

# Session 1

## **Procurement reform in the UK - The Green Paper**

**Session Chair:** Luke Butler, PPRG

Speakers:

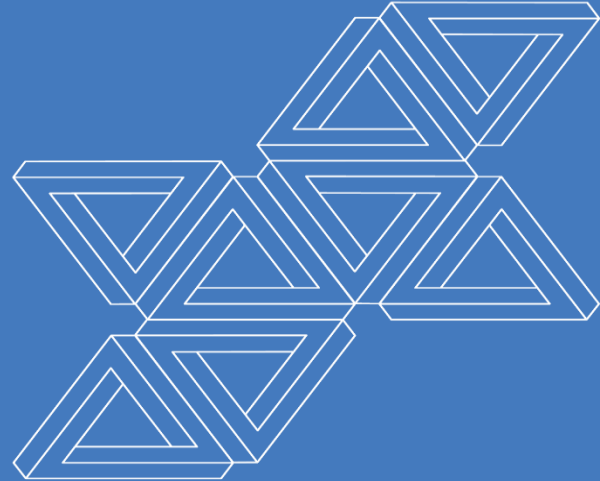
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[Content: Presentation Slides](#)



Government  
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# Transforming Public Procurement





# A simpler regulatory framework that better meets the UK's needs

## Current Situation

Public procurement accounts for around a third of all public expenditure. By improving public procurement, the Government can not only save the taxpayer money but drive social, environmental and economic benefits across every region of the country. The importance of public procurement has rarely been so prominent in the public domain and it can now play a significant role in the economic recovery.

There are currently multiple pieces of legislation that must be considered in public procurement, depending on circumstance. Overlaps are complicated to navigate and burdensome.

## Proposal:

- We propose slashing the 350+ regulations governing public procurement and integrating the current regulations into a single, uniform framework
- We propose enshrining in law the **principles of public procurement: the public good, value for money, integrity, transparency, fair treatment of suppliers and non-discrimination.**
- We intend to legislate to **require contracting authorities to have regard to strategic national priorities** for public procurement in a new National Procurement Policy Statement.

## Impact of Proposals:

- Embedding national and local priorities at the heart of procurement decision making
- Improve capability and learning for all contracting authorities and suppliers
- Removing confusion over differences between rules in different regulation and reducing legal uncertainty.



# Supplier selection, bid evaluation and contract award

## Current Situation

The current regime requires the evaluation of bids to be based on the most economically advantageous tender (MEAT), assessed from the point of view of the contracting authority. MEAT is assessed on the basis of either lowest price or more usually a combination of price and quality. Any evaluation criteria relating to quality must be linked to the subject matter of the contract. This prevents authorities from taking account of the full value to society/UK when awarding contracts. Grounds for exclusion are out of date, rigid and time-consuming to verify.

## Proposals

- **Amending the basis on which contracts are awarded from most economically advantageous tender (MEAT) to most advantageous tender (MAT).**
- **Retaining the requirement for criteria to be linked to the ‘subject matter of the contract’ but allowing specific exceptions set by Government (eg prompt payment or net zero).**
- **Removing the requirement for this assessment to be made from the point of view of the contracting authority, but only within a clear framework of rules.**
- **Using the exclusion rules to tackle unacceptable behaviour in public procurement such as fraud and tax evasion and look at the feasibility of a centrally managed debarment list.**
- **Reforming the regulations to more easily allow poor past performance to be taken into account in the evaluation.**

## Impact of proposals

- Procurement will be better able to deliver government policy and maximise societal benefits.
- It will be easier to exclude suspect bidders and companies with a poor performance record.



# Modern procurement procedures

## Current Situation

In the Public Contracts Regulations and Utilities Contracts Regulations there are currently seven complicated procurement procedures available to award contracts over the thresholds. These are overly prescriptive, create confusion and stifle innovation.

## Proposals

We propose overhauling the complex and inflexible procurement procedures and replacing them with three simple, modern procedures

- An **open procedure**, a single stage tendering exercise, currently the most used procedure, useful for straightforward specific requirements;
- A **limited tender procedure**, for use in specific circumstances such as crisis, extreme urgency, failed competition or where a supplier owns exclusive rights;
- A **flexible, competitive procedure**, for all circumstances, allowing the procurers to design the process to meet the needs of the requirement, for example building in stages of negotiation or allowing for demonstrations and/or prototypes. There would be minimal rules to maintain GPA compliance.

## Impact of Proposals

- The flexible procedure will make it easier to procure innovative solutions, e.g. one procedure will be able to cover the process from R&D through to buying the finished product.
- The increased opportunity for negotiation should be valuable, particularly in complex procurements where negotiation can ensure suppliers gain a better understanding of the buyer's requirements with more outcome-based specifications.
- Providing greater flexibility for commercial teams to design their procedure to fit their procurement will encourage innovation and allow them to engage with the market more effectively and proactively. It will allow buyers to build in non-traditional stages such as product demos, something the tech sector has been asking for.
- The proposal on LTR means that it will no longer be a standalone procedure but most of the existing procedural flexibility will be available under the new competitive flexible.



## Current Situation

Public sector commercial systems are fragmented, making it difficult to share information and analyse and scrutinise public sector contracting. For example, suppliers have to register on multiple systems (70 in central government) in order to bid for public contracts. There is little visibility of how public contracts are performing or spend with different suppliers.

## Proposals

- **Transparency - We propose regulation to embed transparency by default throughout the commercial lifecycle from planning through procurement, contract award, performance and completion.** Contracting authorities would be required to disclose procurement and contract data and significantly increase transparency without a separate FOIA request.
- **Open Contracting Data Standard - We propose to require all contracting authorities to implement the Open Contracting Data Standard (OCDS) so that data across the public sector can be shared and analysed at contract and category level;**
  - The Open Contracting Data Standard is a free, non-proprietary, open data standard for public contracting implemented by over 30 governments globally; it describes how to publish data and documents at all stages of the contracting process.
  - We will set out a timetable for all e-procurement and related systems across the public sector to become OCDS compliant and interoperable with other market-led public procurement systems.
- **Central Platform - We propose developing a digital strategy and roadmap for public procurement. This will include developing a central platform including functions such as:** register of supplier data ('tell us once'); public access to all published data online and via APIs; contract performance KPIs, contract register, debarment register to identify suppliers guilty of fraud, etc.

## Impact of Proposals

- Easier for suppliers to bid as they will only need to provide registration information once to qualify for any public sector opportunity.
- Greater visibility for suppliers of public sector commercial activity.
- Easier to hold Government to account through access to information on contract performance.
- Easier for Government to conduct due diligence and ensure it is contracting with the right suppliers, and the potential to link up with other sources of information/intelligence such as the Spotlight tool being developed by the grants function.



## Current Situation

The procurement review system is a traditional court based system and is rigorous and thorough. But it is also lengthy, expensive and complex. Small businesses in particular find the process too costly to pursue and many believe that suppliers' access to pre-contractual remedies is limited. Spurious challenges can often be brought by incumbent suppliers who lose contracts as a means of delaying the new contract award to a competitor. There is no means by which suppliers or civil society can raise concerns about poor procurement practices which have not caused the loss of a contract but are nonetheless impacting on achievement of procurement objectives.

## Proposals

- **Establishment of a new unit, supported by an independent panel of experts, to improve CA commercial capability.** The unit would address strategic gaps in capability across public procurement.
- **Speeding up the review system to improve accessibility for suppliers.** This will primarily be based on reforming Court processes but we also intend to investigate the use of a tribunal for certain types of claim.
- **Re-focus onto pre-contractual remedies** Stated preference for pre-contractual remedies and revision of the test which determines whether an automatic suspension should be lifted so that the Contracting Authority can conclude the contract.
- **Capping the level of damages available to aggrieved bidders.** This would cap damages to legal costs and 1.5 x bid costs only (with some exceptions, for example where no competition has been held).
- **Removal of mandated requirement for an individual debrief letter at the end of every procurement** Evaluation information will be provided under new transparency requirements at award decision. This will release more data that is currently provided and allow bidders to determine for themselves the relative advantages of the winner in comparison to their own, more detailed feedback.

## Impact of proposals

- A reduction in the total amount of time public authorities and suppliers spend processing legal challenges and the ability to quickly overturn unlawful decisions without over-reliance on damages as a remedy. Increased confidence in public procurement system.



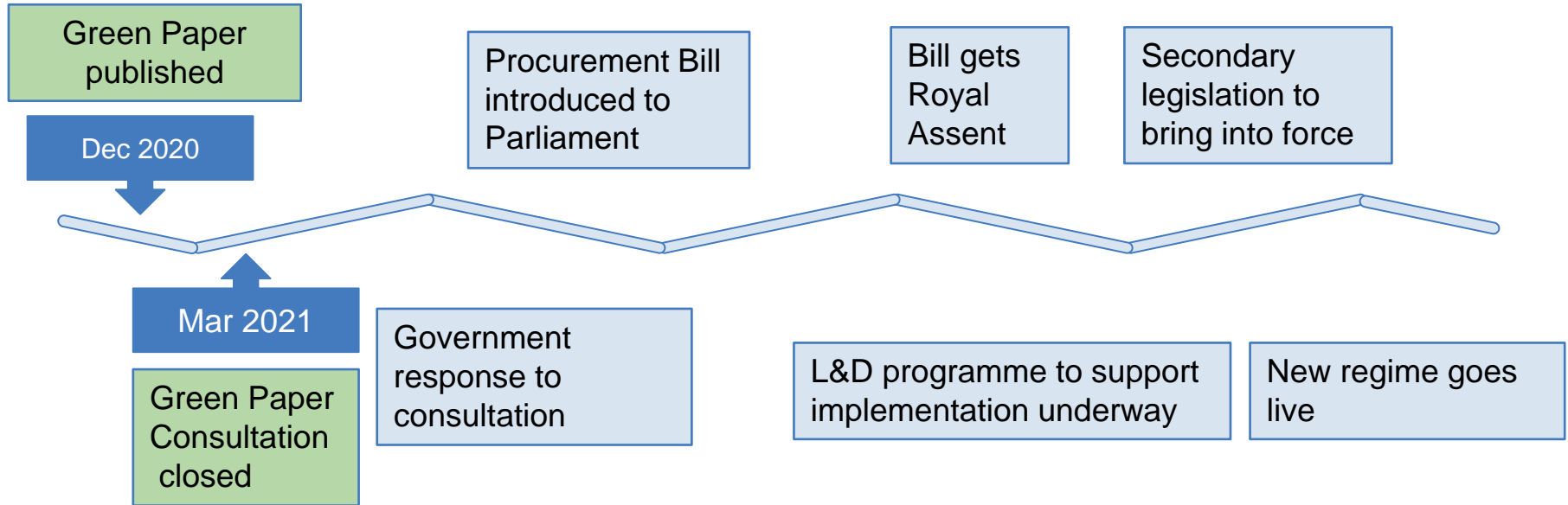
# Themes from the consultation

- **Transparency**
- **Oversight**
- **Remedies**
- **How will we support implementation?**





# Making the new legislation





# Supporting implementation



Knowledge Drops



Self Guided Online Modules



Instructor Led Virtual Deep Dives



Communities of Practice

## Wraparound

Published resources  
(PPNs, statutory and  
non-statutory  
guidance, templates,  
model procedures,  
case studies, Q&A  
etc)



# In summary

- **Queen's Speech and publication of the NPPS are key milestones**
- **Focus on analysing the responses, preparing the legislation, designing the learning and development offering, developing the platform**
- **Join our stakeholder community to get updates - email [procurement.reform@cabinetoffice.gov.uk](mailto:procurement.reform@cabinetoffice.gov.uk) and title the email 'Keep me updated'**



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## Q&A

