

Ethical Rule-Flexing in Public Procurement

Why Quiet Rebels Protect the Public Good

By Alex Barker & Paul Revell

The Hidden Work Behind Public Value

Most people only notice public procurement when something goes wrong. A contract collapses, a supplier fails, or a major project overruns so dramatically that it becomes a national joke. HS2's spiralling costs, for example, were not caused by a single bad decision but by a long chain of rigid processes, political pressures and procurement orthodoxy that couldn't cope with the scale or volatility of the project. In a cost-of-living crisis, when every pound of public money is under scrutiny, these failures land heavily. It's easy to assume the problem is simple: bad decisions, bad people, or someone not following the rules. The truth however, is often the opposite. Failures occur precisely because people have followed the rules; the real problem is that the rules do not work.

But procurement shapes far more of everyday life than most people realise. It determines which buses run, which care homes stay open, which digital systems hospitals rely on, and which suppliers keep essential services functioning. Billions of pounds move through decisions made by people the public never sees - and those people are not simply following process. They are navigating ethical tensions, political expectations and contradictory rules that would make most jobs impossible.

People inside institutions often must flex, reinterpret or quietly subvert rules to act ethically. They rarely describe it that way, but the patterns are unmistakable. These quiet acts of rule-flexing are not signs of dysfunction. They are often the only way to protect public value when the system itself is pulling in different directions. To act ethically they must rely on their own instincts, judgement and a degree of vigilance within the live environment.

What Behaviours Are We Rewarding?

Procurement is usually presented as a rational, neutral function – a tidy administrative machine that produces fairness and value for money if everyone simply follows the steps. But practitioners describe something very different. They talk about rules that contradict each other, political demands that shift mid-project, and responsibility for outcomes they cannot fully control. They describe being told to innovate while being judged on strict compliance or being asked to “make something happen” while remaining audit-proof. This creativity/conformity dichotomy is prevalent beyond public procurement too. Corporate leadership will talk openly about ‘doing things differently’ because the future demands it, but in reality reject those who demonstrate it. Compliance is what gets rewarded because it creates the illusion of safety.

Public procurement is specifically over-regulated and under-defined. It looks coherent only when its internal tensions are ignored. The language of procurement – “best value”, “transparent process”, “commercial sensitivity” – all sound reassuringly neutral, but in practice these phrases often serve as a kind of bureaucratic camouflage. They smooth over disagreements, hide uncertainties, or provide a safe way to avoid naming the real issues.

We saw this vividly during the COVID-19 pandemic. Procurement orthodoxy, with its long lead times, rigid competition, exhaustive documentation, simply couldn’t cope with the urgency of PPE shortages. Hospitals needed masks and gowns within days, not months. Many procurement teams had to flex rules, bypass frameworks, or award emergency contracts directly because the alternative was unacceptable risk to life. Some of those decisions were rightly challenged later, but in the moment they were acts of ethical necessity. The official map didn’t match the coastline, and practitioners had to trust their judgement.

Over time, these pressures mould people in ways that are surprisingly consistent. Practitioners don’t arrive in procurement teams with fixed mindsets; they develop them in response to the situations they are placed in. Some cling to the rules because the system punishes mistakes more than it rewards initiative. Others learn to quietly reinterpret policy because the official version of procurement rarely matches the lived one. Some become the people senior leaders call when something politically sensitive needs to happen quickly – operating confidently in the grey zones where rules, politics and organisational expectations collide. And some become reflective professionals who consciously navigate contradictions rather than smoothing them over.

These aren't personality types. They're survival strategies. They help explain why procurement decisions can look inconsistent or opaque from the outside: because they are inconsistent and opaque on the inside. Not because people are incompetent, but because the system itself is contradictory.

This culture of ambiguity is the environment in which ethical rule-flexing emerges. Procurement practitioners rarely say "I broke a rule." Instead, they say things like "we interpreted the guidance" or "we worked within the spirit of the policy." These phrases are linguistic cover for something more interesting: purposeful deviations from strict compliance to protect public value.

Rule-flexing happens because rules contradict each other, or contradict reality, or contradict political demands, or contradict ethical obligations, and we must start to acknowledge how common this is in complex, dynamic workplaces. When a practitioner chooses a supplier who can deliver safely rather than the one who scores highest on a flawed rubric, that is ethical rule-flexing. When a team accelerates a procurement during crisis to protect vulnerable citizens, that is ethical rule-flexing. When ambiguous policy language is reinterpreted to avoid waste or harm, that too is ethical rule-flexing.

Rule Breaking As A Public Responsibility

Across the public sector, the same pattern repeats: when procurement orthodoxy collides with real-world urgency, practitioners flex rules to protect people.

During the COVID-19 pandemic, hospitals needed PPE within days, not months. The official process - competition, documentation, frameworks - simply couldn't cope. Procurement teams bypassed frameworks, issued emergency contracts and made rapid decisions because the alternative was unacceptable risk to life. Some of those choices were scrutinised later, but in the moment, they were acts of ethical necessity.

We saw the same dynamic when Carillion collapsed in 2018, leaving around 450 public-sector contracts without a viable provider. Hospitals needed cleaning the next morning; schools needed meals; roads needed maintaining. Authorities issued emergency direct awards, negotiated temporary arrangements and varied contracts far beyond their usual limits. These were not acts of convenience. They were ethical decisions made to prevent immediate harm.

Adult social care exposed the same contradiction. When major providers such as Southern Cross (2011) and Four Seasons Health Care (2017–2019) collapsed, councils were legally

required to maintain continuity of care for thousands of vulnerable residents. Full re-procurement was impossible. Authorities extended contracts, issued emergency direct awards and negotiated temporary arrangements because strict compliance would have caused immediate harm.

Healthcare IT offers another example. The NHS's National Programme for IT (2002–2013) attempted to impose a single national electronic patient record system, but procurement orthodoxy repeatedly collided with clinical reality. Trusts were locked into rigid contracts for systems that didn't meet local needs. To keep services running, many quietly extended legacy systems, negotiated workarounds or bought interim solutions outside the central framework. These were ethical acts made to protect patient safety when the official process could not cope with clinical complexity.

Be More Pirate

Here is where a different metaphor becomes useful - one borrowed from the Golden Age of piracy. Although pirates gained a reputation for violence and villainy, there is much we can learn how and why they were able to outrun the Royal Navy. The Pirate Code, which guided every crew, was not a set of rigid laws, but a living agreement between people who understood the sea better than the Admiralty. When the official map didn't match the coastline, pirates trusted their judgement and adapted. When the rules endangered the crew or their goals, they rewrote them. When the situation demanded it, they mutinied against their Captain - not out of ruthlessness, but out of responsibility to everyone on board.

Public procurement has its own version of this. Practitioners know when the official chart is wrong. They know when following the map will lead them off a cliff. They know when the rulebook is out of date, or out of touch, or simply unable to cope with the realities they face. They know when the treasure - public value - is at risk, and when the only ethical act is to flex, reinterpret or quietly remake the rule.

These aren't necessarily dramatic rebellions. They are micro-mutinies carried out in meeting rooms, inboxes and project boards. There are many every day instances of people crossing artificial organisational silos to enforce communication, or ignoring KPIs that make no sense to achieve the right outcome. They are decisions made by people who understand the terrain better than those who wrote the policy. They are acts of care performed by insiders who know the system from the inside out.

The problem is that institutions depend on these acts but cannot openly acknowledge them. To admit that rule-flexing is necessary would be to admit that the rules are contradictory, the

system is unstable, and compliance cannot guarantee ethics. It would mean admitting that practitioners exercise judgement the system pretends they do not have. It would have to acknowledge that hierarchy-based decision making is often redundant in complex fields, and seniority does not equate to wisdom.

This is why procurement reforms repeatedly promise clarity but deliver deferral. Each reform is already shaped by the contradictions it claims to resolve. The system cannot fix itself because the contradictions are structural, not accidental. If public bodies want procurement that genuinely delivers public value, they need to recognise procurement as ethical work carried out under conditions of uncertainty. That means acknowledging rule-flexing as legitimate, supporting practitioners to navigate ambiguity, creating space for reflection rather than blame, and valuing judgement as much as compliance.

Can We Change The Status Quo?

Sometimes the most ethical thing you can do is flex - or even remake - the rule. The people who do this are not pirates in the pejorative sense, but pirates in the purposeful, principled, world-changing sense.

Public procurement is not a neutral administrative mechanism. It is a site where power, desire and language intersect - shaping both ethical outcomes and practitioner experience. Practitioners already behave like ethical rebels. They already flex rules to protect the public good. They already navigate contradictions the system refuses to acknowledge.

Recognising the prevalence of rule-flexing as the behaviour that creates safety in a complex environment is the first essential step for leaders. The next, more radical move, would see institutions training their staff in this emerging skill. This might include introducing 'boundary reading' - the capacity to understand the interpretative space between the letter and the spirit of the rule, as a necessity of the job. Practitioners could also be taught how to verbally challenge the existing rules with curiosity and diplomacy, rather than out of frustration, so that inevitable tensions between the map and the territory are diffused, rather than amplified. The reason why outdated rules go unchallenged is often due to fear of saying the wrong thing.

Our hypothesis is that the system resists the existence of rule-flexing as a skill because it cannot be easily codified. There is no clear-cut process to follow, instead each decision to follow or not follow the rules relies on assessing the present circumstances and choosing the best course for the moment you're in.

Explore Your Existing Terrain:

1. What rules are you following? Which are explicit and which go unspoken?
2. When was the last time you broke a rule?
3. Were you clear on why you were breaking it and how did it sit within your own value system?
4. How did it feel to break the rule? What happened as a result?

About the Authors

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