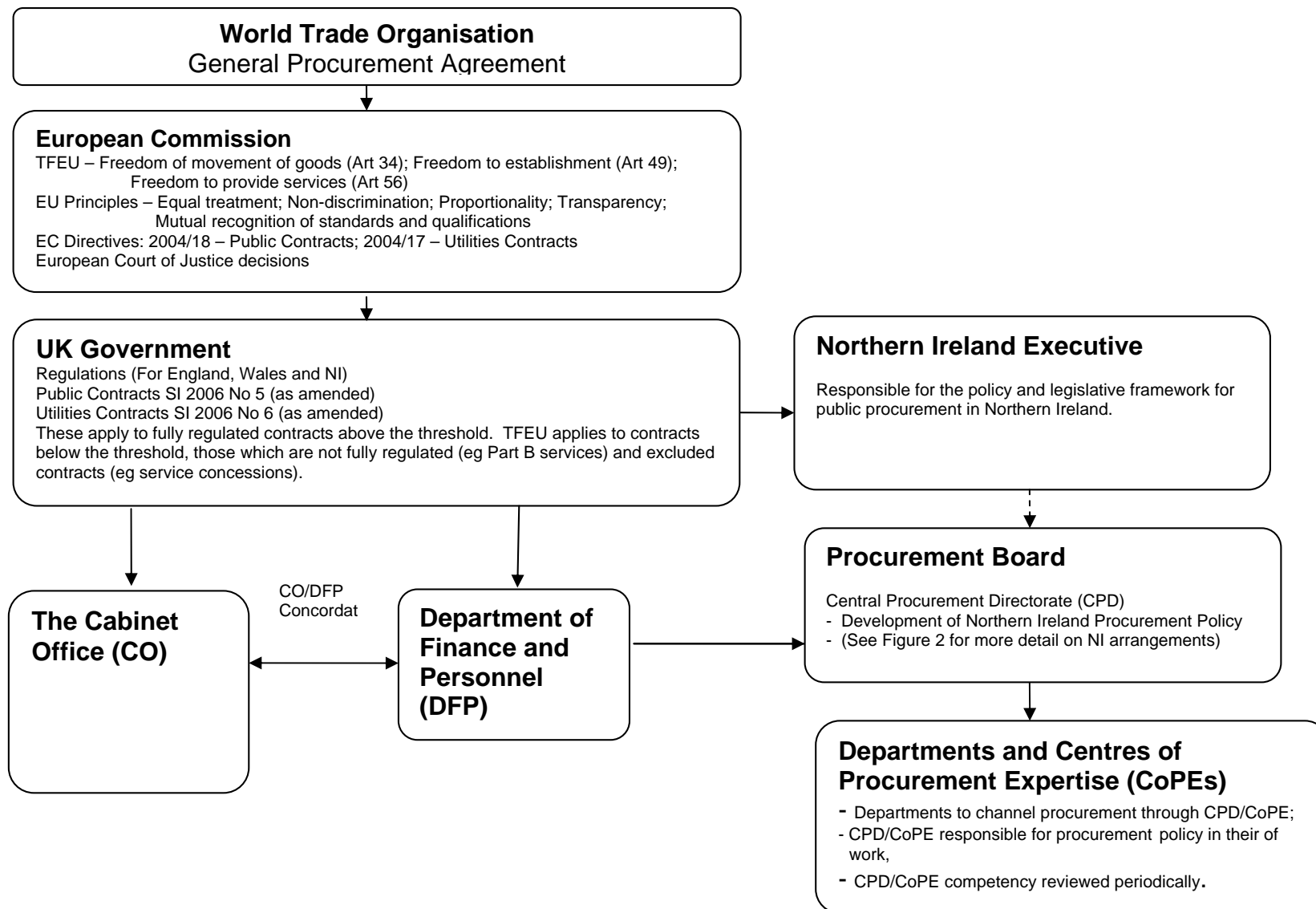
- 4.1 While public procurement is a transferred matter, relations with the EU in regard to public procurement are the responsibility of the UK as a Member State and, as such, the policy and legal framework for public procurement in Northern Ireland must comply with the UK's EU and International obligations. In this context the Cabinet Office is responsible for ensuring that Public Procurement Policy throughout the UK complies with those obligations and takes the lead in representing UK interests in Europe and internationally.
- 4.2 As a result of the European dimension there is a strong read across in procurement policy matters to Devolved Administrations and close links are maintained to ensure continuing compliance with legislation and good practice.
- 4.3 This relationship is set out in the following documents:
- the enabling legislation (Northern Ireland Act 1998) that established the Northern Ireland Executive
 - the Memorandum of Understanding (MOU) between the UK Government and the Northern Ireland Executive Committee
 - the overarching Concordat on the co-ordination of EU Policy Issues
 - the overarching Concordat on International Relations
 - the Concordat between the Northern Ireland Executive and HM Treasury
 - the Concordat between the Northern Ireland Executive and the Department of Trade and Industry (now called the Department for Business, Innovation and Skills), and
 - the Concordat on Co-ordination of EU, International and Policy Issues on Public Procurement.
- 4.4 The Concordat on Co-ordination of EU, International and Policy Issues on Public Procurement is agreed between the Department of Finance and

Personnel (DFP) and the Cabinet Office. This document sets out the mechanisms for:

- the provision of information
- formulation of UK Public Procurement Policy
- attendance at EU and international (e.g. WTO) meetings, and
- implementation of EU and international obligations and infraction proceedings.

4.5 A diagram showing the current legislative and policy framework for public procurement in Northern Ireland is shown at Figure 1 overleaf.

Figure 1. Current legislative and policy framework for public procurement in Northern Ireland



Governance Structure for Northern Ireland Public Sector Procurement

5.1 The governance structure for public sector procurement in Northern Ireland is made up of the following elements:

- Procurement Board
- Central Procurement Directorate (CPD)
- Centres of Procurement Expertise (CoPEs), and
- Procurement Practitioners' Group (PPG).

A diagram illustrating this structure is set out at Figure 2 on page 12.

The Procurement Board

5.2 The Procurement Board, established under the Northern Ireland Public Procurement Policy agreed by the Executive in 2002, is chaired by the Minister for Finance and Personnel. Membership of the Board comprises the Permanent Secretaries of the 12 Northern Ireland Departments, the Treasury Officer of Accounts, the Director of CPD and 2 external experts. A representative of the Strategic Investment Board Ltd attends as an observer. The Board meets twice yearly.

5.3 The Procurement Board is responsible for the development of Public Procurement Policy and overarching procurement strategy within Northern Ireland. The roles and responsibilities of the Procurement Board are set out more fully in the Northern Ireland Public Procurement Policy which can be accessed on the [CPD website](http://www.dfpni.gov.uk/index/procurement-2/cpd/cpd-policy-and-legislation.htm)⁶

⁶ www.dfpni.gov.uk/index/procurement-2/cpd/cpd-policy-and-legislation.htm.

Central Procurement Directorate (CPD)

5.4 CPD was established in 2002. One of its primary functions is to support the Procurement Board in the development and implementation of Public Procurement Policy, monitoring its implementation and developing best practice guidance in association with PPG. CPD also provides a centralised professional procurement service to the Northern Ireland public sector and has two Centres of Procurement Expertise (CoPEs); one for the procurement of supplies and services and one for construction projects.

Centres of Procurement Expertise (CoPEs)

5.5 In addition to CPD, seven CoPEs exist to provide a procurement service to public bodies throughout the public sector and to contribute to the development of policies and best practice. These procurement organisations are granted CoPE status by the Procurement Board following a third-party accreditation exercise that assesses the extent to which CoPEs meet high standards of good practice. The seven CoPEs are:

- Roads Service (works procurement)
- NI Water (supplies, works and services procurement)
- Procurement and Logistics Service (supplies and services procurement; previously called Regional Supplies Service)
- Northern Ireland Housing Executive (supplies, works and services procurement)
- Health Estates (works and services procurement)
- Education and Library Boards⁷, (supplies, works and services procurement), and
- Translink (supplies, works and services procurement).

More details on the role of the CoPEs are set out at page 23.

⁷ The Education and Library Boards are to be subsumed within the new Education and Skills Authority when it is established. The timescale for ESA's implementation is currently unclear.

Procurement Practitioners' Group (PPG)

5.6 PPG comprises the Head of each of the CoPEs, together with the Divisional Directors from CPD. It is chaired by the Director of CPD. The group provides a strategic, direction-setting role for CoPEs, providing the leadership and mandate for the effective delivery of the Procurement Board's Strategy.

5.7 PPG is also the main conduit for the development of policy guidance, best practice and information dissemination. In fulfilling their role, PPG take account of their respective Accounting Officer views. Policy guidance is developed in consultation with PPG before it goes to the Procurement Board for endorsement.

The group meets regularly and is supported by two sub-groups:

- Supplies and Services, and
- Construction Works and Services.

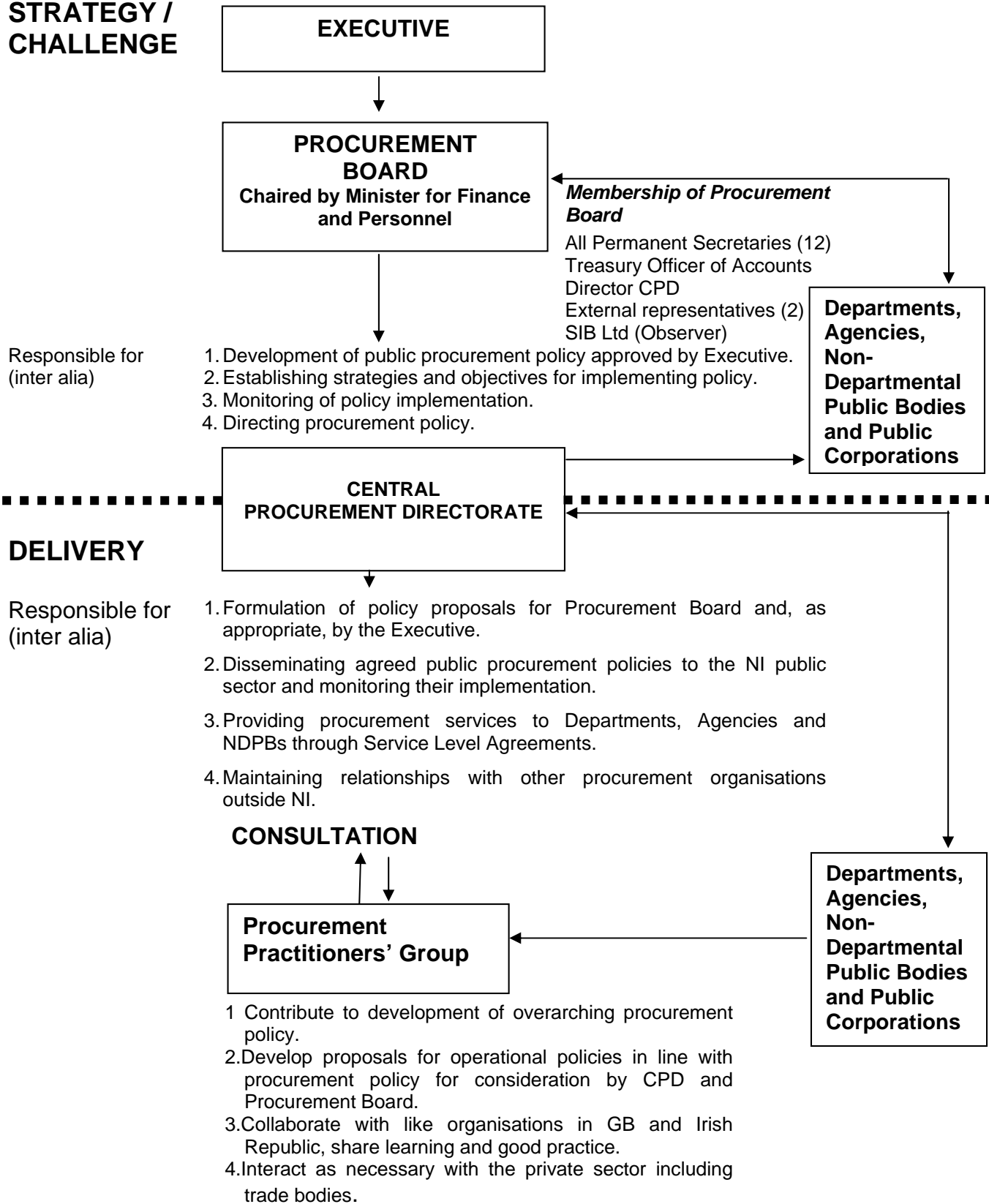
5.8 Each sub-group comprises representatives from CPD and the CoPEs. These groups meet 3 or 4 times a year and focus on the practical outworking of policies and collaborate on the development of best practice. When necessary, each sub-group can establish a Task Group to take forward work in response to a specific issue that has arisen.

5.9 More details on the roles and responsibilities of PPG are set out in the Northern Ireland Public Procurement Policy which can be accessed on the [CPD Website](#).⁸

⁸ www.dfpni.gov.uk/index/procurement-2/cpd/cpd-policy-and-legislation.htm.

Figure 2. The Northern Ireland Procurement Governance Structure

**STRATEGY /
CHALLENGE**



Note:
Accountability for procurement expenditure lies with Departmental Accounting Officers.

Northern Ireland Public Procurement Policy

- 6.1 Responsibility for the development and monitoring the implementation of Public Procurement Policy across public bodies covered by Public Procurement Policy (excluding District Councils) in Northern Ireland rests with the Procurement Board. However in light of the International and European context in which public procurement operates there is a strong commonality in approach to procurement policy matters across the UK and between the Devolved Administrations.
- 6.2 In Northern Ireland the overarching procurement policy was approved by the Northern Ireland Executive in 2002 and has been monitored and developed in the interim by the Procurement Board. The process for the development and approval of Public Procurement Policy in Northern Ireland is set out in Figure 2 (on page 12).
- 6.3 This process map reflects the role of each of the key bodies, including CPD and the CoPEs, in the outworking of the policy together with the role of Departments, Agencies, Non-Departmental Public Bodies (NDPBs) and Public Corporations in contributing to the development of policy and its dissemination and outworking across the public sector.
- 6.4 The principle elements of the Northern Ireland Public Procurement Policy are summarised below.

- **Best Value for Money**

Best Value for Money is the primary objective of procurement policy. The Executive approved a new definition of Best Value for Money (VfM) in March 2011. It is now defined as:

“the most advantageous combination of cost, quality and sustainability to meet customer requirements.”

In this context, cost means consideration of the whole life cost; quality means meeting a specification which is fit for purpose and sufficient to meet the customer's requirements; and sustainability means economic, social and environmental benefits, considered in the business case, in support of the Programme for Government.

Public Procurement Policy is governed by twelve guiding principles set out as Annex A, which Northern Ireland procurement professionals are required to meet. When these principles have been satisfied to an acceptable level then "best value for money" can be said to have been achieved.

- **Integration of Sustainable Development**

One of the guiding principles within Public Procurement Policy is integration, which, when read in the context of the Executive's policy on joined up Government, requires procurement policy to pay due regard to the Executive's other social and economic policies, rather than cut across them.

The importance and relevance of this principle has been further reinforced by the focus on integrating equality and sustainable development into public sector procurement.

Public Authorities have a statutory duty to promote equality of opportunity and good relations (s75)⁹ and, in addition to this, Departments and District Councils also have a statutory duty to deliver sustainable development (s25)¹⁰. [Guidance on Equality of Opportunity and Sustainable Development in Public Sector Procurement](#) was produced jointly by CPD and the Equality Commission for Northern Ireland and is accessible from [CPD's website](#)¹¹.

⁹ Section 75 of the Northern Ireland Act 1998

¹⁰ Section 25 of the Northern Ireland (Miscellaneous Provisions) Act 2006

¹¹ http://www.dfpni.gov.uk/index/procurement-2/cpd/cpd-policy-and-legislation/cpd-sustainability/content_-_cpd_equality_of_opportunity_and_sustainable_development_in_public_sector_procurement.htm

- **Procurement through a Centre of Procurement Expertise**

Departments, their Agencies, NDPBs and Public Corporations are required to carry out their procurement activities by means of documented Service Level Agreements (SLA) with CPD or a relevant CoPE. This is to ensure that procurement is compliant with EU and UK legislation and is efficient, effective and in line with best practice. The competency of CoPEs is reviewed by the Procurement Board on a periodic basis.

- **Award of Contracts on the Basis of Most Economically Advantageous**

Contracts should be awarded on the basis of objective criteria which ensure compliance with the TFEU Principles and which guarantee that tenders are assessed in conditions of effective competition. This permits the use of one of two award criteria: “the most economically advantageous tender” (MEAT) or “the lowest price”. The Procurement Board has determined that all procurements should be on the basis of MEAT with exceptions approved by the Head of Procurement of the relevant CoPE.

- **Procurement Control Limits**

The Procurement Board has set optimum limits for the procurement of general supplies, works and services which are detailed in Procurement Guidance Note 03/10 - [Procurement Control Limits](#) (revised January 2009) is available on CPD’s website¹².

The guidance provides advice on supplier sourcing for procurement below the threshold for public advertisement and recommends optimum levels to ensure that the transaction cost of procurement procedures is efficient, while maintaining a sufficient level of supplier sourcing to achieve value for money through competition.

¹² <http://www.dfpni.gov.uk/index/procurement-2/cpd/cpd-policy-and-legislation/content - cpd - policy - procurement guidance notes.htm>

- **Achieving Excellence in Construction**

In 2002, the Procurement Board approved a Northern Ireland version of the Achieving Excellence initiative with the aim of making the public sector a best practice client when procuring construction works and services. Considerable progress has been made in the intervening period in relation to the key themes of Achieving Excellence – Management, Measurement, Standardisation and Integration. Its principles are now well established and are reflected in the procurement guidance issued by CPD and endorsed by the Procurement Board.

- **Programme and Project Management (PPM)**

The Procurement Board considers it critical that projects and programmes are managed in accordance with best practice and that they are subject to the Gateway Review Process, which is managed in Northern Ireland by CPD via the CPD Centre of Expertise for Programme and Project Management, an OGC Authorised Hub.

More information on the Gateway Review Process and guidance on best practice in programme/project management is available from the [Programme and Project Management](#) section of CPD's website¹³.

¹³ <http://www.dfpni.gov.uk/index/procurement-2/successful-delivery.htm>

Northern Ireland Guide to Expenditure, Appraisal and Evaluation

The principles set out in this guide should be applied with proportionate effort to every decision or proposal that entails spending or saving public money or otherwise changes the way resources are used. The guide can be accessed at <http://www.dfpni.gov.uk/eag>

Procurement Guidance Notes

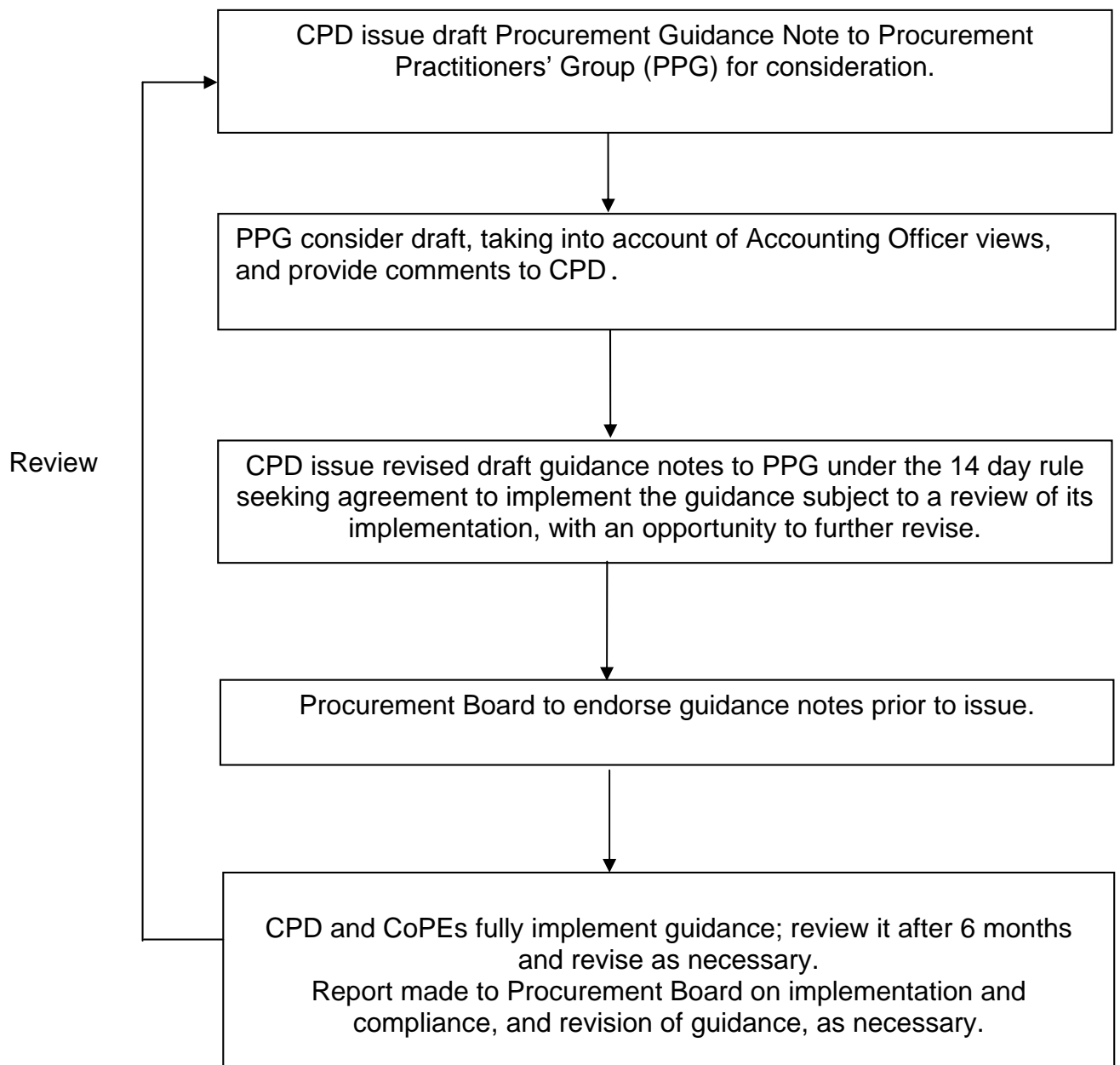
- 7.1 The Northern Ireland Public Procurement Policy was approved by the Executive in 2002. In approving the policy the Executive took the decision that legislation was not necessary to ensure that Departments, their Agencies, NDPBs and Public Corporations complied with the policy.
- 7.2 The Executive considered that compliance could be achieved by means of an administrative action, as determined by the Procurement Board. This arrangement is kept under review by the Procurement Board¹⁴.
- 7.3 CPD is responsible for disseminating advice and guidance on the directions and policies on public procurement, determined by the Procurement Board, to the Northern Ireland public sector and monitoring their implementation. This it does through the production of Procurement Guidance Notes, which are developed in consultation with PPG, and its sub-groups whose membership includes practitioners from the various CoPEs.
- 7.4 Procurement Guidance Notes are therefore the administrative means by which the public sector is advised of procurement policy and best practice developments. They also provide advice and guidance for procurement practitioners and support the delivery of best practice procurement in Northern Ireland in a way which:
- is compliant with relevant EU and UK legislation
 - is compliant with UK and Northern Ireland Public Procurement Policy, and
 - takes account of Northern Ireland legislation and the Executive's Programme for Government.
- 7.5 Once endorsed by the Procurement Board, these [Procurement Guidance Notes](#)¹⁵ are circulated to Accounting Officers, Finance Directors, and other relevant officials in Departments and CoPEs for implementation.

¹⁴ Public Procurement Policy (updated in June 2011), paragraph 20, page 12.

¹⁵ www.dfpni.gov.uk/index/procurement-2/cpd/cpd-policy-and-legislation/content - cpd - policy - procurement_guidance_notes.htm.

7.6 Figure 3 overleaf sets out the process used by CPD for developing Procurement Guidance Notes in association with CoPEs.

Figure 3. Process map for developing Procurement Guidance Notes in association with Centres of Procurement Expertise



Roles of Parties in the Procurement Process

Working with Customers and Suppliers

- 8.1 A key recommendation of the Review of Public Procurement, carried out on behalf of the Executive in 2001-2002, was that in line with a National Audit Office (1999) Report on Modernising Procurement, procurement staff in CPD or the CoPE be given the authority to influence all strategic procurement.
- 8.2 The practical effect of this recommendation is that Public Procurement Policy requires all public sector procurement to be carried out by means of an SLA between CPD/CoPEs and Departments, their Agencies, NDPBs and Public Corporations.
- 8.3 The SLA sets out the basis upon which the CoPE will provide professional and technical services and/or arrange supply and/or services contracts and perform related services for the Department, its nominated Agencies, NDPBs and any other bodies.
- 8.4 The key roles of CPD, CoPEs, procurement practitioners, customers and suppliers are summarised below. Time spent in clarifying roles and responsibilities at the outset of the procurement process will pay dividends later and may help to reduce the possibility of the procurement process running into problems at a later stage.

The Role of CPD

- 8.5 The Procurement Board is fully supported by CPD in all aspects of Public Procurement Policy within the Northern Ireland public sector. CPD interacts with the wider body of stakeholders in developing policy. Its roles and responsibilities include:
- formulating and reviewing procurement policy, in consultation with major stakeholders in the CoPEs, for endorsement by the Procurement Board and as appropriate, by the Executive

- disseminating agreed policies to the public sector and monitoring implementation
- developing a common Strategic Procurement Framework
- operating and maintaining a generic procurement process model
- developing management information on procurement expenditure
- collating and monitoring information on procurement performance across the public sector
- advising public sector procurers on the appropriate body to deal with high-value, strategically important procurements, whether this be CPD, an appropriate CoPE or others
- providing procurement services, under SLAs, to Departments, Agencies and NDPBs which request them
- developing the existing process for strategic management of key suppliers and in particular developing a “lead buyer” framework/network in collaboration with PPG
- seeking out and promoting best practice in procurement from within PPG or from the wider public sector, including promotion of necessary investment and taking account of particular constraints (for example, funding)
- establishing and maintaining appropriate relationships with similar procurement organisations in England, Scotland, Wales and the Irish Republic, as well as CoPEs and the private sector
- supporting and encouraging Northern Ireland Departments, their Agencies and NDPBs to respond to the challenges and deliver the benefits of modern procurement, and
- promoting appropriate research on public sector procurement issues, and accessing methods of organisational learning and professional training for the benefit of wider Northern Ireland public sector procurement performance.

The Role of Centres of Procurement Expertise

- 8.6 Each CoPE has a focus on, and longstanding links with their operational arms. Their procurement activities are heavily interlinked with the unique areas of responsibility which they support and in which they have developed considerable professional procurement expertise.
- 8.7 The granting of CoPE status by the Procurement Board is a recognition of the competency of each of these organisations to deliver an effective procurement service in relation to its unique portfolio. CoPEs employ procurement professionals and are subject to independent accreditation to validate their procurement expertise. The criteria against which organisations are currently assessed as CoPEs are given at Annex B (although this is subject to change in the future).
- 8.8 The procurement expertise provided by CoPEs will:
- provide strategic procurement advice and guidance
 - develop, promote and implement appropriate procurement strategies and procedures to meet customers' needs
 - deliver best value for money in the procurement of supplies, works and services
 - help to ensure that customers' business needs and requirements are met through the procurement of supplies, works and services
 - ensure that all procurement exercises are compliant with TFEU, EC Directives, UK Regulations, Northern Ireland Public Procurement Policy, other relevant policies and best practice
 - support delivery of sustainable procurement and equality through the procurement process
 - support the delivery of innovation in procurement solutions
 - manage and develop the supplier base including Small and Medium sized Enterprises (SMEs) and the Social Economy Enterprises (SEEs)

- enable opportunities for collaboration and innovation, working with other CoPEs and drawing on market knowledge, to be identified and implemented, and
- enable the benefits of electronic procurement to be realised.

8.9 The professionalism of procurement staff is underpinned by the Procurement Competence Framework for the Northern Ireland public sector¹⁶, which provides the link between the individual procurement professional's development needs and training. This framework can be used in procurement roles across the public sector to allow the structured development of procurement skills and competence.

The Role of Procurement Professionals

8.10 Professional procurement practitioners¹⁷ work with their customers to:

- ensure the procurement process is compliant with TFEU, EC Directives, UK Regulations, Northern Ireland Public Procurement Policy and wider policy requirements
- ensure the most appropriate procurement strategy is used (appropriate to the value and complexity of the supplies, works or services to be acquired) and provide advice on how to achieve best value for money
- draw on market knowledge, identify opportunities for collaboration, innovation, and integration of sustainable development objectives where applicable
- develop a specification which meets customer needs; is clear and consistent; includes economic, social and environmental considerations where possible; encourages competitive supply; does not place

¹⁶ Available from www.dfpni.gov.uk/index/procurement-2/cpd/cpd_publications.htm

¹⁷ May be studying for, or be Chartered Institute of Purchasing and Supply (CIPS) qualified. In construction procurement organisations, staff may be qualified under one of the construction related professions such as chartered engineers, registered architects or chartered quantity surveyors.

unnecessary burdens on the supply base; is outcome driven, and complies with personnel vetting procedures

- agree the tender documentation with the customer including tender selection and award criteria and weightings as appropriate
- publish the tender advertisement on websites and the Official Journal of the European Union (OJEU) where appropriate and issue tender documents electronically
- support the evaluation of the tender process in order to ensure the process is carried out in compliance with the law and in accordance with the agreed criteria and weightings
- manage the overall procurement process, involving others who are experts in the subject matter as required, and notifying bidders of the outcome of the tender exercise
- provide professional procurement support through the process, advising and attending any presentations/site visits/clarification meetings
- issue award/regret letters and provide debriefing to unsuccessful tenderers so as to facilitate better performance in the future
- finalise contract details with the winning contractor
- review the established contract with the customer and supplier when applicable to assess the performance of the parties to the contract, and
- use the knowledge gained to help develop best practice.

The Role of the Customer

8.11 The customer's role is critical to maximising the success of the procurement process. It is important therefore that Departments, Agencies, NDPBs etc properly exercise their customer role and do the following to ensure CoPEs can deliver an effective and efficient procurement service:

- agree SLAs with the relevant CoPEs and maximise the level of procurement expenditure channelled through a CoPE
- develop a Procurement Strategy, which takes account of the role procurement can play in the delivery of Programme for Government commitments, budget priorities and ISNI, etc. Departments should plan procurement activity, clearly distinguishing between strategic and routine requirements and ensure that appropriately qualified staff are allocated to strategic contracts. This is best done through the use of Programme and Project Management Best Practice and use of the Gateway Review Process
- work with procurement professionals to:
 - clearly define need, ensuring business case approvals and funding are in place in advance
 - involve procurement professionals as early as possible, enabling CoPEs to utilise their expertise by guiding and supporting the customer, maximising the resources available and supporting business planning
 - work with procurement professionals in developing a specification which meets needs, is legally compliant, clear and consistent and includes, economic, social and environmental considerations, where possible
 - agree the tender selection and award criteria and weightings as appropriate
 - agree the tender documentation and the content of the tender advertisement
 - nominate a tender evaluation panel with the necessary skills and experience to evaluate the tenders, and

- ensure that conflict of interest in the procurement is avoided.

The Role of Suppliers

8.12 Suppliers play an important role in delivering the public sector's core business and contributing to its aim of providing high quality, efficient, responsive and customer focused services. In its turn, the public sector contributes to the business and aims of suppliers.

8.13 In this regard CoPEs work with suppliers' representatives and lead bodies with the aim of developing a greater understanding of the public sector's needs in order to assist suppliers to:

- help to deliver better public services
- deliver quality supplies, services and construction works on time and within budget
- reduce cost and eliminate waste through customer improvements, and
- integrate sustainability through the supply chains.

8.14 The public sector requires Suppliers to meet the following requirements:

- provide a safe and competent workforce employed in accordance with industry best practice
- incorporate safety into design and work to approved method statements and risk assessments
- submit complete tenders on the agreed dates and times
- deliver to the agreed specification, on time and to agreed cost
- follow invoicing procedures to facilitate prompt payment, where applicable through the Government Procurement Card (GPC)
- pay sub-contractors within 30 days, but where the main contractor benefits from earlier payment, this should be passed on to the sub-contractor
- promote innovation and sustainability in cooperation with procurement staff and the rest of the Supply Chain
- commit to and participate in Continuous Improvement Programmes

- take a non-adversarial approach to dispute resolution
- commit to and apply the public sector values and standards expected of all participants in the procurement process – see annexes C and D
- meet CPD/CoPE management information needs as specified, and
- have in place effective anti-fraud measures.

Standards Expected of Participants in the Procurement Process

9.1 It is the responsibility of all concerned in the procurement process to ensure it is above suspicion of conflicts of interest or the perception of bias at any stage.

9.2 In particular the following advice should be followed:

- the 12 principles governing public procurement should be adhered to throughout the process. These include Integrity and Fair-dealing. Further details on the 12 principles are at Annex A.
- suppliers are expected to maintain high ethical standards of business and professional conduct, and
- Public Servants involved in the process (procurement professionals and customer representatives) should adhere to the following advice:
 - evaluation panel members should not accept gifts or hospitality from tenderers and should avoid contact with tenderers during the tender process. All contact with tenderers during this time must be handled by the CoPE
 - any possible conflict of interest or issue of bias should be discussed with the Chairperson of the evaluation panel as soon as it arises and brought to the attention of the CoPE. The Chairperson will decide on the appropriate course of action, taking account of advice from the CoPE, to ensure there is no distortion of competition, and record the outcome
 - should behave throughout the process in a way which is compliant with the Civil Service Code of Ethics (Annex C), the Nolan Principles (Annex D) and the Code of Ethics of their relevant professional body, and
 - must not seek to further their own private interests or those of others in the course of their official duties. In order to help record compliance, a Register of Interests should be compiled by CoPEs and all staff are required to complete an annual Declaration of Interest form (including NIL returns where appropriate) providing details of any interests relevant to the work of the CoPE.

Complaint Handling

- 10.1 CPD and the CoPEs aim to provide a high quality, efficient and professional service, but occasionally things can go wrong and there are formal complaints procedures in place to resolve such matters if they arise.
- 10.2 Public Procurement Policy requires each CoPE to have a formal complaints procedure through which complaints can be formally investigated. Details of these procedures can be found on the relevant CoPEs' website.
- 10.3 It is important to note that the complaints procedure is not an appeal mechanism for tenderers who are dissatisfied with the outcome of a procurement competition. In such cases, an application should be made to the High Court. The procedures which apply are set out in the Public Contracts Regulations 2006 SI 2006 No 5 (as amended) and the Utilities Contracts Regulations 2006 SI 2006 No.6 (as amended).

Ensuring Compliance with Public Procurement Policy and Legislation

Audit and Quality Assurance

- 11.1 Internal Audit procedures have an important role to play in ensuring conformance to standards of good governance and accountability with regard to procurement. Audits help to ensure that processes are effective and that corrective action is taken when deficiencies are identified.
- 11.2 External Audit also has a significant role to play in reporting on corporate governance arrangements, including value for money and risk management.
- 11.3 Certified Quality Management Systems (QMS), such as BS EN ISO 9001:2008, can assist in improving the operational efficiencies of organisations and can make it easier to measure performance and manage business risk more effectively.

Health and Safety

- 11.4 Health and safety requirements will vary according to the supplies, works or services being purchased and therefore the extent to which these are addressed in the tender documentation will have to be assessed on a case by case basis.
- 11.5 Generally speaking, consideration will need to be given to:
- the potential health and safety risks arising from a particular contract (specific health and safety legislation applies in the context of construction)
 - the monitoring of contracts to ensure compliance with health and safety requirements, and
 - in this context the supplier must demonstrate:

- active promotion and management of good health and safety practice
- that their organisation complies with current health and safety legislation, and
- the ability to provide information on the measures they would put in place to address any health and safety risks which have been identified.

Freedom of Information

- 11.6 The Freedom of Information (FOI) Act 2000 as it applies to public procurement, is a general right of access to information about all public contracts and procurement activity held by Public Authorities, subject to certain conditions and exemptions.
- 11.7 To accelerate internal procedures designed to ensure compliance with the 20 working day statutory response time for FOI requests, tender documents should include a FOI Statement for completion by tenderers.
- 11.8 The advantage of this approach is that tenderers state in advance which information they consider sensitive together with reasons for and the period of sensitivity. Requests for information which are not considered sensitive can consequently be processed quickly and efficiently.
- 11.9 Tenderers must also be advised that the information contained in their tenders may be released under FOI legislative requirements. A clause to this effect should be used by all Public Authorities in Northern Ireland.
- 11.10 Most requests for procurement information will have some supplier implications and potentially the overhead in consulting on all cases could be significant. Whilst this may be a fact of life for the Authority, it should be recognised that suppliers will also carry an overhead in responding to the Authority. A pragmatic approach within the bounds of reasonableness to consultation with the supply base is therefore recommended.

11.11 Further guidance on FOI exemptions relevant to public procurement and the Environmental Information Regulations can be found in Procurement Guidance Notes 02/08 and 01/10 on Information Disclosure for public sector Procurement Practitioners¹⁸.

Data Protection Act

11.12 In comparison with the FOI Act, the Data Protection Act (DPA) applies to information held about an individual and requested by that individual. Although such a request might originally be received as a request under the FOI Act, an Authority's request handling procedures should quickly identify it as exempt under the FOI Act and route it to their DPA process. This has no particular procurement aspect and so the Department for Constitutional Affairs guidance on a S40 Personal Information exemption is applicable (available from www.dca.gov.uk).

¹⁸ Available from www.dfpni.gov.uk/index/procurement-2/cpd/cpd-policy-and-legislation/content - cpd - policy - procurement guidance notes.htm

Other Sources of Information and Guidance

- 12.1 A range of guidance and additional information is available for suppliers and customers from the [CPD website](#)¹⁹.

¹⁹ http://www.dfpni.gov.uk/index/procurement-2/cpd/cpd-policy-and-legislation/content_-_cpd_-_policy_-_procurement_guidance_notes.htm

Annexes

Principles Governing Public Procurement

The twelve principles governing public procurement are as follows:

- i. Accountability: effective mechanisms must be in place in order to enable Departmental Accounting Officers and their equivalents in other public bodies to discharge their personal responsibility on issues of procurement risk and expenditure.
- ii. Competitive Supply: procurement should be carried out by competition unless there are convincing reasons to the contrary.
- iii. Consistency: suppliers should, all other things being equal, be able to expect the same general procurement policy across the public sector.
- iv. Effectiveness: public bodies should meet the commercial, regulatory and socio-economic goals of government in a balanced manner appropriate to the procurement requirement.
- v. Efficiency: procurement processes should be carried out as cost effectively as possible.
- vi. Fair-dealing: suppliers should be treated fairly and without unfair discrimination, including protection of commercial confidentiality where required. Public bodies should not impose unnecessary burdens or constraints on suppliers or potential suppliers.
- vii. Integration: in line with the Executive's policy on joined-up government, procurement policy should pay due regard to the Executive's other economic and social policies, rather than cut across them.
- viii. Integrity: there should be no corruption or collusion with suppliers or others.

- ix. Informed decision-making: public bodies need to base decisions on accurate information and to monitor requirements to ensure that they are being met.
- x. Legality: public bodies must conform to European Community and other legal requirements.
- xi. Responsiveness: public bodies should endeavour to meet the aspirations, expectations and needs of the community served by the procurement.
- xii. Transparency: public bodies should ensure that there is openness and clarity on procurement policy and its delivery.

CoPE Assessment Criteria (currently under review)

The Procurement Board agreed that the competency of organisations that are recognised CoPEs would be re-assessed on a periodic basis and that any re-assessment would be against a set of agreed criteria as follows:

- Unique procurement portfolio
- Responsibility for awarding contracts with an annual value of £80m averaged over a 3-year period
- Specialist knowledge/competency of the unique portfolio and/or client base
- Procurement expertise evidenced by the qualifications, training and development of staff
- Successful track record of achieving best value for money, regulatory compliance and application of best practice
- Operable complaints procedure

High standards of service responsiveness

- Accredited (or equivalent) Quality Assurance Systems in operation
- Adequate mechanisms in place to provide assurance that the conditions of contract are adequately monitored and pursued, and
- Improved performance on procurement over the period as demonstrated by the use of an appropriate Excellence Model.

Northern Ireland Civil Service Code of Ethics

Civil Service values

1. The Civil Service supports Ministers in developing and implementing their policies, and in delivering public services. Civil servants are accountable to Ministers.
2. As a civil servant, you are appointed on merit on the basis of fair and open competition and are expected to carry out your role with dedication and a commitment to the Civil Service and its core values: integrity, honesty, objectivity and impartiality.

In this Code:

- ‘integrity’ is putting the obligations of public service above your own personal interests;
 - ‘honesty’ is being truthful and open;
 - ‘objectivity’ is basing your advice and decisions on rigorous analysis of the evidence; and
 - ‘impartiality’ is acting solely according to the merits of the case and serving equally well Ministers of different political persuasions.
3. These core values support good government and ensure the achievement of the highest possible standards in all that the Civil Service does. This in turn helps the Civil Service to gain and retain the respect of Ministers, the Assembly, the public and its customers.
 4. This Code sets out the standards of behaviour expected of you and all other civil servants. These are based on the core values. Individual departments may also have their own separate mission and values statements based on the core values, including the standards of behaviour expected of you when you deal with your colleagues.

Integrity

5. You must:

- fulfil your duties and obligations responsibly;
- always act in a way that is professional and that deserves and retains the confidence of all those with whom you have dealings;
- make sure public money and other resources are used properly and efficiently;
- deal with the public and their affairs fairly, efficiently, promptly, effectively and sensitively, to the best of your ability;
- handle information as openly as possible within the legal framework; and,
- comply with the law and uphold the administration of justice.

6. You must not:

- misuse your official position, for example by using information acquired in the course of your official duties to further your private interests or those of others;
- accept gifts or hospitality or receive other benefits from anyone which might reasonably be seen to compromise your personal judgment or integrity; or
- disclose official information without authority. This duty continues to apply after you leave the Civil Service.

Honesty

7. You must:

- set out the facts and relevant issues truthfully, and correct any errors as soon as possible; and
- use resources only for the authorised public purposes for which they are provided.

8. You must not:

- deceive or knowingly mislead Ministers, the Assembly, or others; or be influenced by improper pressures from others or the prospect of personal gain.

Objectivity

9. You must:

- provide information and advice, including advice to Ministers, on the basis of the evidence, and accurately present the options and facts;
- take decisions on the merits of the case; and

- take due account of expert and professional advice.

10. You must not:

- ignore inconvenient facts or relevant considerations when providing advice or making decisions; or
- frustrate the implementation of policies once decisions are taken by declining to take, or abstaining from, action which flows from those decisions.

Impartiality

11. You must:

- carry out your responsibilities in a way that is fair, just and equitable and reflects the Civil Service commitment to equality and diversity and the obligations of your department or agency under Section 75 of the Northern Ireland Act 1998.

12. You must not:

- act in a way that unjustifiably favours or discriminates against particular individuals or interests.

Political Impartiality

13. You must:

- serve Ministers, whatever their political persuasion, to the best of your ability in a way which maintains political impartiality and is in line with the requirements of this Code, no matter what your own political beliefs are;
- act in a way which deserves and retains the confidence of Ministers, while at the same time ensuring that you will be able to establish the same relationship with those whom you may be required to serve in the future; and
- comply with any restrictions that have been laid down on your political activities.

14. You must not:

- act in a way that is determined by party political considerations, or use official resources for party political purposes; or
- allow your personal political views to determine any advice you give or your actions.

Rights and responsibilities

15. Your department or agency has a duty to make you aware of this Code and its values. If you believe that you are being required to act in a way which conflicts with this Code, your department or agency must consider your concern, and make sure that you are not penalised for raising it.
16. If you have a concern, you should start by talking to your line manager or someone else in your line management chain. If for any reason you would find this difficult, you should raise the matter with your department's nominated officers who have been appointed to advise staff on the Code.
17. If you become aware of actions by others which you believe conflict with this Code you should report this to your line manager or someone else in your line management chain; alternatively you may wish to seek advice from your nominated officer. You should report evidence of criminal or unlawful activity to the police or other appropriate authorities.
18. If you have raised a matter covered in paragraphs 15 to 17, in accordance with the relevant procedures, and do not receive what you consider to be a reasonable response from your department or agency, you may report the matter to the Civil Service Commissioners for Northern Ireland. The Commissioners will also consider taking a complaint direct. Their address is:

Office of the Civil Service Commissioners for Northern Ireland
5th Floor
Windsor House
Bedford Street
Belfast BT2 7SR
Tel. 90549151
Email: ocsc@nics.gov.uk

If the matter cannot be resolved using the procedures set out above, and you feel you cannot carry out the instructions you have been given, you will have to resign from the Civil Service.

19. This Code is part of the contractual relationship between you and your employer. It sets out the high standards of behaviour expected of you which follow from your position in public and national life as a civil servant. You can take pride in living up to these values.

The Seven Principles of Public Life (The Nolan Principles)**Selflessness**

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

These principles apply to all aspects of public life. The Committee has set them out here for the benefit of all who serve the public in any way.

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