

Procurement Act 2023

The Procurement Act 2023 comes into effect on February 24 2025, below are some key points of the Act:

Key Changes and Thresholds

The Procurement Act 2023 introduces important changes to public sector procurement in the UK. It applies above specified thresholds and there are two that we need to be aware of at Town and Parish Council level:

1. Works/Construction Threshold: £5,372,609 (including VAT)
 - Applies to building new structures
 - Renovating buildings
 - Installing structures on land
 - Land leveling or modification projects
2. Goods and Services Threshold: £214,904 (including VAT)
 - Applies to purchasing goods
 - Applies to service contracts

While these thresholds may seem high for many councils, it's crucial to understand that they apply to the total contract value over its full term. For example:

- A 4-year service contract at £53,726 per year would reach the threshold ($4 \times £53,726 = £214,904$)
- A 3-year contract with a 3-year extension option must be valued as a 6-year contract when determining if it meets the threshold

When estimating contract values, councils must include:

- The full term of the contract
- Any potential extension periods
- All renewal options
- The total cost including VAT

Key Objectives and Principles

The Act emphasises several core objectives that councils must follow:

1. Value for Money
 - Ensure public funds are used efficiently
 - Consider both immediate and long-term cost implications
2. Maximising Public Benefit
 - Focus beyond just cost considerations
 - Consider wider benefits to the community
 - Evaluate long-term impact of procurement decision
3. Transparency
 - Openly share procurement policies
 - Document and publish decision-making processes
 - Make contract details accessible
 - Maintain clear evaluation records
4. Integrity

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- Act ethically throughout the procurement process
- Maintain professional standards
- Avoid conflicts of interest

5. Fairness

- Treat all suppliers equally unless there's justified reason for difference
- Provide equal access to information
- Maintain consistent evaluation criteria

6. SME Accessibility

- Actively remove barriers for small and medium-sized enterprises
- Consider splitting larger contracts into lots
- Simplify procurement processes where possible

Procurement Procedures and Requirements

Available Procedures

The Act simplifies procurement procedures to two main types:

1. Open Procedure

- Single-step process
- No restrictions on who can bid
- All information published at once
- Fully accessible and non-restrictive
- Electronic submissions: minimum 25-day timescale
- Paper submissions: minimum 30-day timescale
- Can be reduced to 10 days in genuine urgent situations

2. Competitive Flexible Procedure

- Allows multiple stages
- Can include pre-qualification steps
- More suitable for complex or technical projects
- Ability to set specific criteria
- Greater flexibility in structure
- Must comply with legal requirements and rules

Evaluation Criteria

All tender evaluations must be:

- Proportionate to the contract
- Relevant to the subject matter
- Clear and measurable
- Published with explanations of weightings
- Documented with decision rationales

Post-Tender Requirements

Once tenders are received, councils must:

1. Select the most advantageous tender (best overall for public benefit)
2. Provide bidders with an assessment summary
3. Publish a Contract Award Notice
4. Observe an 8-working-day standstill period
5. Publish a Contract Details Notice within 30 days
6. For contracts over £5 million, publish the full contract

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SME Accessibility

A significant focus of the Act is improving access for small and medium-sized enterprises.

Common barriers identified include:

- Lack of awareness of opportunities
- Complex processes
- Unconscious bias
- Vague requirements
- Short timescales
- Excessive middle management involvement
- Complex terms and conditions

The Act requires contracting authorities to actively remove these barriers rather than just consider them.

Below Threshold Procurement

For contracts below the thresholds, councils have more flexibility but must still ensure:

- Value for money
- Removal of barriers to SMEs
- Publication of below-threshold notices for open competitions
- Reasonable timescales
- Fair and transparent processes

The Act implies 30-day payment terms into all contracts, regardless of what's specifically written in them.