

Evaluation in public procurement

Keeping minutes of meetings

March 2021

Agenda



Cases: *Bechtel, Lancashire Care*



Some questions



Minutes in practice

Bechtel v HS2 [\[2021\] EWHC 458 \(TCC\)](#)

An authority must “maintain suitable records of its procurement process to enable (i) [a bidder] to understand the reasons for which decisions adverse to it were taken [...] and (ii) the Court to exercise its supervisory jurisdiction”

“The absence of proper minutes has [not prevented] the court from exercising its supervisory function. [...] The rather paltry minutes do not [...] diminish the proper records that are available of the evaluation, assessment and moderation, and the sufficient recording and explanation of the scores awarded. The meeting of 5 September 2018 did not affect [...] the outcome of the procurement”

Lancashire Care [\[2018\] EWHC 1589 \(TCC\)](#)

“[T]he notes do not provide a full, transparent, or fair summary of the discussions that led to the consensus scores sufficient to enable [bidders] to defend their rights or the Court to discharge its supervisory jurisdiction”

“[T]his is not a case where evidence provided later has plugged the gap [...]. The failure to provide transparent and comprehensible reasons prevents the Court from making a reliable assessment of material error in circumstances where only a very modest adjustment in scores [...] would be decisive. That is sufficient to demonstrate the materiality of the breach”

Questions



Reasons, reasoning, process



Every meeting?



How detailed?

Keeping minutes in practice



Methods



Record-keeping

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For any questions, advice or representation please email jkn@no5.com.