



## NAVIGATING THE PROCUREMENT ACT 2023: 5 KEY CHANGES YOU NEED TO KNOW

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The **Procurement Act 2023** takes effect on **24 February 2025**, introducing the most significant overhaul of UK public procurement in decades. Designed to **streamline procedures, enhance transparency, and strengthen supplier accountability**, the Act replaces the previous EU-based framework with a more flexible, UK-focused approach.

For businesses and contracting authorities, these changes bring new opportunities—but also new risks. From stricter exclusion rules to greater contract oversight, understanding the impact of these reforms is essential for ensuring compliance and remaining competitive.

To help you prepare, **Beale & Co has produced a comprehensive Guide (see [here](#))**, breaking down the key provisions of the Act and their practical implications. Below, we highlight **five of the most significant changes**—each explored in more detail in the full Guide.

### 1. **Tougher exclusion and debarment rules (see Guide: pp. 12-16)**

The Act introduces much tougher rules on supplier exclusion (filling out two complete Schedules), making it easier (and in some cases even necessary) to block suppliers from accessing tender processes (Ss 57-66).

**The new law also expands the grounds on which suppliers may or must be excluded**, allowing authorities to **disqualify bidders more easily** for:

- **Economic crime (such as fraud) in the UK or overseas (Sch 6, paras 4 – 8, 14 and 15)**
- **Breaches of contract (Sch 7, para 12)**
- **Unsatisfactory contract performance (Sch 7, para 12)**
- **Breaches of UK or overseas competition law (Sch 6, paras 32, 41-42 and Sch 7, paras 7-9)**

It is not only its own conduct that a supplier needs to worry about. The misdeeds of parent companies, subsidiaries, or key subcontractors may also lead to exclusion where they correspond to grounds of exclusion.

An innovation of the Act is the introduction of a centrally managed **Debarment List** (S 62). This list will catalogue known grounds of exclusion which apply to suppliers and their connected persons. Listing should be reserved to cases where a supplier represents a high risk to the public sector.

Suppliers added to this list may face **automatic disqualification from future tenders**.

However, authorities **must give suppliers a chance to appeal before listing them**.

Contracting authorities will also have automatic rights to terminate contracts with suppliers who become subject to grounds of exclusion during the life of the contract.

## 2. **Greater focus on integrity and public benefit (see Guide: pp. 6-7)**

The Act places **greater emphasis on ethical procurement** and **public benefit**, shifting focus from **EU-driven market access** to **UK priorities**.

The new objectives that must be pursued by contracting authorities are the following:

- **Delivering value for money** (S 12(1)(a))
- Consider **maximising public benefit** by prioritising **social value, sustainability, and innovation** (S 12(1)(b)). In recently published guidance, the Government has confirmed it expects social value (ESG) considerations to account for at least 10% of the overall marks available in any procurement scoring system;
- Increasing **SME involvement** in procurement processes and government contracting (S 12(4)).

Contracting authorities must also take into account the policy objectives set out from time to time in the Government's newly released and expanded "National Procurement Policy Statement" (NPPS) (S 13). The NPPS encourages **pre-market engagement** to **encourage innovative solutions** from suppliers.

## 3. **Performance monitoring and Key Performance Indicators (KPIs) (see Guide: pp. 15-16, 21-22)**

For most contracts with a value exceeding **£5m**, suppliers will now be subject to more rigorous performance tracking. Not only that, but they will be monitored against KPIs and their progress published.

Authorities must:

- Set and publish **KPIs** for public contracts (S 52).
- Report **supplier performance annually** on the **Central Digital Platform** and publicise instances of breach of contracts or missed KPIs (S 71)
- Categorise supplier performance as **exceeding, meeting, approaching, or falling below targets** (Procurement Regulations 2024, Reg 5)

Suppliers who **consistently underperform** risk **exclusion from future tenders**, making ongoing compliance essential. Given the high stakes, disputes over **poor performance assessments** or notices alleging **contract breach** could lead to **legal challenges** under the Act, in judicial review or possibly even under tort or defamation law.

This area has captured the concern of many suppliers, anxious to understand what scope they will have to negotiate KPIs which are workable and pragmatic, and to know what recourse they have if an authority wrongly assesses them as not meeting targets.

#### 4. **More flexible procurement procedures (see Guide: pp. 8-10)**

The Act simplifies previous **EU-based** procurement procedures by introducing:

- **The Competitive Flexible Procedure** – allowing authorities to **design custom tender processes**, while ensuring **fairness and transparency**.
- **The Open Procedure** – a **single-stage** process for straightforward procurements.

On the face of it, this is sensible. Many find the plethora of different procurement processes (e.g. open, restricted, competitive dialogue, negotiation with competition, light touch) both bewildering and unnecessary.

But how will authorities apply this new-found freedom? Will they act sensibly or use it to impose unreasonable demands on bidders (many of whom already find tendering overly burdensome)?

One important safeguard is that authorities **must still treat bidders fairly and equally**, but **transparency will increase**—with **more published notices**, not just during tenders but **throughout the contract lifecycle**.

#### 5. **Increased transparency and legal oversight (see Guide: pp. 23-25)**

The Act enhances **public access to procurement and contract information**, with new obligations for the following notices on the new Central Digital Platform (CDP):

- **Market engagement notices (S 17)** – unless there is a good reason, there is an expectation that contracting authorities will advertise opportunities to engage in **pre-procurement market engagement**.
- **Contract change notices (S 75)** – authorities must publish changes to live public contracts, which may elicit challenges if the supplier's competitors consider the changes unlawful.
- **Pipeline notices (S 93)** must be published by contracting authorities with procurement budgets exceeding **£100m**, the notice giving suppliers advance visibility of upcoming opportunities in the ensuing financial year valued above £2m.
- **Publication of contracts and contract details (S 53)** – ensuring suppliers understand **how and why** decisions were made.
- **New debrief notices and legal timeframes for certain remedies (S 50 and 101)** – less comparative notices to losing bidders and shorter time frames to **obtain injunctions** to restrain award decisions.

As under the current law, bidders must still generally start challenges before the courts within 30 days of knowledge of the underlying factual issues (S 106). An automatic suspension will only be imposed on the buyer where the bidder has brought a claim within the eight-working day standstill period (S 51 and 101).

In general, bidders are likely to find the CDP both a source of angst (when deliberating over disclosure obligations) and enlightenment. It will be a forum where they learn many interesting facts about authorities (e.g. how good they are as payers) and competitors.

## Get the full analysis

These are just **five** of the major changes introduced by the **Procurement Act 2023**. The **Beale & Co Guide** provides a **detailed breakdown** of all key reforms, their practical implications, and what businesses need to do **to stay compliant and competitive**.

For the full insights, **please download the Beale & Co guide to the Procurement Act 2023, available on our website [here](#)**.

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