LOCAL PARTNERSHIPS

PREPARING FOR THE PROCUREMENT ACT



This guidance aims to support councils in preparing for the implementation of the Procurement Act 2023, containing an overview of its core purpose, a checklist of key activity to make sure you are on track for delivery and a profile on how the workforce may need to change.

Produced by Local Partnerships in association with Michael Page recruitment solutions.

Michael Page

AN OVERVIEW

From early planning to contract end, how authorities approach their procurements is set for transformation thanks to the **Procurement Act 2023** and supporting regulations.

When the Act commences on the new date of 24 February 2025, old and new rules will operate in parallel for some time. Local Partnerships is developing tools to aid implementation, supplementing official learning and development material and guidance from the UK and Welsh Governments.

Objectives are enshrined in the Act, running like a golden thread throughout. These include delivering value for money; maximising public benefit; sharing information so others can understand procurement policies and decisions; acting with integrity; and ensuring equal treatment between suppliers unless a difference between them justifies different treatment. Consideration must also be given to removing/reducing barriers to SME participation.

The new Government's **strategic priorities for public procurement** will be set out in a new National Procurement Policy Statement. The detail should be known by February; priorities might include supporting economic growth and opening up public contracts to small businesses. Put on a statutory footing, many authorities will be required to have regard to this statement. The Welsh Government's strategic vision for public procurement in Wales is set out in a Wales Procurement Policy Statement.

Much will change procedurally in how contracts can be procured under the Act. As part of the promised streamlining, the **choice of competitive procedure** is narrowed to two; the familiar open procedure and a new competitive flexible procedure. The latter should enable more freedom and flexibility when designing a process, tailoring it to the requirement and what the market can deliver and factoring in local and national objectives. Use of tools like negotiation and dialogue should help drive innovation and deliver value for money.

Pre-market engagement remains a useful tool in terms of informing an authority's requirements, procurement strategy and process and tender and contract documents. We will see changes in the overall basis for contract award in competitive procedures; for clarity, this will be the "most advantageous" rather than "most economically advantageous" tender.

Other **routes to market** are changing. New open frameworks will allow the supplier base to be refreshed at different stages over a maximum eight-year period. The Act retains the more familiar style of framework that is closed to new entrants. Also noteworthy are the new dynamic markets (similar to dynamic purchasing systems). Under this commercial tool, qualified suppliers can participate in future procurements and new suppliers can seek to join at any time. The scope of what can be purchased has been extended beyond the more traditional commodity-based items.

As with the current rules, the new regime will allow direct awards in limited cases. Many of the justifications will be familiar, but some are new. There will be more transparency in such awards.

The regime for **excluding suppliers** will be broadened and made more robust under the Act, including the grounds for excluding a supplier for breach of contract and poor performance. New notification obligations will apply when a supplier's tender is excluded. The new debarment list, to be published on GOV.UK, should help authorities at the exclusion stage of their procurements.

One of the biggest changes being introduced in the new regime is a move to **"transparency by default"**, including through the enhanced noticing requirements. There is a clear emphasis on openness, visibility, accountability and oversight.

Data about procurement and contracting activities will be freely available through an online **Central Digital Platform**, including data on performance against KPIs and contract spend in certain cases. The platform will also allow suppliers to register their key business information, serving as a single standard business record. Over time, new commercial tools and registers will also be available there.

The new regime will introduce **greater regulation** of the contract management phase and increase visibility. For example, it will broaden the scope of the contract modification regime and require a change notice to be published in certain cases before agreeing the modification.

For authorities, this all means changes to internal processes, governance arrangements, ways of working and forward planning, making sure the right people have the right level of **training**, understand where **new collaboration** will be needed between teams and more generally there is **adequate resource** to meet the new requirements. It will also call for cultural and behavioural change so that procurement and commercial teams feel empowered to take advantage of the new flexibilities.

Teresa Oliviere Head of Legal, Local Partnerships



GETTING PREPARED

As the Procurement Act 2023 comes into force in February 2025, contracting authorities are continuing to prepare – below are some key areas which might help with those preparations. These are designed in a way that you could use to form into an action plan whatever size and shape of your authority.

You might not be perfectly ready on day one and a change in skills and culture will take time, but the Cabinet Office has published a range of resources to help with learning and awareness, whether you need to know a lot or a little, including **knowledge drops** and **learning modules**.

1	Project Management
1.1	Identify resources to implement the requirements of the Procurement Act – this usually falls to the procurement team and legal service. If the council has a Project Management Office (PMO) or a Transformation Unit they could support with delivery as key priority of the council.
1.2	Establish a project team – a range of corporate colleagues can help with creating a co-ordinated approach to implementation including the functions of communications, legal, governance, procurement and potentially directorate champions.
1.3	Create an action plan as this will give a focus on delivery with shared tasks across the council and a set of milestones for implementation.
1.4	Form a risk register for implementing the Procurement Act with mitigating activity (that will help inform the action plan) and add to the corporate risk register where there is a high risk rating so your corporate leadership and senior members (e.g. cabinet) are aware.

2	Communication
2.1	Prepare stakeholder mapping to assess involvement in the Procurement Act and the relevant communication methods depending on level of engagement from each party.
2.2	Based on the stakeholder mapping, prepare a communications plan.

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2.3	Create a record of who in the council is involved in contract management to ensure the right people know about the changes – recognising managing a contract might be a small part of someone's role. The record could be created through a survey to employees and/or via directorates confirming their contract managers.
2.4	Issue messages from the senior leadership regarding the importance of the Procurement Act – through internal newsletters, CE announcements, directorate briefings, etc.
2.5	Repeat the messaging on the Procurement Act through the council's communication channels and via the line management structure in directorates meetings and one-to-ones.
2.6	Establish a network of officers involved in the commissioning lifecycle (procurement and contract management) to meet regularly (e.g. monthly) to share the latest information.
2.7	Update the intranet pages for procurement and introduce contract management pages if not already in place (using some of the free resources from Local Partnerships: **CMPP – Contract Management Pioneer Programme – Local Partnerships**).
2.8	Update the external webpages for procurement and support suppliers to be aware of any changes due to the Act – some suppliers might be quite small and not aware of the new requirements, processes and particularly the greater need for transparency.

3	Review of current practices
3.1	Use your contract register to identify procurements pre and post implementation of the Act to ensure the new process is followed in new tenders. Any procurements commenced pre the Act will not generally need to follow the new rules.
3.2	It might be useful to map the current process and identify changes as of result the Act. See free guidance for councils running their own process mapping: **BPM Toolkit**.
3.3	A RACI might be helpful outlining who is responsible, accountable, consulted and informed for both procurement and contract management – RACI template found in the **BPM Toolkit**.

3	Review of current practices
3.4	The complete range of notices will be available via the Central Digital Platform – but it is worth making sure individuals and teams are aware of them.
3.5	To be ready and fit for the new processes, the council may wish to consider a review of contracts through conducting internal audits (particularly of the higher value contracts) or self-assessments – from **light touch reviews**, **self-evaluation** or **deep-dive conversations** with some of the findings aggregated to form an overall view of the health of contract management in the council.
3.6	Conduct benchmarking with other councils through existing networks or tools such as the Commercial Continuous Improvement Assessment Framework (CCIAF) tool: **CCIAF Home | CCIAF (site.com)**.

4	Preparing for the new
4.1	Form a commissioning pipeline for publication. Creating a pipeline of procurements is a requirement for any contracting authority expecting to spend more than £100m on relevant contracts in the coming financial year, and good practice for any councils as it supports the allocation of resources and informs the market and wider stakeholders of intended contracts – The Home Office example **Home Office procurement pipeline – GOV.UK (www.gov.uk)**.
4.2	With a strong focus on transparency some old (and potentially poor) practices need to be reviewed. Particularly direct awards in understanding the extent in which they are used, services which regularly use them and for which reason, and consider if the sign-off process is robust.
4.3	Create an options assessment for routes to market. This will help with transparency, giving the reasons for a particular approach, but also support decision making in the council as the range of procurement options have increased. This is akin to business case options appraisal.
4.4	There is a greater focus on KPIs (key performance indicators), with contracts estimated to exceed £5m in value generally needing to publish at least three KPIs, and their results. Having effective KPIs in all contracts – whatever value – is good practice with the council implementing a mechanism to measure KPI delivery. See training films on KPIs: **Unlocking the power of KPIs – Local Partnerships**.

4 Preparing for the new

4.5 Update both the procurement and contractual procedure rules within the council's constitution in accordance with the Procurement Act – legal, finance and governance teams involved in the update.

4.6 Producing a Contract Management Framework is not mandatory, but it is good practice to set expected standards and requirements in how contracts are effectively run, their governance and the assurance process. See guidance: **5. A-Framework-Lifecycle-Approach-CMPP.pdf (localpartnerships.gov.uk)**.

4.7 Establishing an Assurance Board for procurement and contract management led by senior management can be a useful forum to oversee implementation of the Act and address barriers to delivery. It can also have an on-going role in supporting change in culture and practice, along with monitoring the health of commissioning across the council.

5 Skills and training

5.1 Set a training plan that accommodates different types of learning styles and proportionate levels of knowledge that are needed. Resources include:

- **knowledge drops**
- **learning modules**
- introduction to **contract management**
- foundation and accredited contract management training from **Government Commercial College**

5.2 Conduct a skills survey and gaps analysis considering the changing set of skills needed for the Procurement Act including negotiation, project management, options assessment, etc.

5.3 Contract managers involved in the delivery of platinum and gold contracts (based on tiering) should have formal training and the accredited training for procurement officers.

Natalia Silver Director, Local Partnerships and lead on Business Process Mapping of the Commissioning Lifecycle



THE CHANGING NEEDS OF THE WORKFORCE

As the way we procure is changing, so is the skill set required by procurement professionals who are working in public and not for profit organisations. For many early years career procurement professionals, they have been familiar with a more transactional relationship with their stakeholders. The utilisation of frameworks to process requirements with little contact and relationship building with suppliers had led to a disconnect between professionals with a strategic and partnering approach and those who adhered rigorously to one set process.

It is through the resurgence of strategic partnering procurement and the new Procurement Act that the requirement for partnering and project skills in procurement have come to the forefront and a gap in this skills availability has been identified.

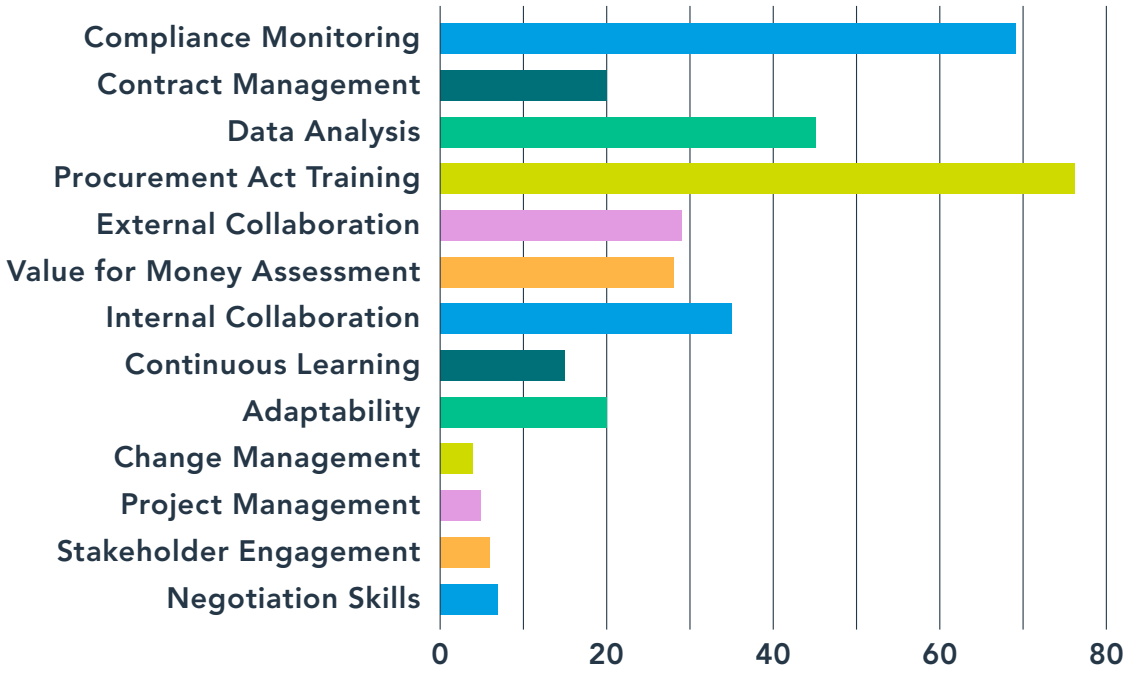
The skills required:



Whilst most of these skills may not initially appear to be new, it is that these skills are a requirement at all levels within a procurement team that has been the dramatic change. A decade ago these were the skills that were required at Business Partner and above but with a new stark focus on the value of having a strategic and high functioning procurement team within an organisation being made a key focus by the government; these expectations of skills have found their way into Procurement Officer and Buyer level roles with little training available for what has always been seen as customer service based softer skills in the market.

More importantly stakeholders are expecting these skills to be present and available within their procurement teams. After decades of asking to be sat at the table and be a strategic partner, procurement professionals are finally being invited to be fully involved in strategic programmes of work, business change and large-scale organisational decisions. Being able to communicate effectively at all levels within the structure of an organisation whilst ensuring continued partnership and regulatory adherence has never been more critical. But this isn't reflected in the average procurement professional's profile currently.

Assessment of current skills listed in CVs for procurement professionals



Most public and not for profit organisations will tell anyone who listens how challenging it is to recruit a collaborative, skilled, negotiable Procurement and Supplier Relationship Manager with a strong background in public contract regulations. It is even tougher to retain that talent if you find it and the review of listed skills in CVs and profiles of these professionals is even more damning with a strong reliance on regulations and qualification attainment and very little to no mention of negotiation, supplier relationship management, contract and real stakeholder management.

It is hard because that requirement at all levels is new and emerging in the market and has never been an expectation or opportunity for early years procurement professionals before. Unless public and not for profit organisations are willing to increase salaries to truly be competitive with the private sector we have to accept that the only solution to this is to grow and develop the talent we have internally and create an environment that offers commercial development and retains this talent.

It will take coaching, training and mentorship to ensure all levels of professionals have what it takes to work closely with suppliers and stakeholders. In order to upskill your team, you will need to decide on a structured programme that will combine theory with practical application to avoid painful learning taking place on live programmes and putting the organisation at risk.

A combination of personal theory learning and workshops in which you cover the fundamentals of negotiation strategies, such as interest-based bargaining, BATNA (Best Alternative to a Negotiated Agreement), and value-based negotiation are an excellent place to start. These sessions, held in an open and safe environment, should also explore the principles of effective partnership building, focusing on trust, mutual benefit, and long-term collaboration with both internal stakeholders and external suppliers.

As best practice, always include a role-playing exercise where the team can practice negotiation scenarios tailored to realistic and everyday challenges such as contract renewals, supplier agreements and challenging stakeholders with supplier preferences. This allows early years procurement professionals to find their strategic and partnering voice in a safe environment whilst developing key communication skills for future negotiations.

Offering external or internal organisation mentorship allowing early years professionals an opportunity to engage and learn from tenured and highly skilled professionals within industry is absolutely key for gaining insights and developing complex deal-making and relationship management skills. These relationships also foster better external collaboration opportunities for your organisation.

Finally, and most importantly, always encourage continued professional development and learning by providing access to online courses, industry conferences, and negotiation certifications, ensuring procurement professionals stay updated on the latest techniques and trends in negotiation and partnership management whilst also making it a requirement that they share this learning with colleagues to create a team learning and excellence culture.

Hannah Quinn-Hill Public Sector Procurement Business Director,
Michael Page

At Local Partnerships, we act as a **key interface between central and local government, the public and the private sector**. We work solely for councils and combined authorities, government departments and the Welsh Government.

We support the public sector by providing **bespoke commercial capability** and **capacity to maintain and improve** services, **generate** and maximise income and **develop innovative ways** to save money and improve outcomes.

In terms of public procurement, we can play a key role by:

- supporting development of sustainable procurement policy (including commissioning for low carbon outcomes and supply chain emissions reporting)
- supporting PFI authorities (particularly in connection with future services post expiry)
- supporting process mapping of procurement in line with the requirements of the Act
- assess alternative delivery models, making even greater use of pre-market engagement
- supporting use of new flexibilities in the design of procurement processes
- finding ways to procure more innovative goods and services
- adapting to the greater emphasis on contract change and management
- supporting use of the data analysis tools that will become available on the Central Digital Platform.

If you want to find out more with how we can help you, please get in contact with us.

LOCAL PARTNERSHIPS

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HM Treasury | Local Government Association | Llywodraeth Cymru Welsh Government

@LP_localgov | local-partnerships-llp | localpartnerships.gov.uk

Local Partnerships 18 Smith Square, London SW1P 3HZ
020 4526 8474 | LPenquiries@localpartnerships.gov.uk