

UK Procurement Capability Statement

May 2024

Introduction

Our UK public procurement team has considerable experience in assisting with all stages of the procurement process from developing tenders, advising on procurement rules and drafting relevant tender documentation, to contract evaluation, negotiation, post-contract support and challenging procurement decisions.

Our expertise includes advising on issues relating to the application of EU and UK tendering rules. Our team works on both sides of the procurement process, from advising clients on the appropriate means of tendering major contracts to advising private businesses on their rights and duties as tenderers. Our expertise covers a wide range of structures and processes, including framework agreements, dynamic purchasing, pooling and inhouse/Teckal procurement.

We also have particular expertise in challenging or contesting procurement decisions that are unfavourable to our clients. Taking advantage of recent developments in the law that protect tenderers' rights, we have had notable successes for clients that were disappointed with the outcome of a tender or unhappy with the procedure that had taken place.

Given the strict (and tight) deadlines that apply, we respond to our clients' needs quickly and conscientiously, having regard to their best commercial interests. When necessary, we will prepare a legal claim on your behalf against an award decision. However, we have also achieved very positive results for clients without the need to take such formal action, as we seek to avoid costly litigation whenever possible.

We have provided overleaf a selection of recent examples which help demonstrate the breadth and depth of our team's expertise.

If you require further information on our credentials, please do not hesitate to contact any of our team members.

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Experience Acting for Bidders Challenging a Central or Local Government Procurement Decision

- **Global distributor of electrical supplies and services** – Representing in relation to a procurement challenge against a nuclear power plant.
- **Marston Holdings Limited** – Representing in its Technology and Construction Court (TCC) procurement challenge in the High Court against Lewisham Council for the provision of civil parking enforcement services.
- **Private medical care practice** – Advising in relation to a potential challenge against a procurement award by an NHS integrated care board.
- **Global provider of informatics software** – Advising this provider of software to support diagnostic testing in healthcare in relation to a procurement award by an NHS trust.
- **Building services and construction company** – Advising in relation to a potential challenge against a procurement award by the housing association L&Q.
- **Vodafone** – Representing in a potential challenge against Northern Ireland Electricity in relation to the tender process for the award of a contract for telecommunications services in the courts in Northern Ireland.
- **Marston Holdings Limited** – Representing in its TCC procurement challenge in the High Court against Oxfordshire County Council for the provision of civil parking enforcement services.
- **Marston Holdings Limited** – Advising in relation to its options following an unsuccessful tender to Liverpool City Council for enforcement agency services.
- **Vodafone** – Advising as an interested party in relation to a procurement challenge brought by Fujitsu Services Limited against the Foreign & Commonwealth Office for the award of a contract regarding global connectivity to Vodafone.
- **SRCL Limited** – Successfully representing in its appeal of a High Court judgment that dismissed SRCL's procurement challenge against NHS England in the procurement for the supply of clinical waste services for GPs and pharmacies in the North East of England region. The matter was satisfactorily settled prior to the Court of Appeal hearing. (N.B. The firm did not advise SRCL in its High Court proceedings).
- **Marston Holdings Ltd** – Successfully representing in its TCC procurement challenge in the High Court against the Ministry of Justice for the provision of enforcement services. The challenge led to the Ministry of Justice cancelling the contract award and announcing that it would rerun the procurement.
- **National out-of-home media owner** – Acting on behalf of this client in relation to potential challenges against a number of (separate and unrelated) procurements by various local authorities regarding advertising concessions.
- **National supplier of courier services** – Acting on behalf of this client in relation to a potential challenge against a procurement award by the Food Standards Agency.
- **National supplier of courier services** – Acting on behalf of this client in relation to a potential challenge against a procurement award by Great Ormond Street Hospital.
- **National supplier of courier services** – Acting on behalf of this client in relation to a potential challenge against a procurement award by NHS National Services Scotland.

Other UK-related Procurement Experience

- **Sheffield City Council** – Representing in its defence of a TCC procurement challenge in the High Court for the construction and operation of the Sheffield Clean Air Zone Automatic Number Plate Recognition Network.
- **Multiple public bodies, local authorities and current/prospective suppliers** – Advising regarding new and ongoing procurement procedures, direct awards and contract amendments during the COVID-19 crisis and in light of government guidance.
- **Magnox Limited** – Advising in relation to a claim in the High Court by Amalgamated Construction Limited for alleged breach of the performance of a contract following a procurement process supported by the Nuclear Decommissioning Authority.
- **BritNed Development Limited** – Advising in relation to a major cartel damages claim in the High Court against ABB AB and ABB Ltd arising out of breaches of competition law during a utilities procurement.
- **Magnox Limited** – Advising in relation to its investigation into an apparent abnormally low tender by a potential supplier.
- **Provider of accommodation services** – Advising on a £15 million dispute relating to a public subcontract with the Home Office, concerning issues of public procurement law and contractual construction.
- **Waste management services provider** – Advising in relation to a dispute concerning the performance and modification of a public supply contract with three local authorities.
- **Provider of managed Wi-Fi services** – Advising in a public procurement challenge against a local authority. The local authority agreed to abandon the procurement and rerun the process.
- **Provider of memorial walls** – Advising in relation to the procurement requirements for entering into a profit-sharing joint venture (JV) with a local authority.
- **UK Ministry of Defence** – Acting in a private finance initiative (PFI) for the procurement of strategic tanker aircraft for air-to-air refuelling.
- **Public Purchasing Organisation** – Advising on a range of procurement issues, in relation to expanding its range of commercial activities, and the application of the procurement rules to commercial sales of energy contracts by its subsidiaries.
- **UK Government** – Advising on the M25 London Orbital motorway project, including the procurement and planning stages of the £6 billion design, build, finance and operate project.
- **UK Ministry of Defence** – Acting in a PFI for the provision of accommodation for the army in the UK.
- **London Underground Limited** – Acting in a public-private partnership (PPP) for the upgrade of the London Underground.
- **Healthcare provider** – Advising on the application of the Public Procurement Regulations with regard to NHS contracts for the provision of integrated community equipment services.
- **Manufacturer of industrial products** – Advising on its ability to participate in public tenders following a finding of liability for a cartel.
- **UK councils and local authorities** – Advising on public procurement and state aid issues concerning urban regeneration projects, including major town centre redevelopments.
- **UK Government** – Providing with procurement advice for a feasibility study on collective investment vehicle structures.
- **UK local authority** – Advising on the state aid and public procurement aspects of its £200 million-plus acquisition of a science park.

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