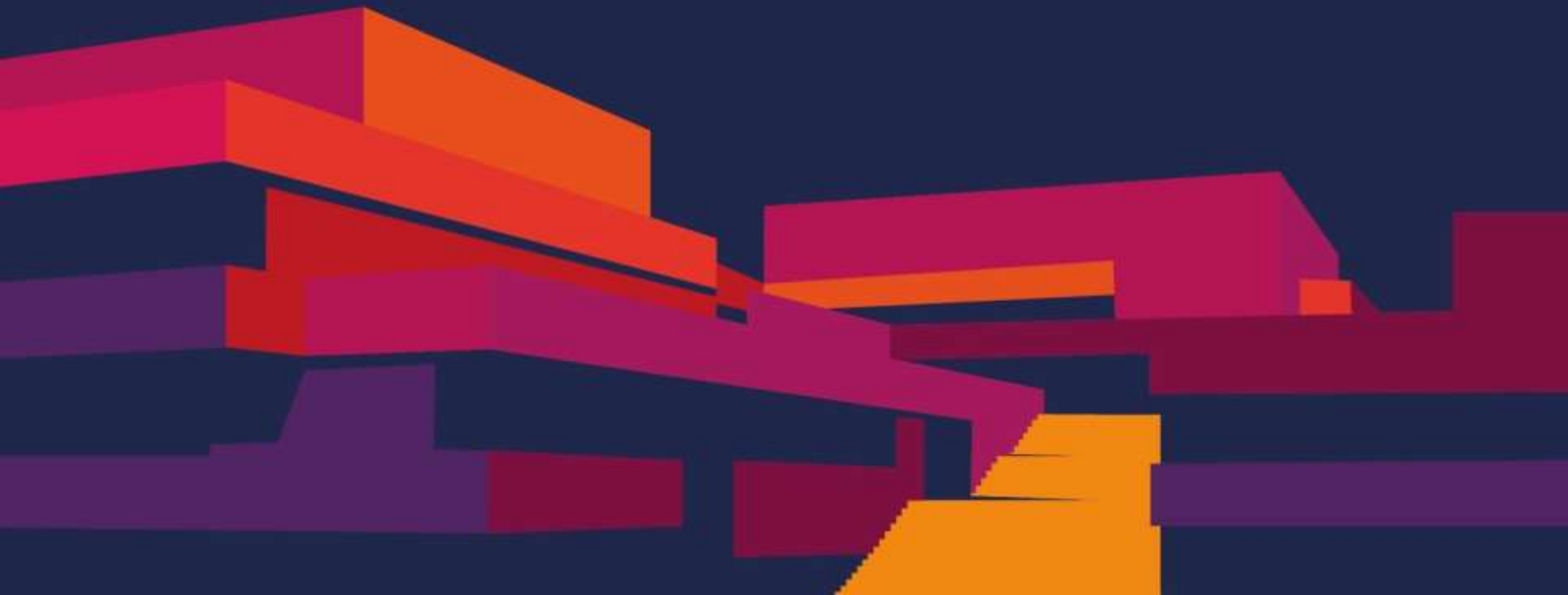




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A Study with Public Procurement Officials Implementing Net Zero Policy in Government Contracts Around the UK





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University of Copenhagen - Københavns Universitet



Essay from Ph.D. Dissertation (2024)

THE GEORGE
WASHINGTON
UNIVERSITY
WASHINGTON, DC

Three essays on "Active Definition" in government contracts.

Essay 1.

Theoretical Foundations of the [NEW] Active Definition Framework



Essay 2.

A study of Net Zero policy implementation around the UK

Essay 3. Chapter 4 “LCF Essay”

Performance Management and Payment Triggers in the Design of Cross-Sectoral Social Outcomes-Based Contracts: UK’s Life Chances Fund



- **Position / Why?**

Insights from practical experience with US federal contracting:

Scale of public expenditure on contracts is massive.

What the contract says seems less important to success than how people understand and exercise their discretion.

There is so much attention to *awarding contracts*, whereas most of the action happens *after award*.

- **Curiosity**

How people **define, undefine, and redefine** their work on government contracts?

- How do **people, relationships, work, context, and change** interact that might explain success on contracts?

Research Questions

- RQ 1: How do public managers describe the opportunities and challenges they experience when implementing Net Zero policies through public procurement in selected places around the UK?
- RQ 2: What similarities and differences emerge between the selected places?

Methods

- Qualitative case study with embedded elements (Cresswell and Poth 2018, Yin 2009) in which focus groups are used to listen and learn (Morgan, 1998, Krueger 1998)
 - Questions asked in focus groups were based on the OECD's Methodology for Assessing Procurement Systems (MAPS).
 - The qualitative coding of audio and transcript files was performed by the author and is informed by Giola (2021). This coding utilizes indicators within the OECD MAPS sustainable public procurement module (OECD & MAPS Secretariat, 2023b), and the “people” element of the new Active Definition Framework.
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Data

Focus group audio and transcripts (March 2023) with procurement professionals from different levels of government in four places around the UK (embedded elements)

- Belfast (Northern Ireland)
- Cardiff (Wales),
- Edinburgh (Scotland)
- Newcastle (England)



Table 1. Focus Group Places and Participants.

[An error in this table was subsequently corrected.]

Belfast, N. Ireland Cardiff, Wales Edinburgh, Scotland Newcastle, England	19 participants (total) plus local academic hosts	14 procurement officials 2 procurement advisors 2 sustainability officials 1 chief executive	9 people at the Scottish / Welsh / Northern Ireland executive level. 5 local councils 3 shared services orgs 2 (public) universities

Review

- Public law and private law.
- Relationalism, Bounded rationality, Information asymmetries, Routines & learning
- Hybrid role of a public official with private commercial skills

Table 2. Layers of rules utilised or navigated by procurement officials

Layer 3	<i>Overarching public procurement principles - transparent, integrity, etc.</i> <i>(Frequently expressed in international treaties and professionalisation initiatives)</i>
Layer 2	<i>Public organization's wider economic, social, and environmental policy goals</i> <i>(Increasingly integrated into procurement via various social value, community wellbeing policies)</i>
Layer 1	<i>Directly related to the transaction or collaboration</i> <i>(Contractual terms in contracts and implied / incorporated into the contract by law)</i>
Public manager with a specialized procurement function managing the public contract. (Layers of rules above surround this public manager, who is expected to have expertise and/or act in furtherance or ensure compliance with the rules at all levels)	

Context

Table 3. Law and Policy Context

		Selected legislation.
United Kingdom	UK Government UK Parliament	<ul style="list-style-type: none"> • National Procurement Policy Statement (moving to legislative footing in new Procurement Act 2023)
England	UK Government and Parliament (No regional devolution, except for London and selected cities who have executive powers.)	<ul style="list-style-type: none"> • The 2008 Climate Act committed the UK to reducing its greenhouse gas emissions by 80% by 2050 compared to 1990 levels and in June 2019 this was amended to bring all greenhouse gas emissions to Net Zero by 2050 in the Climate Change Act 2008 (2050 Target Amendment) Order 2019. • PPN 06/20 <i>Taking Account of Social Value in the Award of Central Government Contracts</i> • 10% of the available points to social value themes in a social value model, as mandated in Procurement Policy Notice 06/20. Theme 3 in this Social Value Model is “Fighting climate change” and offers the following optional model award criteria (MAC): <ul style="list-style-type: none"> ○ “Effective measures to deliver any/all of the following benefits through the contract: <ul style="list-style-type: none"> ▪ MAC 4.1 Deliver additional environmental benefits in the performance of the contract including working towards net zero greenhouse gas emissions. ▪ MAC 4.2 Influence staff, suppliers, customers and communities through the delivery of the contract to support environmental protection and improvement. • PPN 06/21 titled “Taking account of Carbon Reduction Plans in the procurement of major government contracts” <ul style="list-style-type: none"> ○ Central gov contracts and orders of £5 million per annum ○ "Include, as a selection criterion, a requirement to provide a Carbon Reduction Plan confirming the supplier’s commitment to achieving Net Zero by 2050 in the UK, and setting out the environmental management measures that they have in place and which will be in effect and utilized during the performance of the contract."

Context

Table 3 continued.

		Selected legislation.
Scotland	Scottish Government Scottish Parliament	<ul style="list-style-type: none"> • Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 set the Net Zero target as 2045. [Note 2030 target to be ditched. BBC April 2024] • Scotland not part to [UK] Procurement Act 2023 • Scotland’s 2014 procurement law creates a “sustainability duty” upon public authorities. • Scottish Procurement Policy Note (SPPN 3/2022), titled “Public procurement - taking account of climate and circular economy considerations” does not take the 10% approach in UK leg. • Scotland has a National Performance Framework 2007 spending review, then the Community Empowerment (Scotland) Act (2015).
Wales	Welsh Government National Assembly for Wales (the Senedd)	<ul style="list-style-type: none"> • Wales has the earliest Net Zero target -- 2030. • Wales also has a Welsh Procurement Policy Statement <ul style="list-style-type: none"> ○ "We will progress long-term sustainable procurement, which builds on and scales best practice and sets clear steps that show how procurement is supporting the delivery of organisational well-being objectives" ○ "We will act to prevent climate change by prioritising carbon reduction and zero emissions through more responsible and sustainable procurement to deliver our ambition for a net zero public sector Wales by 2030." • Wellbeing of Future Generations (Wales) Act 2015 Act (WBFG) <ul style="list-style-type: none"> ○ Duty on those contracting authorities to carry out sustainable development.
Northern Ireland	Northern Ireland Executive Northern Ireland Assembly	<ul style="list-style-type: none"> • There is a Northern Ireland Procurement Policy Notice (NIPPN) from 2021 titled, “Scoring Social Value,” in which “Delivering zero carbon” is one of the social value themes. • PPN 06/20, this NIPPN 0/21 requires that Northern Ireland government departments give social value a minimum of 10% in the tender evaluation scoring process.

Selected Quotes on Contract Management Challenges

“...sometimes it doesn't go beyond the procurement stage. ... There is a lack of knowledge or maybe in part it's a lack of delivery, you know, in holding the suppliers to deliver those environment requirements ... Yes, so what comes back is quite woolly and it's quite hard to manage ... The requirements that are put in a procurement stage aren't being delivered...” Participant 2.

“And this is a big area for me around carbon capture and Scope 3. So we're asking suppliers to report their Scope 3 emissions and their carbon capture into tenders. We have a very limited capability within our team to actually understand what they're giving us.”
Participant 3.

Selected Quotes on Contract Management Challenges

“I don't think we're good at contract managing. I think that our manager, that our contractors manage us more than we manage them. I think that a lot of our contract managers think that procurement is an additional task to their day job.”

Participant 17.

..And then it starts, people say, well, I'm not really the contract manager. Well, you're the main contract manager, and actually you signed the contract reward report, so you would be the contract manager, you know, and all of a sudden now, because they've got to, so I think there's, because people aren't generally people aren't generally employed as contract managers, they are technical people.”

Participant 8.

Selected Quotes – Opportunity

“.....And that [call to action to agency heads from ministers] letter was something that a lot of people had asked if we could put out because they were feeling the frustrations of [climate issues] always landing on the procurement's desk and not part of the wider organization. So it's a culture change that was attempted by that 'call to action letter.'” Participant 3.

Another participant agreed that the call to action letter was helpful:

“That's a good example that [participant] has given there, because that's an example of, it's not something else being done to procurement. It's the opposite. It's leverage for heads of procurement within their own organization.” Participant 5.

Findings

Table 4: Summary of RQ2 Findings -- Similarities and Differences

Opportunities	<ul style="list-style-type: none">• Good understanding of various Net Zero targets and related policies with procurement in most places.• Market engagement around upcoming framework agreements and major contracts.• “Call to Action” from political leaders to agency heads regarding procurement was helpful• Shared procurement services organizations may be well positioned to have impact and/or framework agreements may generate revenue to support staff with expertise
Challenges	<ul style="list-style-type: none">• Staffing and capacity issues around the wider policy role• Communicating wider policy role of public procurement professionals within organizations• Communicating with potential contractors - confusing inconsistent language• Individual contractor driven suggestions within an overly broad menu of potential economic, social, and environmental policy options.• Widespread contract management challenges, including contract manager roles and understanding what contractors are providing.

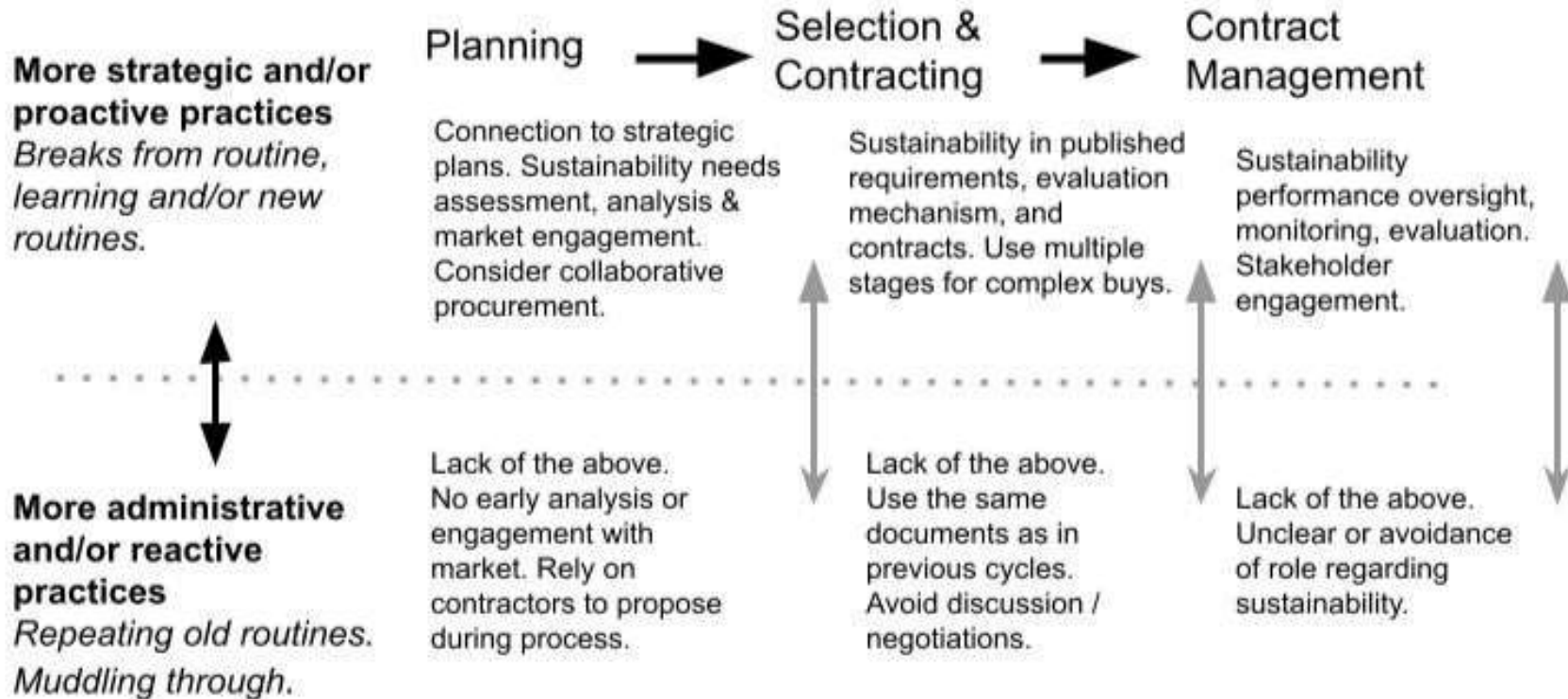
Findings

Table. Summary of RQ2 Findings -- Similarities and Differences

Similarities between focus groups.	<ul style="list-style-type: none">• Participants in all focus groups described staffing and capacity concerns.• Participants in all focus groups described contract management as a problem including the priorities of the contract manager and understanding what contractors provide.
Differences between focus groups.	<ul style="list-style-type: none">• Participants in Cardiff and Edinburgh described in positive terms how their policies linked to the Welsh Government and Scottish Government frameworks respectively.• Participants in Belfast described in positive terms procurement to policy frameworks, but noted there were no N. Ireland executive or government ministers in place.• Participants in Newcastle expressed concern about confusing the market with different phrases and overly wide policy frameworks. Some participants in Newcastle offered descriptions of planning that seemed more administrative reactive than strategic-proactive practices.

Analysis

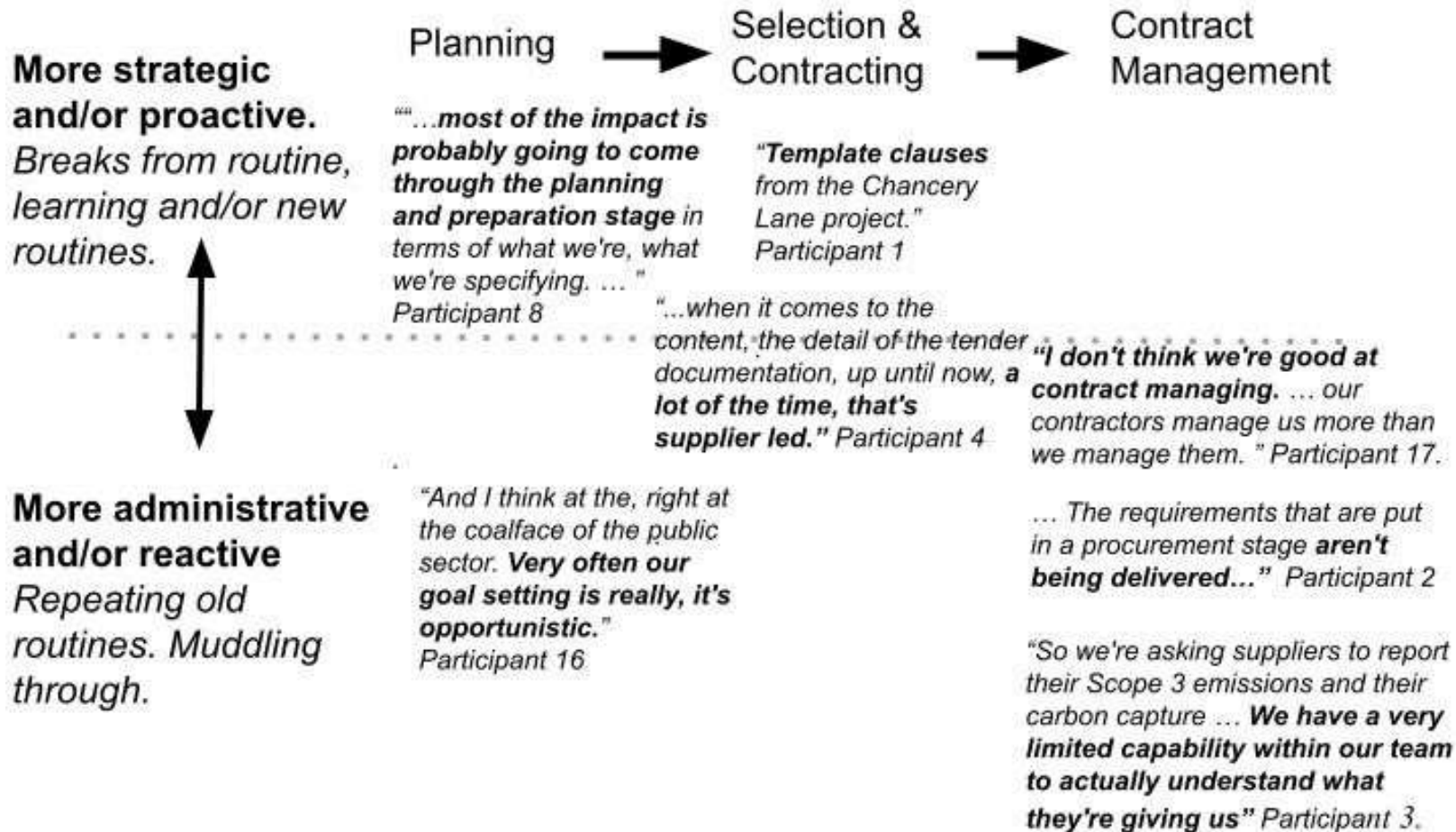
Figure 1. Strategic-Proactive vs. Administrative-Reactive Practices*



*OECD MAPS Sustainable Procurement Module, Pillar III Public Procurement Operations and Market Practices, Indicator 9 (OECD & MAPS Secretariate 2023). The author's contribution is the strategic-proactive vs. administrative-reactive distinction and labels. The three phases and associated indicators are from OECD & MAPS, 2023.

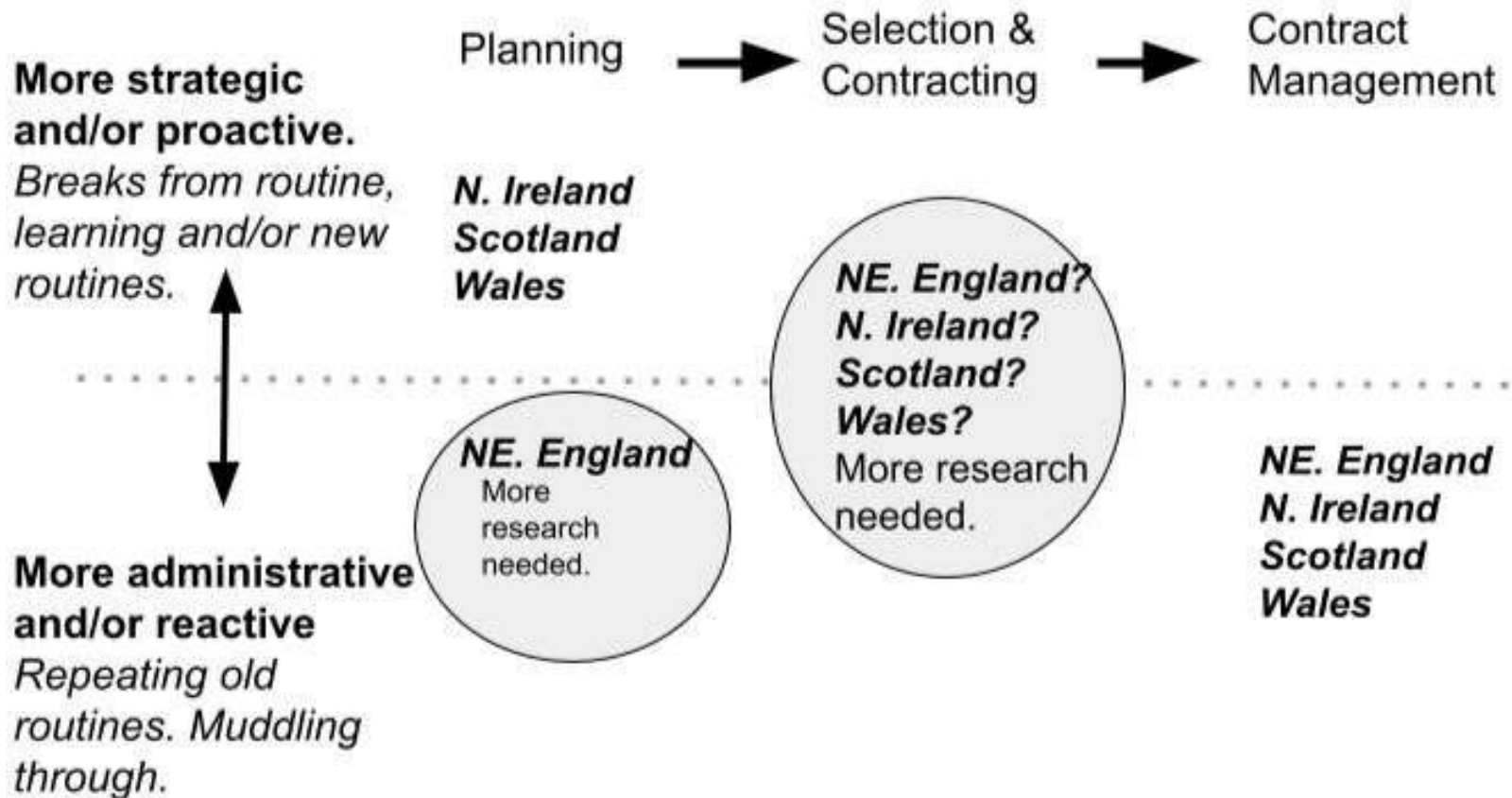
Analysis

Figure 2. Statements



Analysis

Figure 3. Places



Limitations

The limitations of this qualitative study include:

- Small number of focus groups
 - London and other major English cities not included
 - The composition of the focus groups -> future work focused on sustainability, contractors?
 - Potential priming of participants,
 - Lack of attention case law -> needs a review of admin law re duties
 - Lack of sense checking -> needs further engagement with participants
-



Implication & Conclusion

- We need more attention to post-award contract management capacity and practices - especially for Net Zero policy implementation.
- Public expenditure amounts are high! Public policy expectations are higher!

Oxford POGO Club

Oxford Procurement of
Government Outcomes Club

SPARKS

Sustainable Procurement
Applied Research and
Knowledge Sharing



Three upcoming events

1. Oxford POGO Club (April) session ONLINE on April 30, 2024 at 4pm UK time, titled, Green what, how or who? Can we compare green public procurement pursued through requirements, procedures, qualifications and other means?

2. Oxford POGO Club (May) session ONLINE on Tuesday, May 28, 2024 at 4pm: Can we meet those great green expectations? Capacity measures for green public procurement.

3. SPARKS Net Zero Symposium (June) session IN-PERSON on Tuesday, June 25, 2024 with a welcome dinner the evening before i.e. Monday, June 24, 2024. The symposium will be at Brasenose College and is titled, How will we compare green public procurement policy implementation at different levels of government in the UK, EU, US, and around the world? We have a small room block at Brasenose and are working on the registration, etc.



Research co-design

Oxford POGO Club Chair and SPARKS Principal Investigator: Prof. Anne Davies

The purpose of the SPARKS symposium (June 25, 2024) is to engage academics and practitioners in the co-design of research that will help observe and compare different approaches to Net Zero policy implementation through government contracts. (We have internal Oxford funding to design the research and develop an application but have not secured funding to execute the research.)

Potential workstreams:

- A survey based on MAPS and ProcurCompEU (*co-designed with practitioners*)
- Net Zero policy, disclosures and open contracting data comparative observatory
- Network of embedded fellows (to promote strategic use of data)



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Questions?

Thanks! - Ruairi

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