



Scope and remit of the Debarment Review Service (DRS)

What is the service?

The Debarment Review Service (DRS) was established following the passing of the Procurement Act 2023 (the “Act”). The DRS’ purpose is to protect public procurement from suppliers that pose risk, by considering suppliers for addition to a centralised debarment list, under the powers of the Act. If a supplier is added to the debarment list, this affects their eligibility for public contracts.

The Act enables the DRS to undertake debarment investigations into suppliers (on behalf of a Minister of the Crown) to establish whether they are an **excluded or excludable*** supplier, and if so whether the supplier should be added to the debarment list. Decisions to commence investigations and whether to add a supplier to the debarment list are taken by a Minister of the Crown¹.

To understand more about debarment powers under the Act, please refer to (i) [the guidance on debarment](#), (ii) [the debarment protocol](#), and (iii) [the risk assessment framework](#). You may also wish to refer to the [guidance on exclusions](#), which gives information relating to the exclusion grounds.

The DRS may investigate suppliers in relation to all exclusion grounds, except the two national security-related exclusion grounds (para 35 of Schedule 6 and para 14 of Schedule 7), which are the remit of the National Security Unit for Procurement (NSUP). Referrals should be made to the appropriate team using the forms on [gov.uk](#) page or linked on page 6.

*A supplier is an **excluded** supplier if any of the **mandatory exclusion grounds**, outlined in Schedule 6 of the Act, apply and the circumstances giving rise to the relevant exclusion ground are continuing or are likely to occur again.

A supplier is an **excludable** supplier if any of the **discretionary exclusion grounds**, outlined in Schedule 7 of the Act, apply and the circumstances giving rise to the relevant exclusion ground are continuing or are likely to occur again.

What do contracting authorities need to know?

It should be noted that the DRS is not an advisory unit and is unable to assist contracting authorities that are undertaking supplier due diligence.

Contracting authorities should familiarise themselves with the debarment guidance. The following are reminders of some key points, but are not a substitute for reference to the

¹ References to the Minister of the Crown throughout this document are to the nominated deciding Minister in the Cabinet Office.

[published guidance](#).

Debarment list - Contracting authorities must check the debarment list before:

- A. allowing any supplier to participate in or bid for a covered procurement; and
- B. at any other point in the procurement procedure that requires a decision about which suppliers continue in the procedure (e.g. interim assessment stages in a multi stage competitive flexible procedure); and
- C. before deciding to award a public contract to a supplier.

Contracting authorities must check whether the supplier's name, or the names of any associated persons or intended sub-contractors, are on the debarment list. Contracting authorities should also check whether the names of any connected persons of the supplier are on the debarment list, as this may be grounds for considering taking exclusion action against the supplier on the basis of the contracting authority's own assessment.

Discretionary grounds - Where a supplier is on the debarment list as a result of a discretionary ground, contracting authorities have a discretion as to whether to exclude the supplier or disregard their tender in covered procurements. Contracting authorities should use caution and only permit excludable suppliers to bid for a public contract after careful review, having considered any relevant investigation report relating to the debarment list entry, and having undertaken appropriate additional due diligence. Contracting authorities should only proceed with such suppliers if they have good reasons for doing so. These may include market limitations, operationally critical contracts or the risk posed by the supplier on that particular contract, but each case will depend on the circumstances. In making decisions on exclusions, contracting authorities may wish to review relevant debarment decision reports (where available).

Mandatory grounds - When a supplier is on the debarment list in relation to a mandatory exclusion ground, a contracting authority must exclude the supplier or disregard their tender in covered procurements. The following exceptions apply:

- A. procurements by private utilities (who should treat the supplier as an excludable supplier);
- B. where a supplier is on the debarment list on national security grounds and the contract in question does not fall within the description of contract included in the debarment list entry; or
- C. procurements by direct award where there is an overriding public interest in awarding the contract to that supplier. These include certain defence and security reasons and in certain cases where there is an extreme and unavoidable urgency.

Excluding a supplier that is not on the list - If a supplier (or an associated person or intended sub-contractor) is not included on the debarment list, contracting authorities may only exclude that supplier from procurements or disregard their tenders if they are satisfied, based on their own assessment, that the supplier is an excluded or excludable supplier or as otherwise permitted by the Act. The [exclusions guidance](#) provides more information to help with this assessment.

If a contracting authority is aware that a supplier is subject to an ongoing debarment investigation no assumption should be made in regard to the outcome of the investigation or as to whether the supplier is excluded or excludable; normal due diligence is required by the contracting authority.

Assisting debarment - Contracting authorities may be required to provide information and assistance during an investigation of a supplier for potential debarment. As part of an investigation, contracting authorities may be asked to supply relevant information about suppliers they have contracts with or have had contracts with in the past, or where they hold information about suppliers in the exercise of their functions. Unlike suppliers, contracting authorities are under a legal duty to comply with such requests (as per s.60(4) of the Act).

What do suppliers need to know?

Co-operating with an investigation - Suppliers do not have a legal duty to comply with requests for information or other assistance, however, failure to do so could result in the supplier being added to the debarment list by virtue of the mandatory exclusion ground: failure to co-operate with an investigation.

Interim Relief - Suppliers will have eight working days, beginning with the day on which notification of the decision to add them to the debarment list is given ('the debarment standstill period'), to apply to the court for a temporary suspension of the decision.

Appeal - UK and treaty state suppliers may appeal certain debarment-related decisions on the grounds that, in making the decision, the Minister made a material mistake of law. A supplier must commence an appeal within 30 days of knowing (or from when it should have known) of the Minister's decision.

Application for removal - At any time, a supplier can apply to the relevant Minister of the Crown, via the DRS, for removal or revision of their entry on the debarment list. Such an application need only be considered where there has been a material change of circumstances or significant new information.

Debarment process

The debarment process is outlined in detail in the published [Protocol accessible on gov.uk](#).

Acceptance criteria for debarment cases

Referrals are typically received by the DRS through the [online form on gov.uk](#). However, suppliers may be brought to the attention of the DRS for potential debarment investigation through any means, including but not limited to: notification by a contracting authority of exclusion action taken against a supplier during a procurement (via gov.uk), an investigation by the Welsh Ministers or a Northern Ireland department, or through DRS 'self referral' as a result of media interest or proactive market monitoring. The DRS has a discretion, rather than a duty, to investigate a supplier after receiving a referral.

Once a referral is received by the DRS, the details provided will be considered against the scope of the Act and the service. In accordance with the DRS' published Protocol, this involves assessing:

- A. Whether there is a reasonable possibility of an exclusion ground applying;
- B. Whether the event(s) potentially giving rise to the exclusion ground or the relevant awareness of that event is within the relevant time limits; and
- C. Identifying which supplier(s) would be subject to a potential investigation.

Depending on the circumstances, the DRS may request additional information from the referrer in order to be able to undertake its assessment.

If the case is assessed as within scope, it will then be assessed against the risk assessment criteria outlined in the Protocol. The DRS will recommend commencing investigations in cases which meet the threshold for investigation, which may vary from time to time but is currently set where at least one of the risk criteria is assessed as “high”. Consideration is also given to other relevant factors specific to the case and whether there are additional compelling reasons to either investigate or not to investigate. In circumstances where the number of cases meeting the threshold for investigation exceeds the DRS’s capacity for running investigations, cases will be subject to a prioritisation process.

Circumstances outside of scope for debarment

Although the Act states that in certain circumstances outside of those listed in Schedule 6, a supplier must be treated as an excluded supplier, these are not grounds for debarment and, if any of these circumstances apply, the supplier must simply be excluded from that particular procurement.

The circumstances are:

- A. Where a supplier’s participation in preliminary market engagement has put the supplier at an unavoidable unfair advantage (see section 16 (Preliminary market engagement));
- B. Where the supplier has acted improperly in a procurement or has failed to provide information about its connected or associated persons (see section 30 Excluding suppliers for improper behaviour); or
- C. Where a conflict of interest has put a supplier at an unavoidable unfair advantage (see section 82 Conflicts of interest: duty to mitigate).

National Security Debarment Referrals

Under the Act, the government has introduced measures to protect the UK public sector from suppliers that pose a threat to UK security. One of these measures allows anyone, including members of the public to submit referrals to the National Security Unit for Procurement (NSUP) for a potential national security debarment investigation.

NSUP has been established to support Ministers in assessing suppliers on national security grounds, in line with the Act. It works closely with government departments and the intelligence community, overseeing implementation of the new powers.

It is essential that referrals are made responsibly and only when there is credible evidence or serious concern regarding a supplier’s threat to the national security of the UK. Unfounded referrals could divert resources and attention away from genuine threats, potentially compromising the effectiveness of the system. We urge those interested in submitting a referral to NSUP, to consider the evidence available and the seriousness of their concerns.

Further information about NSUP, including how to make a referral in relation to PA23’s national security exclusion grounds can be found [here](#).

What happens during an investigation

Suppliers that are to be investigated will be served with a notice detailing which exclusion ground(s) they are being investigated for and when/how they can make representations. During investigations, suppliers will be able to make representations, which will be carefully considered alongside other relevant factors ahead of the final decision taken by the Minister.

The purpose of an investigation is to equip the Minister to consider whether a supplier could

be added to the debarment list, by considering the following questions:

- A. Does the supplier meet the definition of an excluded or excludable supplier?
 - i.e: Does the Minister consider:
 - a. an exclusion ground applies; and
 - b. the circumstances that gave rise to the exclusion ground are continuing or likely to occur again.
- B. If so, should the supplier be added to the debarment list?

For each case, the DRS will work with teams across the public sector to ensure these questions are answered during an investigation. This will include a review of any self-cleaning evidence and representations, which will help the DRS to assess whether the circumstances that gave rise to an exclusion ground are continuing or likely to occur again.

If a supplier is found to be an excluded or excludable supplier, the DRS will take into account all the considerations relevant to the case, which may include the potential consequences of adding, or not adding, the supplier to the debarment list, in order to make an appropriate recommendation to the Minister.

What happens once the decision has been taken - The supplier will be notified of the decision and (after the debarment standstill period of 8 working days) will be added to the debarment list (if appropriate) and an investigation report will be published.

The debarment list can be found [here](#).

The findings of an investigation, including the recommendation to add, or not to add, the supplier to the debarment list will be captured in the investigation report, unless it is necessary to withhold information to:

- A. Safeguard national security;and/or
- B. Protect sensitive commercial information where there is an overriding public interest in it being withheld.

How to contact the service or raise a referral

There are five referral forms:

To raise a referral for consideration for a debarment investigation on the basis of an exclusion ground in Schedules 6 and 7 of the Procurement Act (except on the grounds of national security): [Raise a referral for debarment with the Debarment Review Service](#)

For Contracting Authorities providing notification that a supplier has been excluded from a procurement procedure, [Procurement Act, section 59 (1)(a) and(2)]: [Notify the Debarment Review Service that a supplier has been excluded, replaced or removed from a public sector procurement](#)

For national security debarment investigation [Procurement Act, Section 29] [Raise a referral for a national security debarment investigation](#)

For contracting authorities to provide notification that a supplier has been excluded

or terminated from a procurement procedure, due to being named on the debarment list on mandatory national security grounds [Procurement Act, Schedule 6] [Notification of the exclusion of a supplier from a procurement or the intention to terminate a public contract with a supplier named on the debarment list on mandatory national security grounds for public contracts of the same particular description](#)

For contracting authorities to request Ministerial agreement on whether a supplier should be excluded or a contract terminated on national security grounds [Procurement Act, Chapter 2 para 29 (b)] [Referral to a Minister of the Crown of intention to exclude a supplier or terminate a public contract with a supplier on grounds of national security](#)

The unit will confirm receipt by an automatic response.

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