



# LUPC and SUPC webinar Guidance on COVID-19 Procurement Policy Notes

Stephanie Rickard - Partner



@vwvlawfirm

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## Objectives

- To provide an overview of the PPNs
- To provide guidance on how the PPNs work in practice
- To respond to FAQs and highlight areas for further clarification



## Cabinet Office Procurement Policy Notes

- Procurement Policy Note 01/20: Responding to COVID-19
- Procurement Policy Note 02/20: Supplier relief due to COVID-19
  - Model Interim Payment Terms
  - Contingent workers
  - FAQs
  - Model Construction Terms and FAQs

**N.B.** PPNs are being regularly updated

# The Procurement Framework

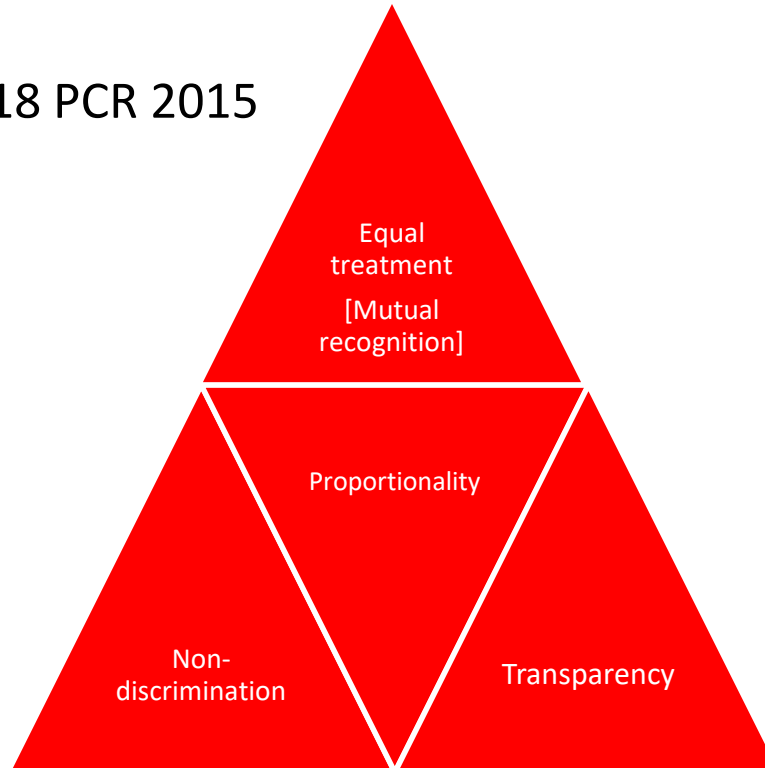
Directive 2014/25/EU (during Transitional Period)

Public Contracts Regulations 2015

Concession Contracts Regulations 2016

# Treaty Core Principles

Regulation 18 PCR 2015



# What is The Status of The PPNs?

- Apply to ‘contracting authorities’ in England
- Requirement to have regard to guidance issued by Cabinet Office
- What about overseas suppliers?
- What about non-contracting authorities?
- Remedies for non compliance





# PPN 1/20: Responding to COVID-19



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## PPN 1/20

A reminder of available tools

- “Permission” to use the extreme urgency exemption
- Accelerated procedure
- Single source
- Frameworks/DPS
- Contract variation



## Extreme Urgency

Reg 32 (2)(c)

- Procurement must be directly linked to and limited to extreme urgency
- Need to satisfy yourself that urgency not contributed to by contracting authority
- Requirement to publish Contract Award notice
- Likely to be limited to essential works, supplies and supplies

# New Requirements

## Practical Considerations

- How to carry out market testing?
- Is use of accelerated procedure reasonable?
- Accuracy of information
- Outsourcing contracts and TUPE

# In-Flight Procurements

## Practical Considerations

- Need to consider risk of substantial modification if you change process during procurement
- Suspending and abandoning procurements
- Extending existing contracts

# Existing Contracts

Ground for extension and/or modification of contracts

- Reg 72 (1) (b) – Additional works, services and supplies
- Reg 72 (1)(c) – Contract variation due to unforeseen events
- **N.B. Thresholds**
  - Modification < 50% of original contract value
  - Below procurement thresholds
- Payment terms under PPN 2/20



# PPN 2/20: Supplier Relief Due to COVID-19



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## PPN 2- Supplier Relief

### Supplier Relief -What is Covered?

- Objective to preserve the supply chain to enable suppliers to resume normal contract delivery once outbreak is over
- Covers goods, services and minor works contracts
- Identify 'at risk' suppliers
- Pay suppliers as quickly as possible

## PPN 2- Supplier Relief

### Supplier Relief -What is Not Covered?

- Concession contracts
- No need to pay where no minimum volume commitment
- Where supplier unable to perform (due to furloughing staff)
- Where supplier in breach?
- Construction contracts (separate regime)
- Not grants e.g. research contracts

## PPN 2/20

### What measures should you take?

- Review all key contracts for goods, services and works to identify if subject to PPN
- Identify 'at risk suppliers' (even where goods / services likely to be disrupted)
- Consider what measures you can put in place to ensure supplier cash flow

**Time for  
payment**

**How do  
we know if  
a supplier  
is 'at risk?'**

**How long  
do we have  
to carry on  
paying?**



# PPN 2/20

## Key Considerations

- Is delivery still possible?
- What service do you need?
- Can the services be redeployed?
- What are you receiving funding for?
- What are supplier's losses?





## PPN 2 – Making Interim payments

- Contractual payments - how do we calculate?
- Payments linked to supplier relief - Open book basis: data from ledgers, cash-flow forecasts, balance sheets and profit and loss accounts when requested
- Model Interim Payment Terms
- Reconciliation of payments and clawback
- Duty to mitigate
- Monitoring and audit



## PPN 2/20

### What Should You Be Doing Now?

- Start the dialogue- it is in your best interests that suppliers are in a position to be able to resume providing goods / services when things start returning to normal.
- Record your agreement by way of contract variation

## PPN 2/20

### Areas for Further Clarification

- Approach of other government departments e.g. DoE
- Additional considerations for charities
- Interrelation with other schemes



## Record-Keeping

- Justification for approach
- Reg 84 reports
- What evidence do you need from the supplier?
- Think about legal privilege!



## Key Messages

- Be transparent and maintain good communications throughout the process with bidders
- Record keeping/ internal assurance process to monitor procurement and contracts

## How Can We Help?

- Top ranked under NLS framework - “One Stop Shop” lot
- VWV is open for business and we are working remotely
- To support you with the challenges you are facing, we have also developed a dedicated resource centre on our website, where we look at the steps you can take to protect your organisation and manage risk. Click [here](#) to read our latest blogs.





# Stephanie Rickard

Partner

[srickard@vww.co.uk](mailto:srickard@vww.co.uk)

07384 251 896

[vww.co.uk](http://vww.co.uk) | Offices in London, Watford, Bristol & Birmingham  
Lawyers & Parliamentary Agents

