

# The Procurement Act 2023

## – Key Points for Senior Officers and Finance Leads

The Procurement Act 2023 (“Act”) is due to enter force on 24<sup>th</sup> February 2025 (delayed from October 2024 due to the change in Government). Contracting authorities (“Authorities”) need to be ready for many major (and minor) changes which the Act brings in, and should be taking action to prepare now. The Act heralds one of the biggest change to public procurement rules for authorities in England, Wales and Northern Ireland in a generation. This note highlights some key points which financial leaders and senior officers in authorities should be particularly aware of.

### Transition

The majority of the changes in the Act are *not* retrospective. This is very important because it means that for any contract, where the procurement process began *prior* to 24<sup>th</sup> February 2025, the "old" rules in the Public Contracts Regulations 2015 will apply *for the entire lifetime* of that contract. In particular, they will apply if any modifications to the contract are needed in the future - those modifications will be governed by the old rules, not the new rules.

For the next 4 years (or longer) procurement teams will need to be able to manage contracts under two different regulatory regimes and their training and knowledge must cover both. Applying the wrong rules could expose the authority to legal and commercial risks.

### Procurement Objectives

The Act introduces four **Procurement Objectives** which apply to all procurement activity:

- Delivering **Value for Money**;
- Maximising **Public Benefit**;
- **Sharing information** (so that suppliers and the public can understand the authority’s procurement policies and decisions);
- Acting, and being seen to act, with **integrity**.

The Act also includes an obligation that authorities must have regard to the fact that small and medium sized enterprises may face particular barriers to participation and should therefore consider whether such barriers can be removed or reduced. Commissioning and procurement policies should have regard to these objectives, but so should individual procurement and contract management decisions.

### Pipeline Notices

By 26<sup>th</sup> May 2025 (and on annual basis), every authority with an annual third party spend over **£100m** will need to publish a "Pipeline Notice", providing an **18-month** forward view of all **planned procurements worth £2m or more**, where it will publish a Tender or Transparency Notice. This will support one of the key objectives of the Act is to have greater transparency of procurements, to generate increased competition and deliver value for money.

This may have an impact on authorities budget planning process, as the forthcoming year's budget should account for major procurement projects - which should then be broadly consistent with the contracts published in the Pipeline Notice.

### Updating Standing Orders and Internal Rules

A key step all authorities should be taking before February 2025 is to review:

- Standing Orders
- Contract Procedure Rules
- Financial Delegations

Ensure these are being re-drafted as required and refer to the Act, where relevant, in place of (or in addition to) the existing regulations. Authorities will also have to update their procurement documents, to reflect the changes to the competitive tendering procedures (open and competitive flexible procedure) as well as refinements to the establishment and use of Frameworks and the introduction of new concepts of Open Frameworks and Dynamic Markets. This is in addition to the marked increase in the number of notices (total of 16) the authority will have to issue at different stages of the procurement and contract management lifecycle.

## Financial Thresholds

The Procurement Act does not change the financial thresholds - above which a fully advertised tender process is the default requirement.

These are currently:

- **£5.37m** for works
- **£213.5k** for goods and general services
- **£663.5k** for social, educational, and other "light regime" services.

These will next be updated in January 2026.

## Payments Compliance Notices

From September 2025, and every six months thereafter, contracting authorities will now be required to publish a **Payments Compliance Notice**. This notice must set out, in particular:

- The average number of days taken by the authority to pay supplier invoices;
- The percentage of invoices paid within 30 days, within 60 days, and taking 61 or more days;
- A supporting statement from the **Director of Finance** (or equivalent officer) regarding these key points of payment performance (signed by that officer, who must be named).

In addition, quarterly notices for all invoices paid to suppliers in excess of £30,000 (inc. VAT). Both requirements are new or refined obligations which Directors of Finance must take personal responsibility for.

## Key Performance Indicators and Contract Performance Reporting

For every public contract worth over **£5m** under the Act, authorities will be obliged to set at least **three KPIs** and publish details of these KPIs in the **Contract Details Notice** (this will also include the requirement publish the contract subject to redaction within 90 days of award).

At least **once every 12 months and on termination of the contract**, for all such £5m+ public contracts, authorities must publish details of the supplier's **performance** against all contractual KPIs, using the published Rating Card contained in the Procurement Regulations 2024.

In addition, for **all** contracts valued above the relevant thresholds (stated in "Financial Thresholds" above), if there is an issue of *poor performance* requiring the authority to take any form of remedial action including full or partial termination or the supplier is not delivering the contract to its satisfaction, it must **publish a Contract Performance Notice** giving details within 30 days. This provision will have implications for both parties, with draconian ramifications for the supplier which could result in them being placed on the new Debarment Register, following an investigation by the Minister and prevented from being awarded further public sector contracts.

## Summary

Authorities need to view the Act as transformational opportunity for the whole organisation. To get to grips with the additional obligations and maximise the commercial opportunities, there will be a need for transitional planning, investment in people, ensuring systems can cope with data demand and accuracy and as well as procurement governance processes and policies are updated and compliant.