

A photograph of three business professionals (two men and one woman) sitting around a table in a modern office or meeting room at night. They are engaged in a discussion, with laptops open in front of them. The room has large windows overlooking a city at night, with blurred lights visible. The overall atmosphere is professional and collaborative.

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Geldards Public Sector: Procurement Update

16th October 2024

Clare Hardy & Matthew Williams

Agenda

- Amendment Regulations
- National Procurement Policy Statement Consultation
- Updated Guidance
- Transparency

Amendment Regulations

- Procurement Act 2023 (Commencement No.3 and Transitional and Saving Provisions) (Amendment) Regulations 2024 – SI 2024/959
- Amends Procurement Act 2023 (Commencement No. 3 and Transitional and Saving Provisions) Regulations 2024 by replacing commencement date of 28th October 2024 with 24th February 2025

National Procurement Policy Statement Survey

- Government survey to inform development of NPPS
- Closes midday 4 November 2024
- Before completing survey suggested reference to:
 - Guidance on the National Procurement Policy Statement
[Guidance on the National Procurement Policy Statement](#)
 - Procurement Act 2023 and associated regulations

National Procurement Policy Statement Survey Questions

- Maximising value for money: How can mission-driven procurement help us achieve greater value for money for the taxpayer in the delivery of public services?
- Delivering social value: How can we use public procurement to achieve greater social value to support delivery of the missions?

National Procurement Policy Statement

Survey Questions

- Enabling collaboration: How can we accelerate collaboration in public procurement (between central and local government, between local anchor partners (eg in health and education) and in partnership with suppliers) to support delivery of the missions?
- Fostering innovation: How can we help policy-makers/commissioners identify challenges that can be put to the market to support mission outcomes through innovation, and improve commercial capability to deliver mission-driven procurement?

Updated guidance – Procure Phase

- Modifying a competitive procurement
- [Guidance: Modifying a Competitive Procurement \(HTML\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/modifying-a-competitive-procurement)
- Time Periods
 - [Guidance: Time Periods \(HTML\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/time-periods)
- Assessing competitive tenders
 - [Guidance: Assessing Competitive Tenders \(HTML\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/assessing-competitive-tenders)

Updated guidance – Procure Phase

- Conditions of Participation
 - [Guidance: Assessing Competitive Tenders \(HTML\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/assessing-competitive-tenders)
- Procurement Termination Notices
 - [Guidance: Procurement Termination Notices \(HTML\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/procurement-termination-notices)
- Exclusions
 - [Guidance: Exclusions \(HTML\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/exclusions)
- Debarment
 - [Guidance: Debarment \(HTML\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/debarment)

Updated guidance – Procure Phase

- Remedies
 - [Guidance: Remedies \(HTML\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/remedies)
- Assessment summaries
 - [Guidance: Assessment Summaries \(HTML\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/assessment-summaries)
- Contract Award Notices and Standstill
 - [Guidance: Contract Award Notices and Standstill \(HTML\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/contract-award-notice-and-standstill)
- Procurement Oversight
 - [Guidance: Procurement Oversight \(HTML\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/procurement-oversight)

Updated guidance – Procure Phase

- Contract Details Notices
 - [Guidance: Contract Details Notices \(HTML\) - GOV.UK](https://www.gov.uk/guidance/contract-details-notices)
[\(www.gov.uk\)](https://www.gov.uk)
- Electronic Communications
 - [Guidance: Electronic Communications \(HTML\) - GOV.UK](https://www.gov.uk/guidance/electronic-communications)
[\(www.gov.uk\)](https://www.gov.uk)

Introduction to Transparency Measures

- **Key Points**

- Overview of transparency in the Procurement Act 2023
- Focus on changes to published notices

- **Core Principle:** Transparency is essential in procurement

- **Objectives:**

- Share information
- Ensure decision-making clarity
- Uphold integrity

- **Lifecycle Integration:** Transparency in all stages:

- Planning, procurement, contract management, termination

- **Importance:** Balances openness and accountability with new flexibilities

Key Changes in Procurement Notices

- Publication of Notices:
 - New notices required at all procurement lifecycle stages, including contract management.
- Central Digital Platform:
 - Introduction of an enhanced Find a Tender (FTS) and new Supplier Information System.
- Commercial Tools and Registers:
 - Gradual introduction on the central digital platform.

Key Notice Requirements

- **Single Publication Point:** Notices must be published on the central digital platform (via existing eSender).
- **Commercial Data:** Requirement to include commercial data for better procurement strategy insights.
- **Reference Slide:** Detailed summary of notices under the Procurement Act 2023 provided for future reference.
- **Focus for Today:** Emphasis on notices; further details will follow.

Notices: Key Changes

- Planned Procurement Notice: Cannot be used as a call for competition like the prior information notice under PCR 2015.
- Transparency Notice: Must be published before awarding contracts using the direct award procedure.
- Procurement Termination Notice: Required if procurement is stopped before contract award, following tender/transparency notice publication.
- Contract Award Notice: Now published before contract award to notify of intent and start the 8-day standstill period.
- Contract Details Notice: Published post-standstill period; contracts over £5m must include redacted documents.
- Contract Change Notice: Required before modifying contracts; publish modifications for contracts over £5m.

New Contract Management Notices

- Contract Performance Notice:
 - Reports KPIs and supplier breaches for contracts over £5m.
- Contract Payment Notice:
 - Reports payments over £30,000.
- Payments Compliance Notice:
 - Shows compliance with 30-day invoice payment terms.

Transparency Notices	Requirements
Pipeline notice	Mandatory (for organisations where spend is £100m+ PA).
Preliminary market engagement notice	Mandatory where engagement is anticipated or has taken place.
Planned procurement notice	Optional and Best Practice.
Tender notice	Mandatory (for a competitive procedure) Publish when undertaking an open or competitive flexible procedure.
Transparency notice	Mandatory (for a direct award).
Contract award notice	Mandatory. Communicate the outcome of the procurement and to commence the standstill period prior to awarding a contract.
Contract details notice	Mandatory. Publish details of the awarded contract (including the contract, for public contracts £5m+).
Contract payment notice	Mandatory. Details of payments over £30,000 made under a public contract.
Contract performance notice	Mandatory. Publish KPI scores for public contracts £5m+ (at least annually).
Contract change notice	Mandatory. Publish prior to a qualifying modification taking place, inc., for contracts £5m+, publication of modification.
Contract termination notice	Mandatory. Publish when a public contract is terminated / comes to an end
Procurement termination notice	Mandatory. Where the process is terminated without awarding a contract.
Dynamic market notices	Mandatory. Publish and update when advertising, establishing, changing or terminating a dynamic market.
Payments compliance notice	Mandatory. Publish details of performance against 30-day payment terms.

Pipeline Notice

- Overview:
 - Advance notice of public contract opportunities over £2 million.
 - Covers contracts expected within the next 18 months.
 - Description of what will be procured.
 - Expected advertisement date.
 - Delivery commencement date.
- Publication Threshold:
 - Within the first 56 days of the financial year if total procurement spend exceeds £100 million.
- Exemptions:
 - Private utilities.
 - Contracts awarded by transferred Northern Ireland authorities.

Preliminary Market Engagement Notice

- Overview:
 - Allows contracting authorities to publish a notice for preliminary market engagement before tender notices, including a description of the engagement process.
- Publication Threshold:
 - Required for above-threshold contracts.
 - Voluntary for below-threshold contracts.
- Exemptions: Private utilities.

Planned Procurement Notice

- Overview:
 - Helps suppliers determine interest in upcoming procurements.
 - Publication at least 40 days (but no more than one year) before the tender notice may reduce the tendering period to a minimum of ten days.
- Publication Threshold:
 - Required for notifying the market in advance.
 - Can reduce tender timescales for above-threshold contracts.
- Exemptions: N/A

Tender Notice

- Overview:
 - Required to commence competitive tendering.
 - Acts as an invitation to submit tenders or requests to participate.
 - Must outline the procurement process.
- Publication Threshold:
 - Required for above-threshold contracts.
 - Below-threshold notice for contracts above regulated limits.
- Exemptions:
 - Qualifying utilities dynamic markets (no requirement to publish).

Transparency Notice

- Overview:
 - Must be published before awarding a contract under direct award provisions.
 - Includes grounds for the award, estimated contract value, and contract date.
- Publication Threshold:
 - Required before awarding an above-threshold contract via direct award.
- Exemptions:
 - Direct award: user choice contracts.

Contract Award Notice

- Overview:
 - Notifies market of procurement outcome and initiates standstill period.
 - Required to confirm assessment summary dates.
- Publication Threshold:
 - Before awarding above-threshold contracts (voluntary for below-threshold).
- Exemptions:
 - Direct award: user choice contracts, Defence and security contracts under a framework.

Contract Details Notice

- Overview:
 - Informs parties that a contract has been entered into and records KPIs.
 - Required for contracts under frameworks.
- Publication Threshold:
 - Within 30 days of contract entry for above-threshold and regulated below-threshold contracts.
- Exemptions:
 - Private utilities, user choice contracts, contracts awarded by devolved authorities (specific exemptions apply).

Contract Payment Notice

- Publication Threshold:
 - Required for payments of £30,000 or more under above-threshold contracts.
 - Published quarterly.
- Exemptions:
 - Private utilities, concessions contracts, contracts awarded by schools.

Contract Performance Notice

- Overview:
 - Records supplier performance against KPIs and serious contract breaches.
- Publication Threshold:
 - For contracts over £5m: publish KPI scores annually; for all contracts, publish breach info within 30 days.
- Exemptions:
 - Private utilities, light touch contracts, concessions (KPI only), framework contracts (KPI only).

Contract Change Notice

- Overview:
 - Must be published before modifying a public or convertible contract.
 - Includes reasons for modification and expected changes.
- Publication Threshold:
 - Required for above-threshold contracts and contracts over £5m.
- Exemptions:
 - Defence and security contracts, private utilities, light touch contracts, and specific devolved authority arrangements.

Contract Termination Notice

- Overview:
 - Informs stakeholders of contract termination and reasons for it.
- Publication Threshold:
 - Required for above-threshold contracts (voluntary for below-threshold).
- Exemptions:
 - Private utilities, direct award: user choice contracts.

Procurement Termination Notice

- Overview:
 - Informs market of a decision not to proceed with a procurement after a notice was published.
- Publication Threshold:
 - Required for above-threshold contracts (voluntary for below-threshold).
- Exemptions:
 - Private utilities.

Dynamic Market Notice

- Overview:
 - Relates to establishing, operating, or terminating a Dynamic Market (DM) or Utilities Dynamic Market (UDM).Publication
- Threshold:
 - Required when advertising, establishing, changing, or terminating a dynamic market.
- Exemptions:
 - Private utilities not required to update notices when the market ceases.

Payment Compliance Notice

- Publication Threshold:
 - Required for compliance under above-threshold contracts.
- Exemptions:
 - Private utilities, concessions contracts, contracts awarded by schools.

Benefits of new notices and changes

- Pipeline Notice: Enhances forward planning for authorities and suppliers.
- Preliminary Market Engagement Notice: Promotes transparent pre-market engagement.
- Transparency Notice: Increases visibility for direct award contracts.
- Procurement Termination Notice: Clarifies when procurement is stopped before an award.
- Contract Change Notice: Improves transparency of contract modifications.
- Contract Termination Notice: Shows when a contract has ended.
- Contract Performance Notice: Records and shares supplier performance data.

Framework Contracts

- Framework contracts are public contracts.
- Use the specified notices for establishing these contracts.
- Exceptions:
 - No need to report on:
 - KPI performance
 - Contract payments
 - Payments compliance
 - Tender notice not required when awarding a contract using a framework.

Dynamic Markets

- Different publication requirements apply for dynamic markets:
 - Notices published when a market is advertised, established, modified, or terminated.
- Standard Contracts:
 - Follow standard notice regime, including a tender notice.
- Utilities Dynamic Markets:
 - Established using a different version of the dynamic market notice.
 - Contract awards use a different tender notice (no need for publication).

Regulated Below-Threshold Procurements

- Applies to contracts under Part 6 of the Procurement Act 2023 (Sections 84-88).
- Publication Requirements:
 - Publish a tender notice on the central digital platform before local publication.
 - Publish a contract details notice once a contract is entered into.
- No additional notices required, but optional notices are permitted.

Welsh Government Guidance

- The Procurement Act 2023 and Associated Regulations: A short guide for suppliers
- Key actions for suppliers:
 - Registration
 - Core Information
 - Payment Term
- Key information for suppliers
 - Managing Performance
 - Debarment and exclusion
- Available at [The Procurement Act 2023 and Associated Regulations: A short guide for suppliers | GOV.WALES](#)

Social Partnership and Public Procurement (Wales) Act 2023

- Social partnership conferences in Swansea, St Asaph and Cardiff
- Special meeting of Social Partnership Council – Discussion with First Minister on public sector pay and growth
- Consultation expected on social public works clauses

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Clare Hardy

Partner

+44 (0) 29 2039 1766

clare.hardy@geldards.com



Matthew Williams

Solicitor

+44 (0) 29 2038 6520

matthew.williams@geldards.com

geldards

Thank You

www.geldards.com
info@geldards.com

