

COUNTDOWN

TO THE NEW PROCUREMENT
ACT 2023

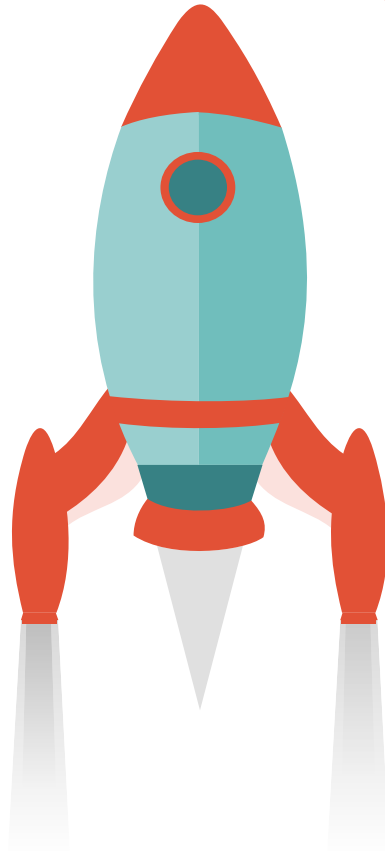
Lunchtime Byte #5



Scope & Transparency

Quick session over lunchtime (25 mins)

- Quick trip through 5 top areas to be aware of in relation to procurement reform
- Go to CHIC CHAT and download the fuller guides to the Procurement Act 2023, jargon buster, flowcharts and other insights
- If you really want to, read the Procurement Act 2023 (it's really good.....)
- Watch the Cabinet Office's Knowledge Drops
- Don't wait till the end to ask question, use the chat function during the presentation. Q&A – 5 mins today but will arrange Deep Dive session on specific areas on request



05

Scope & Transparency

Scope, objectives, new terminologies/definitions, changes and it can affect CHIC & ARK.

04

Performance, Exclusion & Debarment

Measuring, monitoring and penalty

03

Frameworks & Dynamic Markets

Old approach vs expectations under the PA2023

02

Supplier Assessment, call-off & Direct Award

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

01

Notices & Contract Management

Actions to support transparency – Notices and management of supplier's performance at framework level and at call off level

Delivery of programme to support implementation



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

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



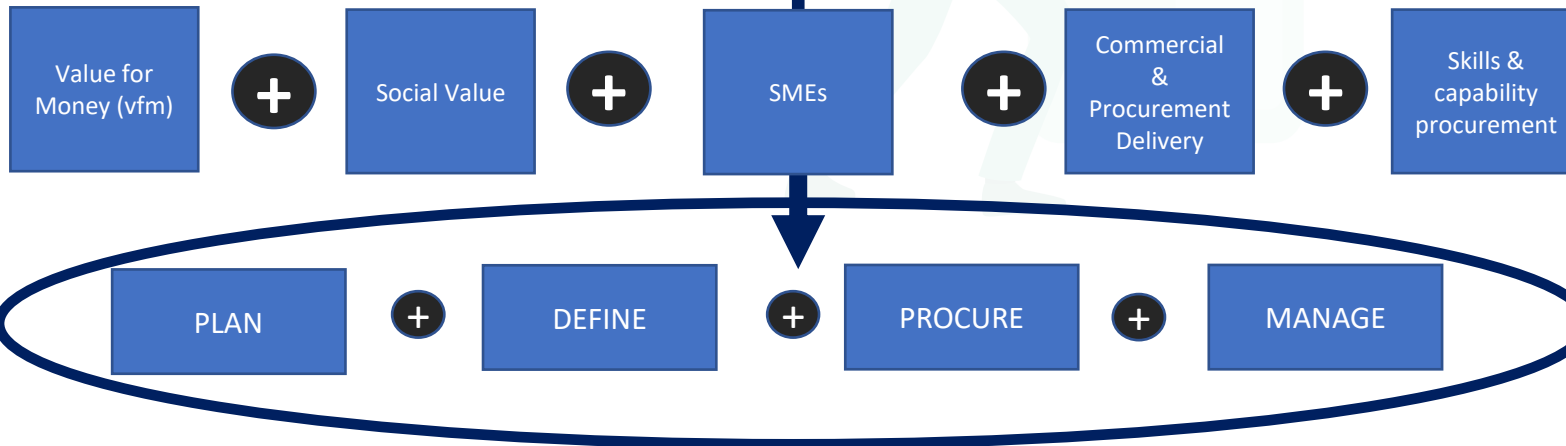
All still regulated by the Public Contract Regulations 2015 (PCR 2015 not the Procurement Act 23)

National Procurement Policy Statement (NPPS)

Procurement Framework

Procurement Act 23

Procurement Regs 24



What is it & what does it mean for ARK & CHIC?

The Procurement Act is a new piece of legislation aimed at reforming public procurement procedures in the UK.

The Act is intended to make public procurement more efficient, transparent, deliver better value for money, and address national priorities.

With new mechanisms to bar poor-performing or risky suppliers from the market, and plans to standardise how procurement data is managed, the Act also aims to even out the playing field for smaller suppliers, and drive integrity.

Key Aims

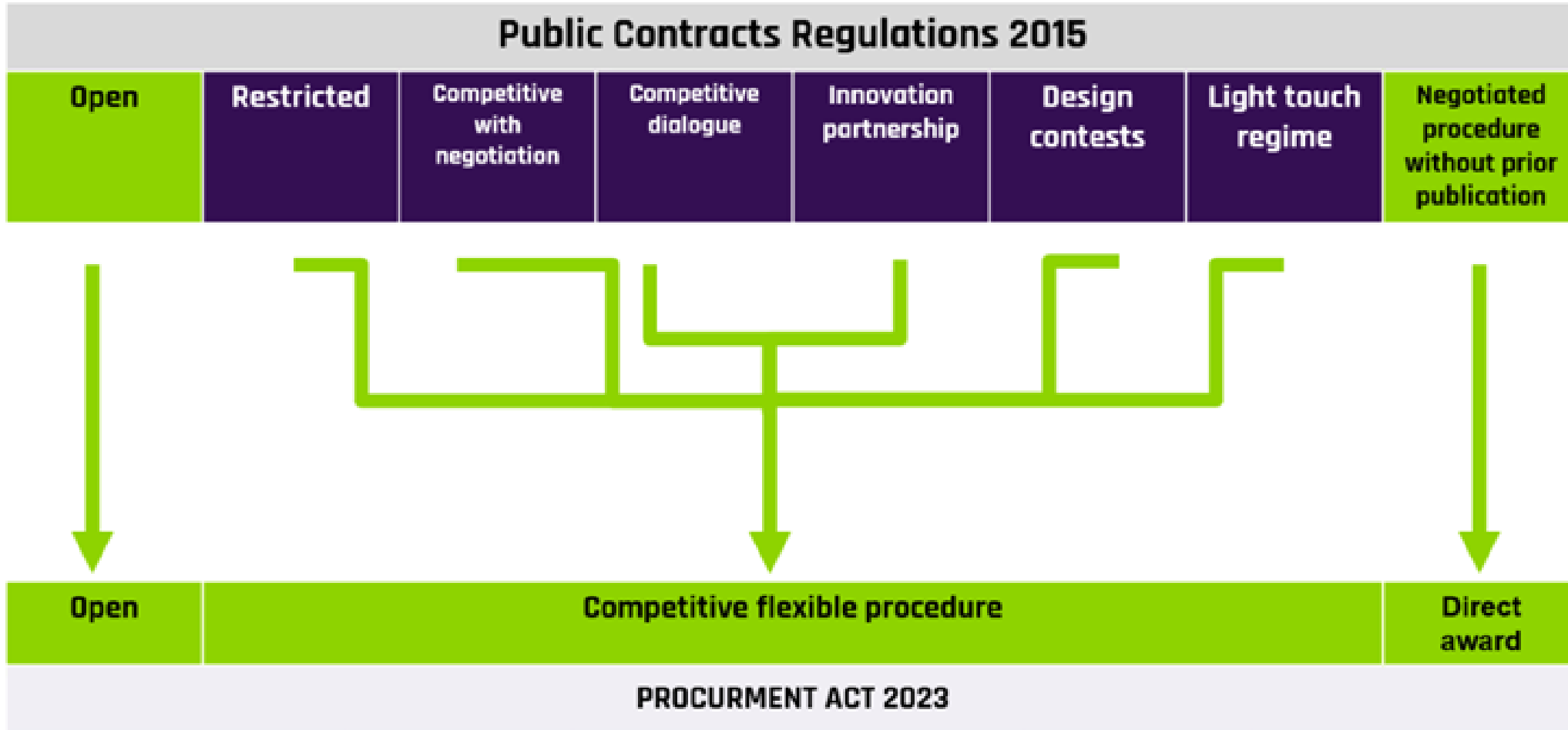
1. To make the procurement process simpler, more efficient and deliver clearer objectives
2. Ensure procurement delivers better value for money for contracting authorities and citizens
3. Improve transparency and accountability throughout
4. Increase market accessibility for smaller suppliers (SMEs)

Who's it for?

The Procurement Act will impact any organisation either buying within, or supplying into, the public sector.

The Act is equally pertinent to suppliers: it changes how contracting authorities can choose successful bidders, what grounds suppliers can be excluded on, and what information can be reported on them throughout a contract's lifecycle

Streamlined Procedures



What are the key changes?

The Procurement Act brings several substantive reforms to how public procurement operates. The following provides a glimpse of the key changes – ARK/CHIC need to understand these changes and how each may impact on your area of business and that of potential suppliers.

Greater Flexibility

Choice of procedures:

Open

- Competitive Flexible Procedure
Guidance/examples not templates
- Design-it-yourself
- Must be proportionate: consider design in the PME exercise –ask the market!
- New ‘Dynamic Markets’

Look & Feel

A lot of the previous provisions but under different terminology e.g.:

Mandatory and Discretionary Exclusions now ‘excluded’ and ‘excludable’ and power extended to ‘Connected persons: - Parent Company
Associated Persons: Relied upon to perform contract
Subcontractors – can exclude a tender if any are ‘excluded’

New Notices

1. To make the procurement process simpler, more efficient and deliver clearer objectives
2. Ensure procurement delivers better value for money for contracting authorities and citizens
3. Improve transparency and accountability throughout
4. Increase market accessibility for smaller suppliers

Supplier Register

1. The Central Digital Platform will make it clearer what information they need to keep up to date.
2. SQ has gone as Digital Platform replaces Parts 1 and 2.
3. The Act seeks to address duplication and requirement to submit information on themselves across multiple platforms and procurements for different contracting authorities and sectors.
4. Removes burden for SME suppliers.



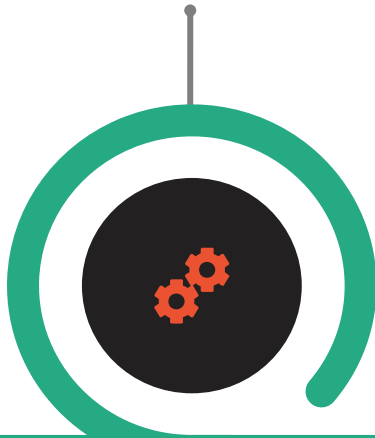
ARK

Transparency, transparency, transparency



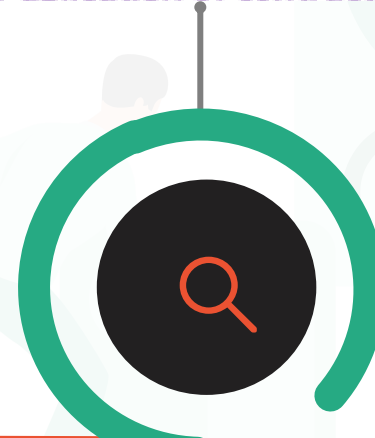
- 1. Pipeline notice
- 2. Planned Procurement Notice
- 3. Preliminary Market Engagement Notice

- 8. Contract award notice
- 9. Contract details notice
- 10. Procurement termination notice
- 11. Below-threshold contract details notice
- 12. Publication of contract



Preparation Stage

Procurement Stage



Contract Award

Contract Performance



- 4. Tender notice
- 5. Transparency notice
- 6. Below threshold Tender Notice
- 7. Procurement termination notice

- 13. Contract change notice
- 14. Contract termination notice
- 15. Payments compliance notice
- 16. Contract performance notice

What notices must you publish under the new Act?

Evaluation and Award – anything new??

The Procurement Act brings several substantive reforms to how public procurement operates.

CHIC/ARK have established a pool of evaluators, competent and qualified in the process and have been trained on applying a consistent approach and the moderation process on CHIC eSourcing..

Evaluation

MEAT to MAT

Choosing competent and qualified panel members

- Applying the scoring rules

Consistency of approach across different SMEs

- Moderation by consensus rather than mathematical averaging
- Good administration practice of evaluation and moderation

Award

New assessment summaries

- No longer providing "horizontal" / comparative feedback
- BUT have to explain the score – *why the bid scored a 3 rather than a 4*
- To be provided before publication of the Contract Award Notice which commences the standstill period

Not just for the Procurement Team?

As a business ARK/CHIC need to consider the entire commercial life-cycle of a project – Do we offer a full Contract Management service and is there a training need here?

CHIC Procurement and Contract Management Teams interlinked under new transparency requirements.

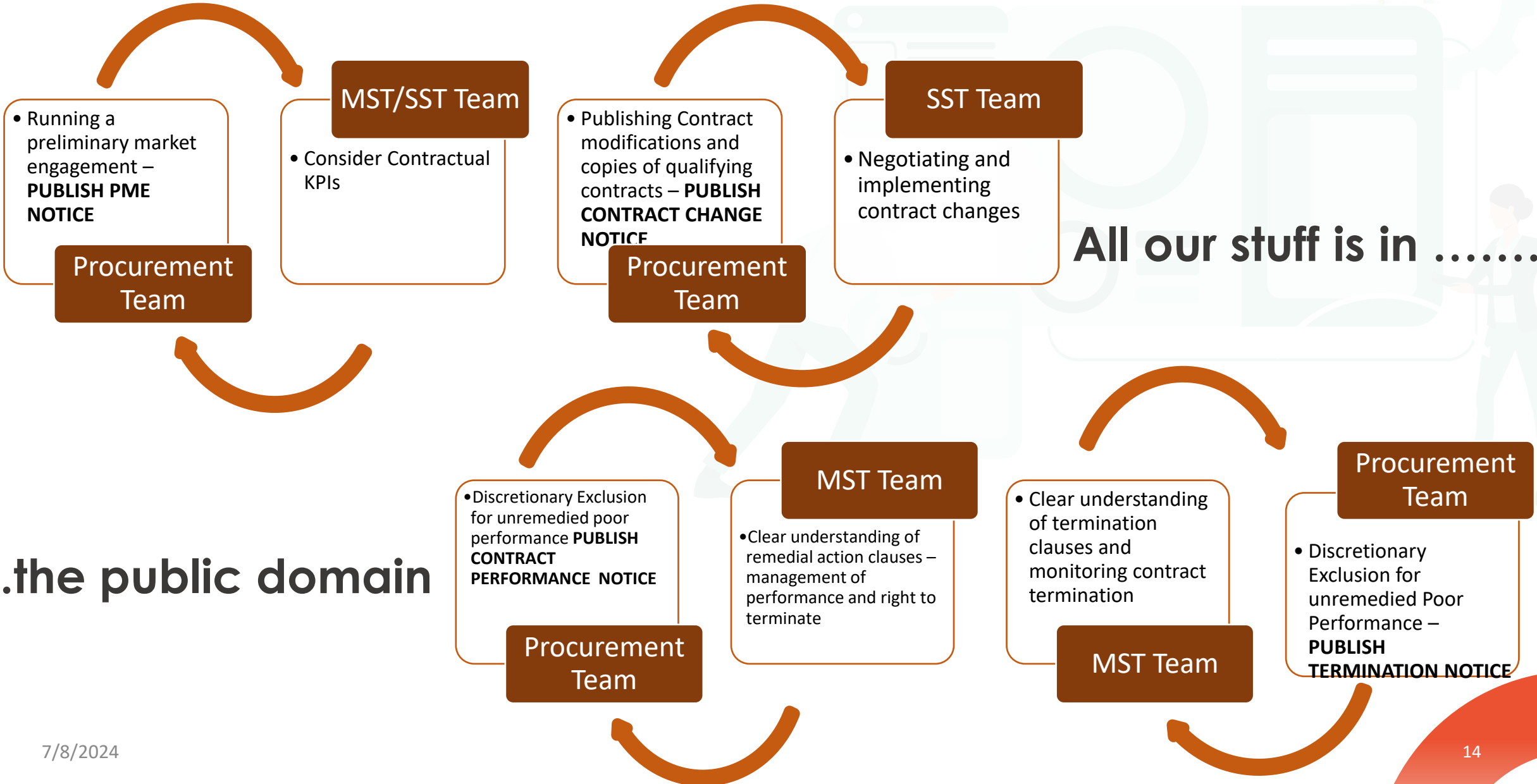
Assessment of KPIs

- Contracts over £5m (excludes frameworks)
- Three KPIs
- Contract Performance Notice
- Annual Reporting
- Payment Compliance - every 6 months, a lot of data here!

Poor Performance

- Serious Breach
- Unremedied Breach
- Contract Performance Notice – report within 30 days
- New Discretionary ground ‘excludable’ supplier
- Implied right to terminate the contract
- Debarment List – don’t really want to go here!

It's not just about Procurement!



The 'PRU' are watching... what we need to do!

Undertake a Risk Review

New procurement regime brings opportunities but also scope for errors / risk of challenge:

- Introducing undisclosed stages
- Not following scoring methodology at selection and evaluation
- Failure to manage conflicts
- Improper approaches to moderation
- Reflect on past experience and prepare for the new regime, addressing blind spots and potential areas of weakness

RISK REVIEW

Check our Frameworks/DPS

Using the Playbook in conjunction with framework agreements – Gold Standard aligned to PA23
 That it covers the scope of works, services and supplies desired
 Are terms and conditions specifications fit for purpose?
 What is the method of call-off –can you direct award and when and what are the parameters?
 Extensions are now controlled and require a Modification Notice
 Provide a due diligence pack to check all of this: well run frameworks should have one!

FIT FOR PURPOSE

Plan To Transition



Get trained!



New eSourcing Questionnaires

CHIC Partnering - Engage with our supply chain



Update Policy Docs & Templates





Any
Questions?

Scope & Objectives

Questions

Q1: Does this single procurement platform mean the end of the CHIC eSourcing system???

A: No, it is a repository of supplier information and will contain responses of suppliers to: Exclusion grounds questions, some economic and financial standing e.g. audited account, details of connected persons. Suppliers will still need to respond to tender specific questions on CHIC eSourcing, but commonly asked questions would be covered on the Central Digital Platform.

e-Tendering portals such as CHIC eSourcing will also still be used for below threshold contracts and call-off contracts under frameworks and Dynamic Markets.

Scope & Objectives

Q&A

Q2: Using the single procurement platform, will that allow non framework contractors view and apply for tenders also?

A. It will allow non framework suppliers to view and subsequently apply for 'open' frameworks at the relevant date, while suppliers can only view closed frameworks to get an idea of when re-procurement may occur. All call-off contracts under a Dynamic Market will also be visible and allow suppliers to make a judgment if they want to join the Dynamic Market and submit a tender – so a complete change from a DPS where only current participants are invited to tender.

Scope & Objectives

Q&A

Q3: Would we still have to pay to access tender opportunities as a supplier on this central digital platform? - we currently subscribe to several platforms which publish tender opportunities. So that could save us money!

A. All tender opportunities will be published through the Central Digital Platform before it is advertised elsewhere, and it is accessible to all suppliers free of charge. In principle this should be all the information needed, however paid platforms that collect the information on opportunities and deliver them in a specific format for convenience are likely to still exist.

More specific tender information will however be available through the contracting Authority's e-tendering portal. E.g. CHIC eSourcing.

Scope & Objectives

Q&A

Q4: using the single procurement platform, will that allow non framework contractors view and apply for tenders also?

A. The notices published on the Central Digital Platform will be openly accessible to the public, however once a Framework has been awarded non-Framework suppliers will be unable to apply for any further competitions that sit under the Framework. Dynamic Markets will be visible so that the contractors can have sight of any that they may wish to be a participant on, however the contractor must have passed through the Membership application procedure managed by the Contracting Authority before they can be invited to tender.

Scope & Objectives

Q&A

Q5: How do we go about registering as a supplier on the central digital platform and do we have to do it by a certain date?

A: The platform goes live on 28 October 2024, and you can register from then onwards. The link to register on the portal has yet to be released by the Cabinet Office. There will be guidance and demos provided for suppliers on the Cabinet Office website.

Scope & Objectives

Q&A

Q6: Who will be doing all these notices?

A: The Contracting Authority (CHIC Member) have the obligation to publish notices, however CHIC (acting as a Centralised Purchasing Authority CPA on behalf of our members) can publish notices for tenders managed and awarded through CHIC eSourcing.

Scope & Objectives

Q&A

Q7: Will all the suppliers on the CHIC CSOL system, need to register on the central digital platform?

A: Yes, if they actively want to tender for CHIC Frameworks and Dynamic Markets as we will use this data as part of our tender evaluation.

Scope & Objectives

Q&A

Q8: Who is going to be responsible for publishing all these various awards - and when it comes to direct awards, where the procurement team are not involved, how and who is responsible to publish these notices?

A: Publication of notices pertaining to awards through CHIC frameworks can be done via the CHIC eSourcing portal and the Procurement team will be responsible for this if agreed with the member from the outset. There will be instances however, where we will require information from the member, such as payment compliance notices, and in the case CHIC is commissioned to run an Open or Competitive Flexible procedure for a contract with the value of over £5 million KPI notices will need to be published.

As with any other non-framework contracts, CHIC will have to publish a (new style) contract award notice after it has taken its award decision but before entering into a call-off under a framework. This is the case both for call-offs awarded by way of further competition and by way of direct award. CHIC Procurement will require notification of all Direct Awards in order to publish the award notice, if this is not being submitted by the member. The contract award notice will have to include details of both the successful and (if applicable) unsuccessful tenderers. The same applies to contracts awarded by reference to a dynamic market.

Scope & Objectives

Q&A

Q9: The central digital platform will contain everything for the supplier up to date, so that means we should never need to go to our suppliers asking for up to date insurances or accreditations?

A: This is not the case. From day 1, the Central Digital platform can collect basic supplier information, responses of suppliers to exclusion grounds questions, some economic and financial standing information, details of connected persons and beneficial ownership and answers to questions relating to conditions of participation.

All this information, including information like insurance & accreditations will be submitted on an eSourcing portal (via an access code) and they will be assessed/verified on a case-by-case basis for specific tender submissions.

Scope & Objectives

Q&A

Q10: for contracts over £5m - is that total contract value over £5m or is that a contract that is £5m+ p/a?

A: This is the total value contract during the term of the contract and not per year. Please bear in mind that the total value of the contract includes potential extensions.

Scope & Objectives

Q&A

Q11: What was the Below threshold Tender Notice value, it would be helpful to know?

A: Below threshold tender is any tender with value of less than: £5,372,609 (inc. VAT) for Works, £663,540 (inc. VAT) for Light Touch contracts, £214,904 (inc. VAT) for services). The below threshold for Dynamic Markets is also £214,904 which means we now have a situation whereby a Dynamic Market cannot be used for below-threshold procurements, this causes CHIC some concern as we now have to create a new specific route to market for our current 'below-threshold' procurements utilising our DPS. The DPS routes to market will all terminate on the 27th of October 2028.

Scope & Objectives

Q&A

Q12: Will we help set KPIs on contracts over 5m or is this all expected of member?

A: The member should ideally set KPIs on Contracts over £5m, our commercial team can support this if required. For clarity, KPIs for contracts awarded under a framework (and we assume a Dynamic Market) do not fall under the requirement to publish KPIs and subsequent performance on the Digital Platform. This does not diminish the importance of setting KPIs both a framework level and for call-off contracts for CHIC procurements and there should be a justification why they are not being set.

Scope & Objectives

Q&A

Q13: The last slide said feedback was provided in advance of the Contract Award Notice and start of standstill period - surely that is in the Notice?

A: Feedback is provided before any notice and is deemed as publication of assessment summaries (previously standstill letters), informing bidders of the outcome of their performance against the evaluation criteria. The publication of assessment summaries is not a Notice as it is sent to individual suppliers instead to provide feedback. Standstill periods have also changed from 10 calendar days to 8 working days.

The Contract Award Notice kickstarts the standstill period and indicates an intent to award prior to contract signature. A Contract Details Notice (old Award Notice) must be published within 30 days of contract execution. It is envisaged that the notice will contain details of the final value, duration and extension options within the contract.

Scope & Objectives

Q&A

Q14: KPIs - is there a min number of KPIs that will be required per contract?

A: The Act suggested a minimum of 3 KPIs for a £5million pounds contract, however it is good practice for any contract irrespective of their values to have proportionate amount of KPIs

Scope & Objectives

Q&A

Q15: would a mystery shopper be attempting to put a contract through, and if so, how will that work with pipeline entry forecasting? especially if it's a high value contract

A: The 'Mystery Shopper has been replaced by the Procurement Review Unit (as discussed in the presentation). The Procurement Review Unit (PRU) is a new team established by the Cabinet Office to exercise procurement oversight and support compliance to the new Act. Monitoring Contracting Authorities' compliance with the requirements of the Act and addressing non-compliant behaviours will ensure the objectives of the Act are achieved to best effect.

Scope & Objectives

Q&A

Q16: PRU, question can we report other Consortia if we feel anything underhand done?

A: Yes, you can, but you need to have evidence to do this. Any enquiry must relate to a specific procurement and must have taken place in the last 2-years

Scope & Objectives

Q&A

Q17: Will CHIC be providing our suppliers with information to register on the central platform when it is up and running? if they do not register, will they be excluded to tender for an opportunity

A: CHIC can issue a global message through the eSourcing providing details of the Central Digital platform and how to register once the platform is live on 28th October 2024. As CHIC eSourcing may have a specific protocol for accessing data on the Central Digital Platform, CHIC Procurement will issue specific details with specific tenders detailing what a supplier is required to do.