



Government
Commercial
Function

Transforming Public Procurement

Our innovation ambition

Delivering better procurement
across the public sector



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Summary

Through the Procurement Act 2023, the government is transforming how public procurement is done in the UK. The changes will help to make better use of public resources to deliver better public services and grow the economy.

One of the objectives of the reforms is to empower public bodies to procure more innovative solutions to meet their needs. Using new and better products and services will help them improve the quality and efficiency of services for the public. Directing more public procurement to innovations and innovative companies will help drive growth locally and nationally.

To enable public sector organisations to embrace innovation more, the new legislation will allow public procurement to be done in more flexible and innovative ways. This guide explains the objectives of the changes and outlines the new flexibilities.

- Our ambition for procurement of innovation across the public sector.
- Why the changes are needed.
- How the changes help contracting authorities.
- How the changes help suppliers.
- Innovation-friendly procurement processes.
- Empowering contracting authorities.

Our ambition for innovation procurement across the public sector

Our ambition is that UK public sector organisations will be well prepared to adopt new, innovative solutions to their needs when those offer the best outcomes. Making more use of innovation will help the public sector deliver better services.

Public sector leaders will:

- promote understanding in their organisations of how innovation can improve public services
- set expectations for procuring innovation to improve operations and delivery
- actively support more innovative use of procurement processes
- advocate for the development of commercial expertise

Procurement professionals will have a wider set of tools, giving them more flexibility to choose newer solutions and to fit the procurement process to specific needs.

Better understanding of suppliers, markets and emerging solutions will enable them to make better decisions. To empower them to make use of these tools, they will have access to new sources of advice, training and expert guidance. They will have the support of their leaders and a greater appetite for innovation across the public sector. Procurement professionals will have the potential to make more strategic contributions to their organisations. Greater transparency of procurement data will make it easier to see what approaches have been successful and encourage use of those approaches more widely across the public sector.

Our ambition is that, over time, these developments will make public procurement into one of the most powerful levers to drive innovation nationally, nurturing creativity and growth in local business communities and at the same time, substantially improving the effectiveness of public services.



Why the changes are needed

Public procurement needs to achieve best value for taxpayers, but achieving best value should include delivering improved services over time, through seeking and using innovations.

Innovation across the public sector will also be essential for meeting pressing global challenges, including climate change, ageing societies and the provision of health and social care. Many factors affect the UK's national capacity to create and use innovations. Public procurement is only one lever, but it is one we can make more use of, to help us meet those major challenges.

Many public sector organisations have shown how procuring innovation can transform services, achieve savings, and deliver wider additional benefits for businesses, the public and the economy. Examples of good practice include the many projects supported by Innovate UK's Small Business Research Initiative (SBRI) which provides for pre-commercial procurement. However, the SBRI has previously sat outside the mainstream procurement rules and openness to innovation has not been replicated across public services, or across the UK. The overall culture, expertise and incentive structure of the public sector has led to relatively low appetite for risk and experimentation.

Organisations representing innovative businesses have pointed to the missed opportunities and the aversion to risk in public procurement practice, and strongly support change here. The Royal Academy of Engineering summarises this: “Procurement of innovation can deliver a wide range of benefits, from better value and improved public services to acting as an effective stimulus for innovation and business growth with government providing the pull-through of novel concepts with market potential. Procurement is an under-leveraged tool in the UK’s innovation ecosystem and has the potential to have a transformational effect on companies’ investment in R&D in the UK, stimulate innovation and adoption across supply chains and deliver best value to the public purse while achieving the government’s priorities such as the net zero target.”¹

To become an ambitious and effective customer of innovation, the public sector needs to do more to engage innovative businesses, many of which will be smaller businesses, through improving access to information and using new and more flexible processes.

How the changes help contracting authorities

The new regime will create a major shift in the way the public sector approaches procurement:

- The new rules focus more on delivering outcomes (as opposed to ‘going through the motions’ of a rigid process). Contracting authorities will be able to design their own process, tailored to the unique circumstances of the requirement and, most importantly, those who are best placed to deliver the best solution.
- There will be clearer rules overall and more flexibility for procurers to use their commercial skills to achieve the desired outcomes.
- Procurers will be able to better communicate their particular problem to suppliers and work with them to come up with potential solutions. Using product demonstrations alongside written tenders will help buyers get a proper appreciation of solutions being offered by suppliers. That is particularly impactful for newer, more innovative solutions which the authority may not be familiar with.

¹ Green Paper: Transforming public procurement – Consultation response from the Royal Academy of Engineering 2021: <https://raeng.org.uk/media/j5xfbl3o/raeng-procurement-consultation-response.pdf>

How the changes help suppliers

Achieving those changes in culture, incentives and practice will create many more opportunities for innovative suppliers across the public sector.

There is already considerable evidence of the benefits of procurement of innovation by the public sector to supplier companies. As one example, companies taking part in the SBRI have seen annual revenue growth rates over 30%.

The new legislation will make it easier and more attractive to do business with the public sector:

- The new processes will give suppliers better opportunities to understand public sector challenges and develop new solutions to them.
- The rules will be clearer overall, helping more suppliers to understand the opportunities and processes, and enter public procurement markets.
- More procurement data will be published in a standard, open format, so suppliers will be able to identify new opportunities to bid and collaborate. Larger contracting authorities will have to publish 'pipelines' of their future procurements so that new suppliers and especially SMEs can form consortia and prepare to bid.
- The measures include a new duty on contracting authorities to have regard to the particular barriers facing SMEs, and to consider what can be done to overcome them.

Innovation-friendly procurement processes

The new measures include general obligations, options for preliminary market engagement, and an important new mechanism, the Competitive Flexible Procedure.

General obligations: The new rules will require procurers to take account of national strategic priorities, including driving innovation. Any contracting authority with a spend of over £100 million must publish a pipeline notice outlining public contracts with an estimated value of more than £2 million. There is a new obligation for a contracting authority to have regard to the fact that SMEs face barriers to participation and consider whether these barriers can be removed or reduced. There is also a duty to consider dividing a large contract into lots that would attract smaller company tenders.

Preliminary market engagement:

The new regime promotes better engagement with the market in advance of the formal tender process, helping contracting authorities to understand what the market is capable of offering and where opportunities for innovation exist.

Specific provisions will set out how procurers can engage with suppliers to:

- develop the requirements and approach to the procurement
- design the procedure, conditions of participation or award criteria
- prepare the tender notice and associated documents
- identify possible suppliers
- identify likely contractual terms
- build capacity among suppliers in relation to the contract being awarded



Competitive Flexible Procedure:

This gives contracting authorities flexibility to design and run a process that reaches the best solution through developing their understanding of what is available. There are options to integrate phases within the process to improve collaboration, including negotiation or dialogue. Authorities can run a multi-stage procedure, including research and development (R&D) stages, with interim assessments and funding. Award criteria can be refined as the process develops and understanding improves, before a final assessment to establish the Most Advantageous Tender.

The objective is that the Competitive Flexible Procedure removes some of the existing barriers to procuring new and better solutions and gives contracting authorities freedom to enable them to achieve the best fit between the specific requirement and the best the market offers.

One way in which a procurement using the Competitive Flexible Procedure could work – an indicative example

The contracting authority develops a 'challenge brief' explaining the problem they need to solve. This is informed by effective preliminary market engagement.

Once the contracting authority understands its requirement and the relevant market, it issues its tender notice. This, along with any associated tender documents, describes the problem statement, including a description of the needs and characteristics of the goods, works or services eventually required. It indicates elements which define the minimum requirements to be met by all tenders.

The Tender Notice details the intention to run a three-staged tendering procedure and what each stage will consist of.

Phase 1: Initial ideas and feasibility

Phase 1 invites tenders from all interested parties. Any conditions of participation (only related to technical and financial standing) are assessed, then the submissions assessed against the initial award criteria. Assuming numerous bidders met the criteria, the contracting authority may place interim contracts and move on to phase 2.

Phase 2: R&D and prototype

The mechanism allows for award criteria to be refined so new information that emerges can be added as the procedure moves on. This phase enables authorities to undertake research and development with suppliers, with supporting measures ensuring transparency and fair and equal treatment. At the end of this phase, the contracting authority invites written tenders and assesses them.

Phase 3: Award of production/service contract

Remaining participant suppliers are invited to compete in another restricted competition. The authority assesses these tenders and places one or more production/delivery contract(s).

Empowering contracting authorities

Beyond the legislative framework, contracting authorities will need to learn to use the flexibilities available, build skills, and develop a culture that is more open to new solutions, in order to maximise the benefits.

Behavioural changes will make the biggest difference, for example:

- making sure that specifications are clear and outcome-focused
- a genuine willingness to engage with the market (not limited to formal pre-market engagement, but as part of an ongoing discussion)
- a mature approach to risk allocation and ownership of intellectual property

The legislative changes very much go with the grain of the policy and good practice outlined in the Sourcing², Construction³, DDaT⁴ and Consultancy⁵ Playbooks.

Changes of this kind and value need to be adopted throughout organisations, to ensure they are fully supported and delivered. The changes being made now will lead to tangible improvements in the short term, which will grow substantially over time, as procurement practice evolves.

These changes will require new ways of working so all players can take full advantage of the new opportunities and understand what is changing from the current system. The reforms will be supported by an extensive Learning and Development offer to support all those involved in the procurement process.

Training is an essential element of programme implementation, facilitating cultural and behavioural changes that will unlock the flexibilities of the new regime. Funded places are being made available, so they are free at the point of delivery.

2 www.gov.uk/government/publications/the-sourcing-and-consultancy-playbooks

3 www.gov.uk/government/publications/the-construction-playbook

4 www.gov.uk/government/publications/the-digital-data-and-technology-playbook

5 www.gov.uk/government/publications/the-consultancy-playbook



The training and guidance will provide contracting authorities with greater clarity on issues including:

- how to inject procurement expertise into project teams planning innovative approaches to service delivery
- how to take advantage of and deploy the flexibilities offered by the Act to obtain the best solution from the marketplace
- how to be confident to use these flexibilities, understanding the benefits and risks, and dealing with risk aversion
- how to design a new competitive flexible procedure to encourage innovative solutions
- recognising that innovation can also be about improving existing products
- understanding that you can fund an innovative process, allowing start-ups and scale-ups to compete more easily
- how to run a single, multi-stage procurement process that allows for funded R&D and for the purchase of any final outputs (without the need for further competition), where appropriate

Training and guidance resources

Alongside written guidance, Cabinet Office will roll out a comprehensive L&D programme for contracting authorities. The formal training offerings comprise Knowledge Drops, e-Learning, and an Advanced Course of Deep Dives.

- **Knowledge Drops:** Learners will get a headline summary of the reforms and understand what needs to change in practice, and what the benefits are. As well as Knowledge Drops aimed at contracting authorities, there will be tailored versions available for suppliers in general, and for SME/VCSE suppliers.
- **E-Learning:** The core training product, which will be open to all relevant procurement and commercial practitioners from contracting authorities (and nominated named individuals who regularly undertake procurement activity on behalf of contracting authorities).

This self-guided set of modules is designed to equip learners with an appropriate level of knowledge and understanding to allow them to get to grips with the new regime.

- **Advanced Course of Deep Dives:** The course will build on the ‘what’ provided by the e-Learning to focus on the ‘how’, giving those who need to become expert practitioners in the new regime the skills and confidence to maximise its benefits.

Following on from the formal training, Cabinet Office will also be supporting Communities of Practice. These centrally and locally managed communities, networks and fora bring practitioners together to learn how to apply their knowledge in specific ways to improve and embed the new regime and best practice, and to foster cultural and behavioural change. Communities of Practice will be supported by a suite of learning materials: toolkits and presentation materials that follow on from the key topics in the formal e-learning training, checklists for best practice, and superuser and subject matter support.



In several countries, expert organisations dedicated to promoting innovation procurement have successfully improved procurement practice, delivering more for the public and rewarding innovation by supplier businesses. The role and impact of expert hubs was explored in a recent report⁶. The Innovation Procurement Hubs explored by this research were predominantly led by the public sector. They offer information and advisory services, share best practice case studies and provide networking, all of which deliver value to procurement bodies and suppliers.

Sharing experience and expertise will spread success. Innovate UK and its Catapults are already piloting approaches for procurement hubs and will develop cost-effective and light-touch means to model and replicate successful approaches for procuring innovation.

Further details of the L&D package, and other information about the reforms, are available on the Transforming Public Procurement landing page⁷ and via regular stakeholder updates – sign up⁸ to receive them.

6 Innovation Procurement Hubs: Examples from Europe and beyond, Connected Places Catapult, University of Birmingham, University of Manchester, 2022: <https://cp.catapult.org.uk/report/sparking-innovation-in-the-market-the-role-of-expert-support-hubs>

7 www.gov.uk/government/collections/transforming-public-procurement

8 <https://tinyurl.com/ycktu2bc>

