

Law, Regulation and Finance of Commissioning

Modular value: 20 credits

Duration: One 2 day and 3 day seminars (Five day module)

Module convenors: **Peter Watt** (<http://www.birmingham.ac.uk/schools/government-society/staff/profiles.aspx?ReferenceId=4531>) and **Jon Glasby** (<http://www.birmingham.ac.uk/schools/social-policy/staff/profile.aspx?ReferenceId=4329>) (HSMC)

In an era of public service reform and modernisation, the activities of commissioning, procurement and contracting increasingly provide the critical link between the public bodies that fund and plan service provision, and individual service users. The mediated nature of this relationship between state and citizen raises important questions about governance, public accountability (including financial accountability), human rights, ethics, access to justice, corruption and the impact of power relations. Strategic commissioners and leaders in procurement and contracting agencies must have insight into these issues to fully understand their own role, and to ensure appropriate risk management mechanisms are put in place.

This module will consider the growing body of law that relates to public procurement in Europe and the UK, in particular the extent to which it takes account of social issues (labour, equality, SME development, regeneration and environmental impact), sustainable development, confidentiality, and freedom of information. It will also consider the legal status of the various relationships between statutory bodies, members of the public, service users and service providers under different models of public service delivery, and the implications this has for commissioners.

Participants will examine the differences between regulation and performance management, and examine the role of regulators in assessing the commissioning function of public bodies, and in holding them to account.

The module will explore the different financial models underpinning commissioning and procurement, both in terms of the way budgets are allocated to and constructed by commissioners (e.g. the use of pooled budgets by health and social care agencies), and the way they are distributed to service users and providers (e.g. through direct-payments, individual budgets, grants, contracts etc.).

The module will emphasise the need to both anticipate and evaluate the impact of commissioning and de-commissioning decisions on a wide range of stakeholders, and to consult with such stakeholders accordingly. Through exploring the relationships between these legal, financial and ethical issues, the module aims to develop students' understanding of how the role of commissioner carries particular responsibilities to individuals and communities, and in the wider public realm.

Teaching and learning approach

- Pre-reading for class discussion and group exercises
- Lectures and seminar-style presentations from University faculty and external contributors with class discussion
- Individual interaction with module convenors / personal tutors for tutorial support as required
- Participation in simulation exercise / group task (for negotiation skills development)
- Personal reading for, preparation of and feedback on written assignment

Unit 1

- Introduction and Module Overview
- Applying domestic law to the commissioning process
- The Legal Framework for Public Procurement Directive 2004/18/EC; relevant EC Treaty principles; the Public Contracts Regulations 2006
- Regulation and Inspection of Public Service Commissioning
- Commissioning local public services: developing a model from Audit Commission research

Unit 2

- Financial issues in PFI
- Public Consultation and Service Change – learning from experience
- Public Consultation and Commissioning
- Negotiation and influencing skills
- Commissioning for service resilience in the face of economic dislocation
- Dealing with non-compliance and inadequate performance in contracts and service level agreements: substance and process
- Issues in Local Government and Health Service Finance
- Law, Regulation and Finance of Commissioning
- Issues in Local Government and Health Service Finance continued
- Personalised Care and Individual Budgets
- Reflections Session: Drawing Threads Together
- Assignment preparation

Learning outcomes

As a result of completing the module, participants should be able to:

- Understand and critically analyse UK public service regulation frameworks and inspection regimes as they relate to procurement and commissioning
- Understand and evaluate the challenges in ensuring public sector standards and accountability frameworks are incorporated, and followed, in commissioning and procurement activities
- Understand national and EU procurement frameworks and law, and identify how they relate to commissioning challenges in public organisations
- Critically assess the relationship between commissioners, service users and citizens, and engage in informed speculation about the evolution of accountability, legislative and regulatory frameworks that impact on these relationships

- Understand why public consultation and involvement is a critical commissioning responsibility, and evaluate where, when, at what level and with whom public consultation should be carried out
- Critically evaluate the challenges associated with effective public consultation
- Demonstrate effective negotiation skills and understanding of negotiation strategies, including awareness of personal influencing skills and styles, and ability to identify when and how to undertake negotiation
- Understand the foundations of financing commissioning activities, including how public sector resources are organised and distributed, at both a macro- and micro-level.
- Critically evaluate the impact and outcome of commissioning and procurement decisions on social issues such as employment, economic development, sustainability, and equality.

Assessment

- Assignment One - 3000 words
- Assignment Two - 3000 words

You may be interested in these degrees:

- [Public Management MSc/PGDip/PGCert \(/postgraduate/courses/taught/govsoc/public-management.aspx\)](/postgraduate/courses/taught/govsoc/public-management.aspx)
- [Public Management \(Local Policy and Leadership\) MSc/PGDip/PGCert \(/postgraduate/courses/taught/govsoc/public-management-local-policy-leadership.aspx\)](/postgraduate/courses/taught/govsoc/public-management-local-policy-leadership.aspx)
- [Public Management \(Health and Social Care\) MSc/PGDip/PGCert \(/postgraduate/courses/taught/govsoc/public-management-health-social-care.aspx\)](/postgraduate/courses/taught/govsoc/public-management-health-social-care.aspx)
- [Public Service Commissioning MSc/PGDip/GDip/PGCert/GCert \(/postgraduate/courses/taught/govsoc/public-service-commissioning.aspx\)](/postgraduate/courses/taught/govsoc/public-service-commissioning.aspx)
- [Masters in Public Administration \(MPA\) \(/postgraduate/courses/taught/govsoc/public-administration.aspx\)](/postgraduate/courses/taught/govsoc/public-administration.aspx)
- [Social Research \(Local Government and Public Policy\) MA/PGDip/PGCert \(/postgraduate/courses/taught/govsoc/social-research-local-government-public-policy.aspx\)](/postgraduate/courses/taught/govsoc/social-research-local-government-public-policy.aspx)

[Privacy](#) | [Legal](#) | [Cookies and cookie policy](#) | [Accessibility](#) | [Site map](#) | [Website feedback](#) | [Charitable information](#)

© University of Birmingham 2015

