

One of the key objectives of the [Procurement Act 2023](#) is to create a fully transparent public procurement system with all persons “able to view, search and understand what the UK public sector wants to buy, how much it is spending and with whom”

The volume of notices or information that contracting authorities will be expected to publish at different stages of the procurement process has dramatically increased under the Procurement Act 2023, and these additional requirements under the new regime will bring an increased workload for contracting authorities in order to comply with their obligations. They will also expose suppliers to a greater degree of transparency than was the case under the previous public procurement rules.

New Requirement To Publish All Contracts Over £5 million

The Procurement Act 2023 imposes a new requirement for authorities to publish a copy of all contracts they award over £5 million within 90 days of entering the contract (or 180 days in the case of light touch contracts). There are exceptions for contracts awarded by devolved Welsh or Northern Ireland authorities.

There is a possibility to make redactions for confidentiality purposes, but such redactions have to be weighed against the underlying objective of ensuring full transparency.

Raft of New Notices

The volume of notices and information that contracting authorities will be required to publish at different stages of the procurement process and throughout the life of a contract has increased under the Procurement Act 2023, and the Procurement Regulations 2024 (SI 2024/692) (Procurement Regulations), which are currently in draft form, provide further detail on the contents of these new notices.

The Procurement Regulations also introduce a new central digital platform where notices and information (including contracts) will be published, which is another key part of the drive to more transparency. The central digital platform will be established by the Cabinet Office.

The list below considers the notices that must or might have to be published at various stages of a procurement and during the life of a contract.

Preprocurement Phase

Planned Procurement Notice

- This is a voluntary notice that a contracting authority can issue to give notice that it intends to publish a tender notice (see below). A contracting authority might choose to do so to provide advance notice of the procurement and potentially take advantage of reduced timescales.
- A planned procurement notice must be published at least 40 days and no more than one year before publication of the tender notice in order to be a “qualifying” planned procurement notice.
- The planned procurement notice should include the information required in the tender notice for the procedure that the contracting authority intends to use, to the extent this information is known at the time of publication.

Preliminary Market Engagement Notice

- This is a voluntary notice that a contracting authority can issue to declare that preliminary market engagement either will take place or has already taken place (for example, with a selected group of suppliers), and provide details of the process by which it was undertaken.
- If a contracting authority carries out preliminary market engagement, it must either (a) publish a preliminary market engagement notice before it publishes a tender notice or (b) explain, in the tender notice, why it did not publish a preliminary market engagement notice.

Pipeline Notice

- This is a mandatory notice setting out specified information about all public contracts with an estimated value of more than £2 million, in respect of which a contracting authority intends to publish a tender notice or transparency notice during the reporting period.
- A contracting authority must publish a pipeline notice at the start of the financial year if it anticipates a total public procurement spend over £100 million that year.

Award Phase

Tender Notice

- This is a mandatory notice that contracting authorities will use to advertise a contract opportunity in almost all cases.
- The contents will vary depending on whether the contract is for (a) the proposed award of a public contract through an open procedure (excluding the award of a framework), (b) the proposed award of a public contract using the competitive flexible procedure or (c) the [proposed award of a framework](#).
- The tender notice can be accompanied with associated tender documents, which taken together must give suppliers all the information they need to submit a request to participate or a tender.

Dynamic Market Notice

- This is a mandatory notice if a contracting authority intends to establish a dynamic market.
- The contracting authority must provide this as soon as reasonably practicable after establishing a dynamic market.
- A notice must also be published when (a) the dynamic market has been established, (b) the dynamic market has been modified or (c) the dynamic market has ceased to operate.

Transparency Notice

- This is a mandatory notice stating that a contracting authority intends to make a direct award, and its reasons for doing so. This does not apply to supply of user choice services as long as the conditions prescribed are met.

Assessment Summaries

- These are mandatory reports that a contracting authority must send to all participants in a procurement procedure to inform them of the outcome of the process.
- This replaces the existing requirement to send all bidders a standstill letter/Alcatel letter.
- Authorities are no longer required to include a direct comparison between the winning bidder's tender and each unsuccessful bidder's tender, but must include the assessment of the winning bidder (redacted for confidentiality).

Contract Award Notice

- This is a mandatory notice published at the end of a procurement procedure confirming that a contracting authority intends to enter a public contract.
- The notice must contain details of both the successful and unsuccessful suppliers. Publishing the contract award notice triggers a mandatory standstill period of eight working days, during which time a legal challenge may be issued before the contract is signed.

Contract Details Notice

- This is a mandatory notice published after a contracting authority has entered into a contract.
- A contracting authority that enters into a public contract must publish a contract details notice according to the following timeframe:
 - If the contract is a light touch contract, before the end of the period of 120 days beginning with the day on which the contract is entered into
 - Otherwise, before the end of the period of 30 days beginning with the day on which the contract is entered into
- The contents of the contract details notice will vary depending on whether the contract was awarded following an open or competitive flexible procedure, establishes a framework or follows a direct award.
- A contract details notice must also be published for certain below-threshold contracts.

Procurement Termination Notice

- This is a mandatory notice that a contracting authority must publish as soon as reasonably practicable after making a decision to abandon an award (following publication of a tender notice or transparency notice).

Contract Management Phase

Payments Compliance Notice

- This is a mandatory notice about payments made or due to suppliers under public contracts.
- A contracting authority must publish a notice every six months regarding its compliance with the requirement under the Procurement Act 2023 to pay all suppliers within 30 days of their invoice.
- The notice must include the average number of days taken to make payments and the percentage of payments made within 30 days, between 31 and 60 days, and within 61 or more days.

Information About Significant Payments

- This is a mandatory notice about any payment of more than £30,000 made by a contracting authority under a public contract.
- Every quarter, a contracting authority must publish details of all payments in excess of £30,000 that it has made under public contracts.

Contract Performance Information

- This is a mandatory notice for contracts worth more than £5 million for which a contracting authority has set key performance indicators.
- The contract authority must publish details of the supplier's performance against the KPIs at least once every 12 months during the life cycle of the contract and on termination of the contract.

Contract Change Notice

- This is a mandatory notice that a contracting authority must publish before modifying any public contract unless the modification is *de minimis*.
- If the resulting value of the contract is over £5 million, the contracting authority must also publish either a copy of the modified contract or the modification itself.
- The rules do not specify how far in advance of modifying a contract the contract change notice must be published.

Contract Termination Notice

- This is a mandatory notice setting out that a contract has been terminated, and providing the reasons for termination and date of termination.
- The contracting authority must publish this within 30 days of terminating a contract.
- The contract termination notice should refer to the reason, such as (a) discharge, (b) expiry, (c) termination by a party, (d) rescission or (e) set aside by court order.

Conclusion

The additional transparency requirements of the new regime will require significantly more work from contracting authorities, which will need to prepare well in advance to comply with their obligations, and monitor their continuing obligations throughout the life of the contracts they award. The new requirements will also expose suppliers who bid for or are awarded public contracts to more transparency than they may be accustomed to – for example, the publication of their contracts over £5 million.

If you would like to discuss anything in this alert or if you have any other public procurement-related queries, including how the Procurement Act 2023 may impact your organisation, please reach out to one of our contacts.

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