

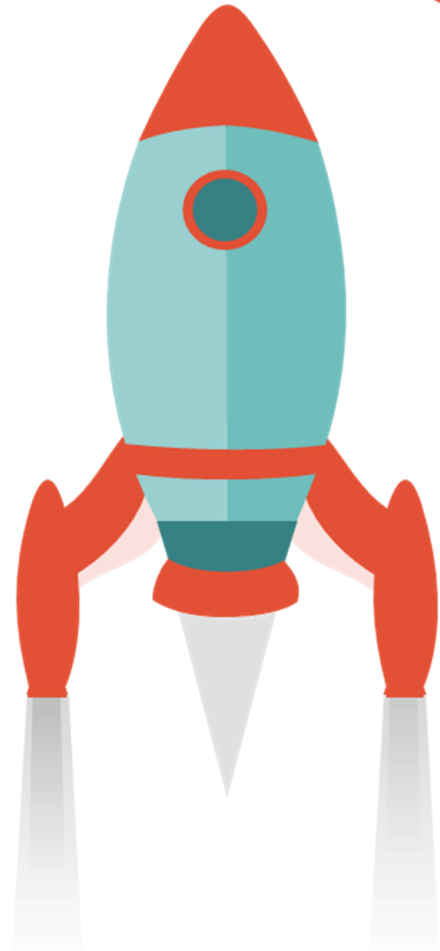
COUNTDOWN

TO THE NEW PROCUREMENT
ACT 2023

Lunchtime Byte #3

Framework Agreement and
Dynamic Markets





Quick session over lunchtime (25 mins)

- Quick run through of changes to be expected for Frameworks and the Dynamic Markets under the Procurement Act 2023
- Available resources
 - ❖ CHIC chat,
 - ❖ Knowledge drops
 - ❖ Flow chats and
 - ❖ Guides on the Government Commercial college website.
- You can also download and print copies of the Procurement Act 2023 and other Statutory instruments from free of charge on legislation.gov.uk website.
- Use the chat function to ask any questions, we shall endeavour to answer some in the last 5 minutes of the session. The rest will be published with the Q&A on the Procurement Teams Zdrive

03

Frameworks & Dynamic Markets

Old approach vs expectations under the PA2023

| PCR 2015 (Reg 33) | PA 2023 (Section 45-49) |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Supplier v Buyer relationship - One or more contracting authorities and one or more suppliers. | One contracting authority + one or more suppliers |
| Award principles Call off without competition is provided for within the regs - All the terms governing the provision of the works, services & supplies are set out - Objective conditions for which the Economic operators who are party to the framework shall perform them. | Call off without mini-competition is not encouraged unless: - There is only one supplier on the framework The framework sets out the core terms & an objective mechanism for supplier selection |
| Details of tender notice Stricter on the requirement to provide estimated values at Lot level | More prescriptive - Price payable or mechanism for determining price - Estimated value at framework level - Whether it is an open /closed framework |

| PCR 2015 (Reg 33) | PA 2023 (Section 45-49) |
|------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Exclusions Consideration for Mandatory and Discretionary exclusion of bidders at selection | Went further- → a supplier who have become excluded through implied terms of the Act may be excluded at any time during the procurement life cycle. - Allow authorities to request additional info from suppliers before awarding a contract |
| Fees No clear provision under the current regulation | Where charged must be published → Can be a fixed percentage of the estimated value of any contract |
| Covered procurement Goods, services and works | Covers the same but excludes the following forms of framework agreements : → <ul style="list-style-type: none"> - A concession contract - Light touch contracts (S45 ss3-5)) - Private utility |

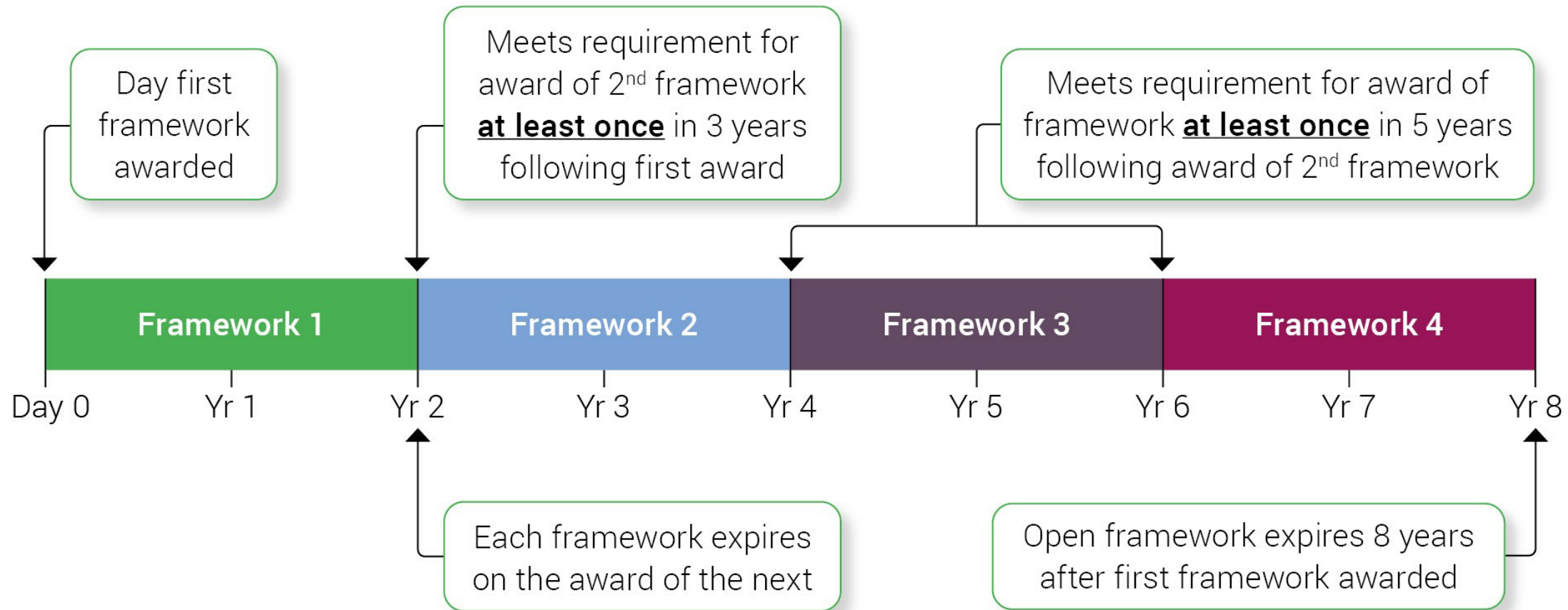
| PCR 2015 (Reg 33) | PA 23 PA 2023 (Section 45-49) |
|----------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Duration – Fixed Maximum of 4 years, except where justifiable. No clear transparency requirements | Maximum term 4 or 8 years(open / defence framework) If more than 4 years is required, then it must set out this reason on the tender notice / transparency notice |
| Flexibility Very limited | Award criteria may be refined for the purposes of selection, they just need to reference one or more of the framework selection criteria. |
| Performance Measures Not clear | A clear set of KPI's or a mechanism which enables the setting of KPI's at call-off |

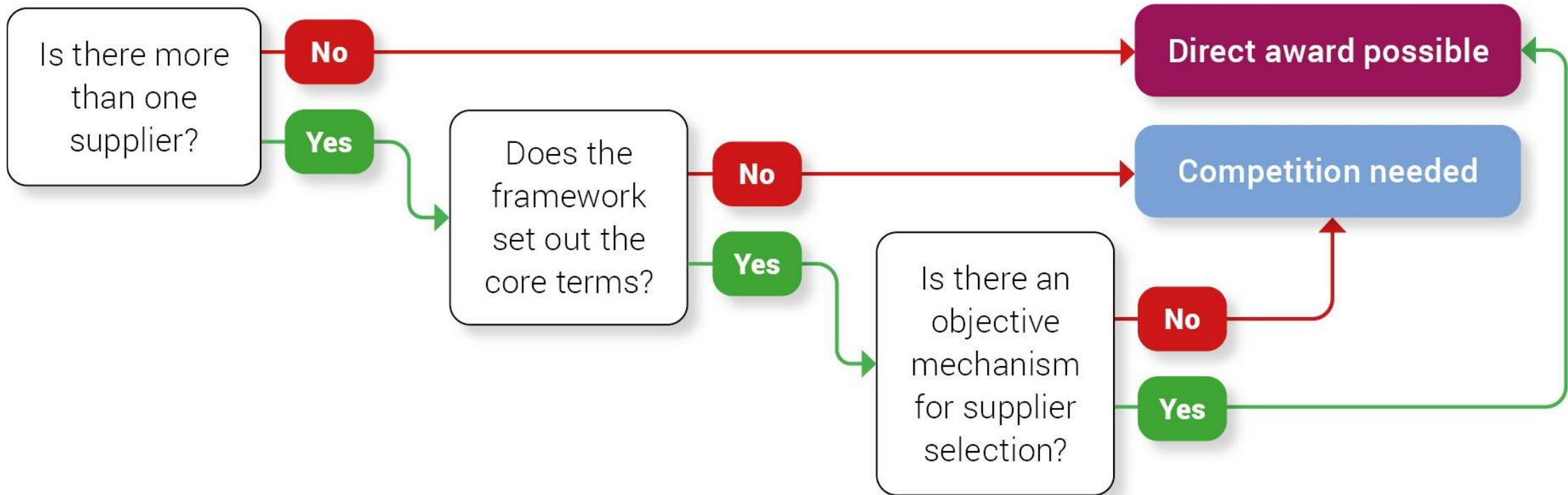
Open Framework

- ✓ 8 years max
- ✓ Longer period to allow for change in market situations
- ✓ Framework 1 must be opened once in the first 3 years
- ✓ Framework 2 should be opened once in five years
- ✓ Can also be opened every year
- ✓ Minimum of 2 suppliers are required
- ✓ Can be unlimited suppliers

Closed Framework

- ✓ 4 years max
- ✓ Longer than 4 years in special circumstances
- ✓ Minimum of 1 supplier
- ✓ Can be unlimited suppliers





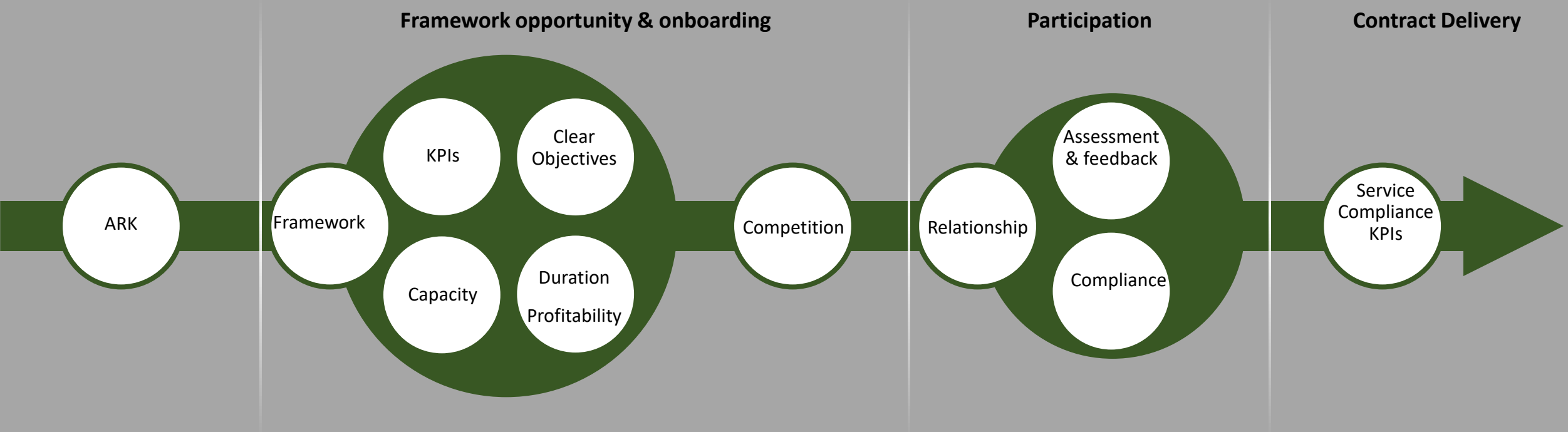
Frameworks changes - What does it mean for CHIC?

PCR 2015 –It's not going away just yet!

Transition to the Act – how does it work with call-off to a CHIC Framework?

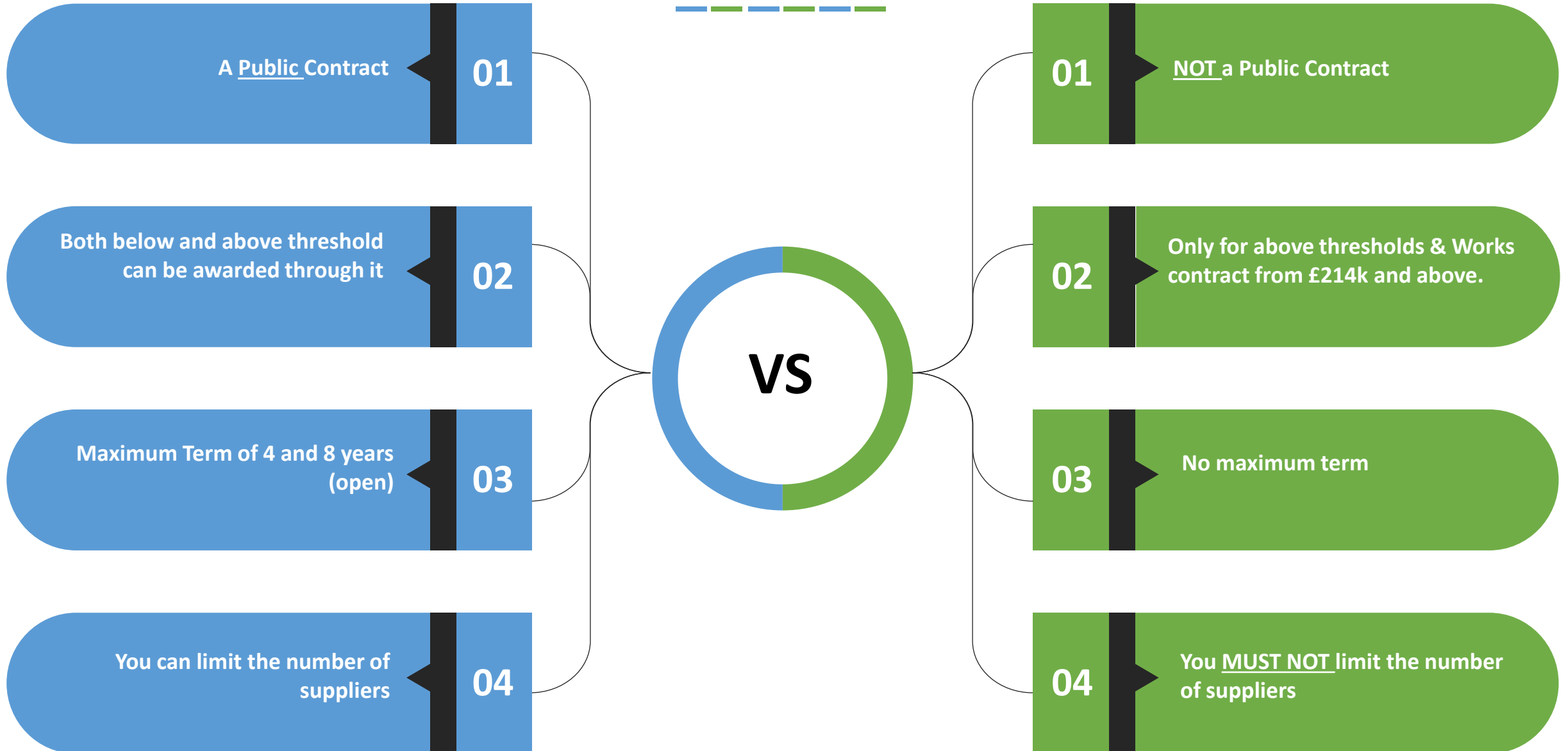


All still regulated by the Public Contract Regulations 2015 (PCR 2015 not the Procurement Act 23)



Framework changes - What does it mean for ARK?

Framework vs Dynamic Market



Dynamic Purchasing Systems (DPS)



For commonly used purchases – all values
Number of suppliers – Unlimited but silent
Visibility of call off competitions limited to DPS participants



30 days to join when newly established
10 days to evaluate any request to join, max of 15 days in exceptional circumstances. Validity period must be stipulated on Notices (CHIC's usually valid for 5yrs subject to extensions)



Suppliers are charged a trickle fee for CHIC DPS



A public contract, no direct award and framework cannot be awarded via a DPS



All types of purchases above the threshold above £214k
Number of suppliers are unlimited and clearly detailed
Call off competitions will be visible to non-dynamic market participants



Keep open from day 1 and remains open indefinitely
Allow a reasonable time to evaluate a suppliers request to join



Fees are now to be published on all Dynamic Market Notices



NOT a public contract, no direct award, and framework cannot be awarded via a DPS

Mandatory notices apply when establishing Frameworks.
A **different** set of notices apply when establishing a Dynamic Market (DM)

Establishing a FRAMEWORK

Pipeline
Preliminary Mkt
engagement

Procurement
Termination

Tender Notice

Contract award

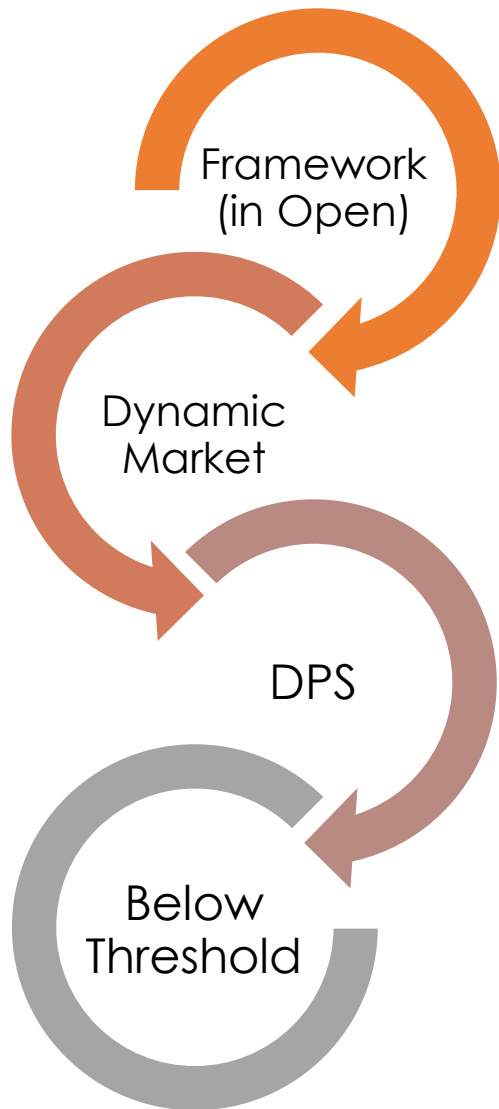
Contract
Termination



Establishing a DYNAMIC MARKET

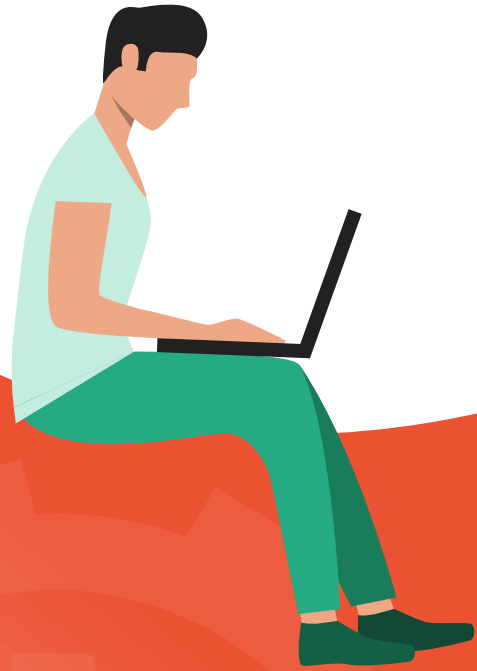
- Intention
- Establishment
- Amendments
- Dynamic Mkt Termination

The requirement to publish KPI details in notices does not apply to an establishment of a Framework or a Dynamic Market!



To support our members CHIC Procurement has developed and will continue to update:

- Tender documents,
- Support the development of Contract Terms & Specifications
- KPI schedules,
- Conflict of interest schedules
- Procurement Advice Notes
- Remove barriers for SMEs
- All DPS' end 28.10.2028



Any
Questions?

Next Session on
Wednesday 13 August @ 12:00 Noon
is

02

Supplier Assessment, call-off & Direct Award

Tender questions, competition and understanding of the term "Direct Award"