

Procurement for Contracting Authorities

Hempsons has an established procurement practice and a national reputation for the provision of high quality legal advice and project management in this area. Procurement law is a fast moving and evolving area of law. It presents a number of challenges for commissioning and procurement teams in ensuring that they comply with the Regulations, overarching EU Treaty principles, and the requirements of policy and guidance.

We provide preventative procurement advice to manage risk, design robust and defensible procurement processes and defend procurement law challenges. In addition to all other policy and legal requirements impacting on this area of law, the team has an in-depth understanding of the Public Contracts Regulations 2015 and the rules relating to utilities and concessions. The team is also experienced in understanding the commissioning of healthcare services and the impact that the Light Touch Regime has had on the commissioning of such healthcare services (since 18 April 2016) and can therefore provide advice to commissioners enabling them to both comply with their legal obligations and capitalise on the flexibilities available to them.

We advised the commissioners on the successful application to lift the automatic suspension of the contract award in *Newcastle upon Tyne Hospital NHS Foundation Trust -v- Newcastle PCT and others* and have successfully defended a substantial number of procurement law challenges. We continue to advise on both bringing and defending a significant number of legal challenges and apply the knowledge gained from our work to reduce and manage risk in clients' processes. We also advised on the successful and timely delivery of one of the first innovation partnership procedures under the 2015 Regulations.

The team has significant expertise in complex procurements including joint ventures and collaborative procurements and an in-depth understanding of the governance and legal frameworks within which our clients operate.

Procurement challenges are an increasing area of risk. We regularly defend challenges, which arise more frequently as a consequence of bidders being more aware of their rights and remedies, and those remedies being more easily available and effective. We also provide expert state aid advice. We work closely with our specialist information law team to offer a comprehensive service.

Key services from Hempsons' procurement team

- Advising on procurement strategies
- Market engagement/consultation advice
- Advising on and developing procurement processes
- Audits of procurement processes
- Drafting and advising on procurement documentation, including standstill letters
- Drafting contracts/specifications
- Confidentiality and FOIA advice
- Defending procurement challenges (formal and informal)
- Reviewing, advising on and stress testing evaluation methodologies
- Providing advice on risk mitigation strategies
- Advice on establishing and using frameworks compliantly.

Hempsons' dedicated procurement team sits within a wider Corporate Commercial department and can provide fast and incisive advice nationally.

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Key contacts at Hempsons

Adrian Parker, Partner | t: 01423 724029 | e: a.parker@hempsons.co.uk



As head of the Northern Corporate Commercial Department Adrian coordinates a number of specialist teams and heads our procurement law team. With over 20 years of experience advising the Health Sector, he provides innovative diagnosis of the challenges facing bodies working within this dynamic sector, and innovative solutions to achieve their commercial and policy objectives. Adrian has worked on many of the technical commercial legal issues arising in this sector and has a special interest in the commissioning and delivery of services, works and goods by public bodies through defensible procurement processes and effective contracts, in challenging and finding solutions where procurement processes are defective, and in assisting suppliers to maximise their chances of submitting successful tenders.

Andrew Daly, Partner | t: 01423 724015 | e: a.daly@hempsons.co.uk



Andrew has over 12 years' experience of advising public and third sector bodies on procurement law, acting for both contracting authorities and bidders. He utilises the knowledge gained from acting for clients on both sides of the fence to provide pragmatic advice on running both defensible procurement processes, and also to challenge defective processes for bidders. He led on the successful and timely delivery of one of the first innovation partnership procedures under the new regulations and regularly advises on designing and structuring processes, drafting procurement documentation and defending procurement law challenges. He also acted for the commissioner in defending the first NHS v NHS procurement challenge to reach the courts. He also advises on possible challenges to tender processes and has successfully overturned a number of procurement processes on behalf of bidders.

Deborah Ramshaw, Partner | t: 0191 230 6046 | e: d.ramshaw@hempsons.co.uk



Deborah is a nationally recognised procurement law expert. Chambers 2017 states that clients say that "*her advice is always very pragmatic and commercial...*". She joined Hempsons after 17 years at Bond Dickinson LLP and prior to that she was a solicitor in local government. Deborah has expertise in a wide range of sectors including: health, local government, central government, energy (including district energy schemes), transport, education and registered providers. Deborah also advises private sector providers across a range of procurement law matters including tendering strategies and advice on challenging unsuccessful bids. Deborah has extensive experience of advising on complex procedures and frameworks, including four frameworks for the Education Funding Agency. Deborah authors notes on procurement law for Westlaw Insight and Lexis PSL and provides training to clients and bodies such as CIPS.

Oliver Crich, Associate | t: 01423 724132 | e: o.crich@hempsons.co.uk



Oliver advises contracting authorities on all aspects of conducting compliant and effective procurement processes, as well as on managing and defending procurement challenges. He also acts for bidders in assessing and responding to tender opportunities and in challenging processes, resolving disputes before and after proceedings are issued. Oliver has considerable experience in advising on all aspects of procurement processes, including complex competitive dialogue processes in the projects/construction sector, where Oliver has acted for both bidders and NHS organisations. Oliver also advises on all aspects of commercial contracts, including in relation to the preparation (and, where appropriate, negotiation) of the contracts that are the subject of the relevant tender process.

