

**REPORT TITLE:** Implementation of the Procurement Act 2023

<b>Meeting:</b>	<b>Overview and Scrutiny Management Committee</b>
<b>Date:</b>	<b>9 May 2025</b>
<b>Cabinet Member (if applicable)</b>	<b>Cllr Hawkins</b>
<b>Key Decision Eligible for Call In</b>	<b>No No</b>
<b>Purpose of Report</b> To update the Committee on the activities undertaken to implement the Procurement Act 2023 (The “Act”) at Kirklees Council.	
<b>Recommendations</b> <ul style="list-style-type: none"> <li>Overview and Scrutiny Management Committee are asked to note the contents of this report</li> </ul> <b>Reasons for Recommendations</b> <ul style="list-style-type: none"> <li>To update the Committee on the activities undertaken to implement the Act, effective from 24 February 2025.</li> </ul>	
<b>Resource Implications:</b> The application of the Act could place additional demands on staff capacity across the Council, requiring more time-intensive procurement processes and contract management. Capacity will need to be consistently reviewed, potentially resulting in a request to recruit additional staff to manage the increased workload if necessary.	
<b>Date signed off by <u>Executive Director</u> &amp; name</b>  <b>Is it also signed off by the Service Director for Finance?</b>  <b>Is it also signed off by the Service Director for Legal Governance and Commissioning (Monitoring Officer)?</b>	<b>Rachel Spencer-Henshall</b> – Deputy Chief Executive and Executive Director for Public Health and Corporate Resources 01/04/2025  <b>N/A</b>  <b>Samantha Lawton</b> – Service Director Legal & Commissioning 01/04/2025

**Electoral wards affected:** all

**Ward councillors consulted:** Not applicable

**Public or private:** Public

**Has GDPR been considered?** Yes, not applicable

## 1. Executive Summary

- 1.1 After the UK's departure from the EU, the Government took the opportunity to develop and implement a new procurement regime.
- 1.2 Following a delay from the original timeline of October 2024, the Act came into effect on 24 February 2025 and has replaced the Public Contracts Regulations 2015. This has introduced some key changes to how public contracts are tendered and how they are managed.
- 1.3 The Act applies to procurement processes that exceed the UK threshold for open market tenders, as well as certain below-threshold requirements. The current thresholds are approximately £179K for Goods and Services, and £5.4M for Works (excluding VAT).
- 1.4 In the short term, existing contracts that were in place prior to 24 February 2025 and procurements through current public sector framework agreements will remain unaffected until they are re-procured under the new regime.

## 2. Information required to take a decision

Below is an outline of the key changes, the implementation activities already completed, and the plans for future actions along with identified risks and mitigations.

### Summary of the key changes:

- 2.1 **Increased Transparency:** the Council is now required to publish additional notices to communicate when procurements are being undertaken, contracts awarded and when certain changes are made to contractual arrangements. These will need to be published throughout the procurement lifecycle - from pre-market engagement including a pipeline of planned procurement activity through to contract expiry.
- 2.2 **Procedures for Competitive Award:** The Act simplifies the available procurement procedures to two options: the Open procedure, which closely resembles the format under the previous legislation, and the Competitive Flexible Procedure. The latter is a multistage process that gives authorities the flexibility to design their own procurement approach, potentially incorporating stages such as shortlisting, negotiation, and due diligence.
- 2.3 **Record Keeping:** Stricter regulations on conflicts of interest now require that records be documented and monitored throughout the procurement lifecycle for all personnel involved in the procurement of high-value contracts (e.g. project teams, specification drafters, evaluators, approvers, consultants, etc.). Establishing a comprehensive audit trail will be essential to ensure all decisions made during the contract lifecycle are accurately recorded and maintained.
- 2.4 **Contract Management:** The Act places greater emphasis on contract management, introducing mandatory Key Performance Indicators (KPIs) for certain contracts valued above £5 million. Additionally, the Council is required to publish annual reports on supplier performance against these KPIs.
- 2.5 **Documentation:** New documentation requirements have been introduced, including the replacement of "standstill letters" with "assessment summaries." As a result, unsuccessful bidders will now also receive detailed feedback on the winning bidder. Additionally, the Standard Selection Questionnaire has been substituted with a Procurement Specific Questionnaire, which will work alongside a new online Central Digital Platform designed to capture key supplier information.
- 2.6 **Value for Money:** there is a broader interpretation of value for money which includes the requirement to include social value in award criteria. Social value refers

to the additional economic, social, and environmental benefits that can be delivered through procurement. This can include creating job opportunities, supporting local businesses and reducing environmental impact. To reflect this shift, the term Most Economically Advantageous Tender (MEAT) has been updated to Most Advantageous Tender (MAT). This change emphasises the importance of considering social value alongside cost and quality when evaluating tenders

- 2.7 **Drive Growth and Opportunities:** through having regard to the barriers faced by Small, Micro and Medium sized enterprises (SMEs) and Voluntary, Community and Social Enterprises (VCSE) when designing our procurement processes.

#### Completed implementation activities:

- 2.8 All Procurement Team staff have completed training with the Government Commercial College.
- 2.9 The Council is now registered on the Central Digital Platform, which will be used to advertise procurement opportunities and monitor contract delivery throughout its entire lifecycle, from market engagement to contract expiration.
- 2.10 Template documents have been set up for the Open and Competitive Flexible Procedures.
- 2.11 The Tendering Portal (YORtender) has been updated to manage procedures under the new regime.
- 2.12 The Procurement and Legal Teams have developed a greater understanding of the regulatory requirements.
- 2.13 A high-level review of the Contract Procedure Rules has been undertaken to align with the Act, the proposed changes will be presented at full Council on 21 May 2025.
- 2.14 The Executive Leadership Team (ELT) has been briefed on the updates to the regulations. The information has also been shared at Senior Leadership Team (SLT) meetings to ensure briefed on the updates.
- 2.15 The Portfolio Holder for Corporate Services has been briefed on the regulatory updates.
- 2.16 The changes introduced by the Act have been shared with Council officers through presenting at meetings and via a blog on the intranet.
- 2.17 Suppliers have been engaged with via LinkedIn messages, via information published in procurement documents issued to market prior to 24 February 2024 and via messaging published on the tendering portal

#### Future implementation activities:

- 2.18 Embed the National Procurement Policy Statement into our procurement practices
- 2.19 Update the Procurement Strategy to align with new regulations.
- 2.20 Further develop templates and guidance based on best practice, lessons learned, and emerging case law.
- 2.21 Work with service areas to develop and publish the procurement pipeline.
- 2.22 A more fundamental review of the Contract Procedure Rules may be undertaken at the appropriate time once all supporting legislation and guidance relating to the Act has been published by the Cabinet Office.

#### Risks and Mitigations:

The following risks have been identified at this stage and are being managed to mitigate where possible:

<b>Risk</b>	<b>Mitigation</b>
Staff Capacity	<p>The implementation and application of the Act could impact on staff capacity across the Council, requiring more time-intensive procurement processes and contract management. This is likely to impact both the Procurement Team and the departments responsible for procuring goods, services, and works. To ensure efficient delivery under the new regime, capacity will need to be monitored regularly, which may lead to a request for additional staff to meet the increased workload if necessary.</p>
Contract Management	<p>Contract Management at the Council has been identified by external auditors as an area which requires improvement.</p> <p>The Act introduces measures to enhance contract management and performance across the public sector. This includes a requirement to publish contract change notices along with a redacted version of the modified contract when any modifications are made under the permitted justifications outlined in the Act.</p> <p>For contracts valued over £5M, there is a new requirement to publish information relating to the achievement Key Performance Indicators on an annual basis.</p> <p>Additionally, new mandatory Contract Termination notices have been introduced. These are required for all contracts, regardless of whether they have naturally expired or been terminated early.</p> <p>The Transformation Team is currently working on an action plan to address weaknesses in contract management practices at the Council, ensuring that agreed actions are implemented consistently and at pace.</p>
Increased Transparency	<p>The Act mandates the publication of additional notices throughout the contract lifecycle, which could heighten the risk of challenges, complaints, and FOI requests due to greater scrutiny of non-compliance. To mitigate this, the Council will maintain open, fair, and transparent procurement practices.</p> <p>This change is expected to impact the Procurement Team's capacity, potentially placing additional strain on available resources. Under the previous legislation, only two notices were required when awarding an above-threshold contract that was published to the open market, but this has now increased to five notices under the new regime. Additionally, notices must now be published for each contract variation and when a contract ends.</p>

SME Engagement	<p>The Act introduces several measures to enhance the participation of Small and Medium-sized Enterprises (SMEs) in public procurement. The Council is now required to actively encourage SME involvement and address barriers that may limit their engagement.</p> <p>To achieve this, contracting authorities are encouraged to consider their requirements from an SME perspective. This includes simplifying processes that may otherwise place an undue burden on SME suppliers or impose unfair levels of risk upon them.</p> <p>Additionally, a 30-day payment term is now mandated across the public sector supply chain, ensuring prompt payments. Measures such as reducing administrative complexities in bidding for contracts and the duty to consider lots further aim to make procurement processes more accessible to SMEs and diverse suppliers.</p>
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### 3. Implications for the Council

#### 3.1 Council Plan

The implementation of the Act reflects good procurement practice which supports the Council Plan by using procurement activity to help achieve the Councils wider priorities and outcomes.

#### 3.2 Financial Implications

None directly

#### 3.3 Legal Implications

As a Contracting Authority, the Council has a legal obligation to comply with the Act

#### 3.4 Climate Change and Air Quality

None directly

#### 3.5 Other (e.g. Risk, Integrated Impact Assessment or Human Resources)

None directly

### 4. Consultation

Consultation has been carried out with the Head of Risk, the Head of Corporate-Legal, and officers in the Procurement Team, Legal Services and HD-One Shared Services.

### 5. Engagement

- 5.1 The changes introduced by the Act have been shared with Council officers through participation in ELT and SLT meetings, other boards, and via a blog on the intranet.
- 5.2 Suppliers have been engaged with via LinkedIn messages, via information published in procurement documents issued to market prior to 24 February 2024 and via the tendering portal.
- 5.3 The Portfolio Holder for Corporate Services has been briefed on the regulatory updates.

**6. Options**

6.1 No other options - the council is required to comply with the legislation accordingly.

**6.2 Reasons for recommended option**

The Council is required to comply with all UK Procurement legislation.

**7. Next steps and timelines**

The Council is already undertaking procurement activity in line with the Act. The future implementation activities outlined at Section 2.

**8. Contact officer**

Ruth Calladine, Head of Procurement (01484 221000, email – [ruth.calladine@kirklees.gov.uk](mailto:ruth.calladine@kirklees.gov.uk))

**9. Background Papers and History of Decisions**

[The Procurement Act 2023](#)

**10. Appendices**

None

**11. Service Director responsible**

Samantha Lawton, Service Director Legal & Commissioning