

# The Procurement Bill

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NHS LPP Annual Members' Conference  
14 November 2022

*“Justifiably top of the tree.”*

# A time of considerable change

- Procurement Bill
- Provider Selection Regime
- Social Value
- PPNs
- ICBs

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# The Procurement Bill

# The Procurement Bill

- Billed as an opportunity to overhaul and update public procurement
- The new legislation was introduced in the House of Lords (it is now at committee stage), before it passes over to the House of Commons
- A draft timeline has been communicated, with the new legislation anticipated to come into effect mid 2023, allowing for a 6 month implementation schedule (subject to consultation)
- PCR 15 apply in the meantime
- The Bill is subject to change – further detail will be provided as we get closer to final position

*“The Bill will reform the UK’s public procurement regime, making it quicker, simpler, more transparent and better able to meet the UK’s needs, while remaining compliant with our international obligations. It will introduce a new regime that is based on value for money, competition and objective criteria in decision-making. It will create a simpler and more flexible commercial system that better meets our country’s needs, and it will more effectively open up public procurement to new entrants such as small businesses and social enterprises, so that they can compete for and win more public contracts”*

*Lord True - Procurement Bill, House of Lords second reading (25/5/22)*

# Summary of the Bill

- Part 1 – Key definitions
  - Contacting authorities
  - Contracts
- Part 2 – Principles and Objectives
  - Procurement objectives
  - NPPS
- Part 3 – Award of public contracts and procedures
  - Preliminary steps
  - Competitive award
  - Direct award
  - Award under frameworks
  - After award, standstill periods and notices
  - General provision about award and procedures
    - Debarment
    - MAT not MEAT

# Summary of the Bill

- Part 4 – Management of public contracts
  - Modification
  - Termination
- Part 5 – Conflicts of Interest
  - New assessment
- Part 6 – Below threshold contracts
- Part 7 – Implementation of international obligations
- Part 8 – Information and notices
  - New notices

# Summary of the Bill

- Part 9 – Remedies for breach of statutory duty
  - Pre-contractual/interim/post-contractual remedies
  - Automatic suspension test
  - Time limits for remedies
- Part 10 – Procurement oversight
- Part 11 – Appropriate authorities and cross-border procurement
- Part 12 – Amendments and repeals
- Part 13 – General



# Act and Regulations

- Procurement Bill will become an Act
- Regulations also to be drafted
- Regulations may well provide some of the detail currently missing
- Guidance expected

# Key proposed changes (1)

- New terminology
- New procedures
  - “a single stage tendering procedure without restriction on who can submit tenders”
  - “such other competitive tendering procedure as the contracting authority considers appropriate for the purposes of awarding the public contract”
  - “direct award in special cases”
- MAT to replace MEAT
- Increase in notices
  - Greater transparency
  - Burden on contracting authorities?
- Exclusion of bidders
  - Greater detail

# Key proposed changes (2)

- Dynamic markets
  - Replace DPS
- Frameworks
  - Closed
  - Open
- Standstill period/debrief
  - 8 calendar days
  - Contract award notice – commences standstill
  - Assessment summary
- Remedies
  - Remain broadly the same, but new terminology

# Key proposed changes (3)

- Modifications
  - Permitted if:
    - Permitted under schedule 8
    - Not “substantial modifications”
    - “below threshold modifications”
  - Contract Changes Notices
  - Modifications to live processes
- Conflicts of Interest
- Contract management

# Summary (at this stage of the Bill's progress)

- Procurement Bill as amended in Grand Committee – published start of November
- A number of principles stay the same
- But with new specifics that will need to be considered very carefully
- Fine detail needs to be worked through
- More transparency will be required
- New regulations likely to be key
- Yet to be seen if new rules will meet Lord True's statement
- Watch this space as more to follow.....
- Apply PCR 15 in the meantime

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# Healthcare Commissioning

# The PSR

- Provider Selection Regime
  - Regulations
  - Guidance
- Apply current law unless and until law changes

# Questions/ discussion





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