

<b>Title:</b> Procurement Reform Bill <b>IA No:</b> CO2024 <b>RPC Reference No:</b> N/a <b>Lead department or agency:</b> Cabinet Office <b>Other departments or agencies:</b> Ministry of Defence	<b>Impact Assessment (IA)</b>
	<b>Date:</b> 21/04/2022
	<b>Stage:</b> Final
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Primary Legislation
	<b>Contact for enquiries:</b> Lindsay Maguire, <a href="mailto:lindsay.maguire@cabinetoffice.gov.uk">lindsay.maguire@cabinetoffice.gov.uk</a>
<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> No adverse impact on UK Industry

Cost of Preferred (or more likely) Option (in 2021 prices)			
Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status
£205m	N/A	N/A	N/A

**What is the problem under consideration? Why is government action or intervention necessary?**

- The UK Government has an opportunity to overhaul and update UK public procurement regulation following the UK's departure from the European Union to ensure it best fits UK interests and requirements. The current regulations (the Public Contracts Regulations 2015 (PCR15), the Utilities Contracts Regulations 2016 (UCR16), the Concession Contracts Regulations 2016 (CCR16) and the Defence and Security Public Contracts Regulations 2011 (DSPCR11) are transposed from EU Directives and there are levels of complexity which can restrict public procurements, limit innovation and place barriers to entry for new entrants to public sector marketplaces.
- The Procurement Reform Bill, whilst retaining the core principles of non-discrimination and value for money, i.e. enabling the optimal whole-life blend of economy, efficiency and effectiveness that achieves the intended outcome of a business case, aims to speed up and simplify procurement processes by combining a number of individual procurement regimes, introducing modern procedures and tools for procurement teams and unleashing opportunities for small businesses, charities and social enterprises to innovate in public service delivery.
- In addition to introducing new procurement legislation, the Government has a programme to provide a digital platform which will standardise and centralise procurement activity for both buyers and suppliers and intends to roll out a programme of learning and development to meet the varying needs of stakeholders.

*Please note: a separate Impact Assessment has been carried out for the legislation relating to Single Source Procurement Regulations which will form a part of the Procurement Bill, however is primarily related to Defence Contracts and has been approved by the Ministry of Defence Chief Economist. This has been presented as an Annex to this Impact Assessment.*

**What are the policy objectives of the action or intervention and the intended effects?**

The intended objectives of the intervention can be summarised as follows:

- **Simplifying and streamlining the regulatory framework and processes;** there are currently numerous regulatory frameworks associated with public procurement, by creating a single, uniform framework this will make it easier for public bodies to procure goods and services.
- **Offering greater flexibility;** the new procurement regime will allow more freedom to negotiate during procurement and achieve better outcomes in the provision of public services.
- **Providing opportunity for new entrants;** the Government is committed to ensuring new suppliers do not face unnecessary barriers in bidding for and winning public sector contracts and the reforms will provide easier access to public sector commercial agreements and develop a single registration system for suppliers.
- **Driving Innovation;** the new procurement regime will encourage new ways of working and provide opportunity for suppliers to offer different solutions.

- **Embedding transparency;** this is a core objective for the new regime and through publication of data relating to procurement throughout the lifecycle, the process will become more transparent.
- **Focusing on value for money;** the new procurement regime will provide both public bodies and suppliers with a clearer understanding of what can be included in the evaluation of bids and how value is demonstrated, including social value.
- **Enhancing capability;** alongside the introduction of the new regime, the Government has the opportunity to raise the bar for commercial capability across the public sector and focus on ensuring procurement teams are equipped to maximise the benefits that the new regime will offer.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

In developing the Procurement Reform Bill, Ministers and Government officials have engaged with stakeholders through many hundreds of hours of discussions and workshops since 2019. This includes stakeholders from central and local government, the education and health sectors, small, medium and large businesses, charities and social enterprises, academics and procurement lawyers. The Government also established a Procurement Transformation Advisory Panel (PTAP), which brought together procurement experts from across the world to discuss the opportunity for reform and ideas of how that could best be done.

Through this stakeholder engagement and work with the PTAP, a number of problem statements were identified which formed the baseline for developing the objectives for the new regime and a number of different proposals were presented in the development of options.

The following options were considered during the development of the Government's proposals. More detail is included in section 3.

**Option 1: Business as usual (Do nothing)**

Continue with regulations set out in the Public Contracts Regulations 2015 (PCR15), the Utilities Contracts Regulations 2016 (UCR16), the Concession Contracts Regulations 2016 (CCR16) and the Defence and Security Public Contracts Regulations 2011 (DSPCR11) as they are.

This would be cost neutral; however, this will not enable the UK to maximise the opportunity to embed its own regulations following the UK's departure from the EU and there would be a risk of reputational damage for not taking the opportunity to transform. **This option is not recommended.**

**Option 2: Implement a legislative regime in line with WTO GPA Principles without additional support (Do minimum)**

Design a new set of regulations which transcribes the principles and rules set out in the World Trade Organisation (WTO) Government Procurement Agreement (GPA), of which the UK is a member, namely: non-discrimination, transparency and impartiality. Competitive procurement will continue to be the standard approach, with single source procurement remaining the exception, to be used only in strictly defined circumstances. This would ensure the UK would be compliant with its obligations under the WTO GPA. This would involve retaining the parallel rules for each sector and some existing processes. This option would be less prescriptive and would not be accompanied by investment in digital platforms or learning and development. In order to maximise any commercial benefit of a new regime and meet outline objectives, stakeholders, both through information engagement and in response to formal consultation, have provided clear feedback that any legislation change needs to be accompanied by a refinement in systems and capability building in order for the regime to succeed.

There would be some costs to implement this option, largely associated with programme costs for Cabinet Office with minimal cost falling on contracting authorities, however the associated wider benefits for improving commercial outcomes would likely not be realised. There is also a risk that any flexibility allowed in the new legislation would not be maximised and processes would be equally complex. **This option is not recommended.**

**Option 3: Wholesale reform of the procurement regime (Preferred option)**

Rationalise and clarify the parallel rules in the PCR15, UCR16, CCR16, and DSPCR11, replacing them all with a single, uniform set of rules for all contract awards. This will be supplemented with sector-specific parts or sections where different rules are required for effective operation or to protect our national interest, for example in the defence or utilities sectors. In addition to the core elements of a procurement regime, the Government proposes to offer a number of refined procedures, commercial tools and mechanisms to exclude suppliers which will be easier to implement for contracting authorities whilst allowing for maximum commercial outcomes. Alongside the legislation, the Procurement Transformation programme will offer a number of digital tools for suppliers and contracting authorities to centralise and standardise ways of working and a comprehensive learning and development programme, which will enhance commercial capability across the public sector.

There is a cost associated with this option, which is detailed in full in section 6 however the benefits are greater for both suppliers and buyers in terms of time savings due to simplification and standardisation of processes and wider impacts to the competitive marketplace. **This option is recommended.**

Following the policy development stage, a [Green Paper on Transforming Public Procurement](#) was published in December 2020 and invited public consultation on a number of proposals and questions relating to the future of procurement. In total, 619 responses to the consultation were received. There was a good mix of responses between contracting authorities who will be responsible for procuring within the future regime and suppliers to the public sector who will be bidding in procurements and delivering under contracts under the proposed regime. Following feedback received from the consultation, certain areas of the policy proposals were changed in direct response to stakeholder concerns and this was reflected in the [Government's response to the consultation](#) published in December 2021.

Is this measure likely to impact on international trade and investment?		No		
Are any of these organisations in scope?	<b>Micro</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)	<b>Traded:</b> N/a		<b>Non-traded:</b> N/a	
<b>Will the policy be reviewed?</b> It will not be reviewed. <b>If applicable, set review date:</b> N/a				

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible minister:	Rt. Hon Jacob Rees-Mogg MP	Date:	27 <sup>th</sup> April 2022
-------------------------------------	-------------------------------	-------	-----------------------------

# Summary: Analysis and Evidence

# Policy Option 3

Description: Option 3: Wholesale reform of the procurement regime (Preferred option)

## FULL ECONOMIC ASSESSMENT

Price Base Year 2021	PV Base Year 2021/22	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £112m	High: -	Best Estimate: £205m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price) -	Total Cost (Present Value) - Includes 10% Optimism Bias
Low	-	-	-
High	-	£4.6m	£44m
Best Estimate	-	£3.7m	£36m

### Description and scale of key monetised costs by 'main affected groups'

- Cost of delivering central digital platform for procurement
- Direct costs of programme of learning and development
- Opportunity cost of programme of learning and development
- Impact of compliance with contract notice requirements of transparency proposals.

### Other key non-monetised costs by 'main affected groups'

#### Potential Impact on Suppliers

- Companies not bidding for contracts due to concerns around sensitivities associated with transparency requirements - this is not expected to materialise as only redacted information on winning bid will be shared, with other information shared to bidders privately.

#### Potential Impacts on Contracting Authorities

- Uncertainty around extent of potential adoption of new procurement procedures and willingness to take advantage of additional flexibility.
- Potential impact on administration costs associated with assessing bids, should reforms generate additional competition.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value) - Including Optimism Bias of 10%
Low	-	£22.5m	£156m
High	-	-	-
Best Estimate	-	£33.1m	£241m

### Description and scale of key monetised benefits by 'main affected groups'

#### Implications for Contracting Authorities and Bidders for Public Contracts

- Adoption of flexible, streamlined procedures are expected to generate time saving benefits.

#### Implications for Bidders

- The introduction of a single point registration system is expected to generate time saving benefits to bidders of public sector contracts.

**Other key non-monetised benefits by ‘main affected groups’**

Impact of transparency and better data collection on public procurement through:

- Reduced costs through greater access to commercial data and insight
- Improved accountability in scrutinising spending decisions that are value for money
- Reduced scope for corruption.

Impact on quality of outcomes and innovation in public procurement by:

- Creating the flexibility to allow for more innovative procurement. This includes more emphasis on planning and pre-market engagement.
- Allowing access to a wider and more diverse supplier base is likely to aid the development of more innovative solutions in public procurement.

<b>Key assumptions/sensitivities/risks</b>	<b>Discount rate (%)</b>	3.5%
<p><b>Key assumptions:</b> Value of time savings/costs; length of procurement cycle and how this will be impacted by new procedures; level of uptake of new procedures; time spent by contracting authorities on transparency requirements; and time savings to bidders by supplier registration system.</p> <p><b>Key Sensitivities:</b> Sensitivities have been tested to account for uncertainties in the key assumptions listed above. A key uncertainty is around the extent of behavioural change, and the adoption of new procedures by contracting authorities.</p>		

**BUSINESS ASSESSMENT (Option 3)**

<b>Direct impact on business (Equivalent Annual) £m:</b>			<b>Score for Business Impact Target (qualifying provisions only) £m:</b>
<b>Costs:</b> -	<b>Benefits:</b> -	<b>Net:</b> -	
			N/A

# Evidence Base

## 1. Problem under consideration and rationale for intervention

### Policy Background

At c.£300 billion, public procurement accounts for around a third of all public expenditure every year. By improving the way public procurement is regulated, the Government can not only save the taxpayer money but spread opportunity, improve public services, and empower communities through taking into account social value. A procurement regime that is simple, flexible and takes greater account of social value will support the Government's levelling-up goals.

The Procurement Reform Bill will reform the UK's public procurement regime, making it quicker, simpler, more transparent and better able to meet the UK's needs while remaining compliant with our international obligations. Leaving the EU provides an opportunity to introduce a new regime designed for the UK rather than one inherited from the EU.

There are some core principles to public procurement which will continue to be embedded and amplified through the new procurement regime:

- a. **Delivering value for money.** Public functions must be delivered whilst ensuring value for money is not new. Current HM Treasury guidance is that this means "the optimal whole-life blend of economy, efficiency and effectiveness that achieves the intended outcomes of the business case".
- b. **Maximising the public benefit.** This requires contracting authorities to think about the extent to which the public money spent on their contracts can deliver greater public benefit. For example, this might lead to detailed consideration of whether the contract can deliver broader social value.
- c. **Integrity in public procurement.** This means preventing fraud and corruption through good management, prevention of misconduct, and control. Part of the value of integrity is not just in acting properly, but it is also in being able to demonstrate to the outside world that proper process is taking place through transparency.

The reforms to the procurement regime will therefore be based on transparency, competition and objective criteria in decision-making. Transparency will be fundamental to the new regime. Extended transparency requirements and a single digital platform on which procurement data will be published will mean that decisions and processes can be monitored by anybody that wishes to do so.

The bill will also consolidate the number of regulations governing public procurement and introduce a single, uniform framework that can unleash the potential for public sector innovation in partnership with the private sector.

The Government has held a public consultation on the proposals following publication of the Transforming Public Procurement Green Paper in December 2020 and has ratified its policy proposals through a response to this consultation, published in December 2021.

### Rationale for Intervention

After leaving the EU, the UK has an opportunity to develop a new procurement regime which better meets the UK's needs. This is a key ministerial priority and presents an opportunity to design a regulatory framework that reflects the evolving nature of markets and commercial practices. Through extensive engagement with stakeholders from contracting authorities and industry, including a dedicated Procurement Transformation Advisory Panel made up of experts in procurement systems, a number of issues have been identified with the current system of public procurement. The list below summarises the key areas for consideration, however this list is not exhaustive and further details are included in the Transforming Public Procurement Green Paper, published in December 2020.

#### Value for Money

Value for money in public procurement means securing from suppliers the best mix of quality and effectiveness to deliver the requirements of the contract for the least outlay over the period of use of the goods or services bought. The new regime will be an opportunity to ensure that procurement teams in

setting the procurement strategy, drafting the contract requirements and evaluating bids place value for money, including social value, at the heart of decisions.

### Complexity of regulations

In 2015 and 2016, the UK Parliament passed legislation to transpose various EU Directives on public procurement into UK law to provide the main regulatory framework for public procurement. These include:

- The Public Contracts Regulations 2015 (PCR);
- The Utilities Contracts Regulations 2016 (UCR);
- The Concession Contracts Regulations 2016 (CCR);
- The Defence and Security Public Contracts Regulations 2011 (DSPCR).

The consensus from users of different regimes is that there are too many and this has created overlapping and complex rules which make it challenging to navigate for commercial teams and suppliers alike especially in larger contracting authorities who often procure a number of types of contracts and for small businesses who find it complex to navigate the legislative framework.

The complexity additionally adds legal uncertainty where different wording of parallel rules in different regulations may mean that the rules are different.

### Barriers to entry

New entrants, including Small and Medium Enterprises (SMEs) and Voluntary, Community and Social Enterprises (VCSEs), sometimes find it difficult to do business with the public sector for numerous reasons. The Government is committed to diverse supply-chains, however SMEs in particular are often under-represented in public sector contracts, with their share of total public procurement spending remaining at 26-28% (*c £40-45bn*) over the past three years, despite accounting for over half of private sector turnover. A subsequent common complaint from businesses working with the public sector is the requirement to enter details on numerous portals and e-senders - over 70 in central government alone. The reform proposals intend to resolve this by offering a centralised, standardised system where suppliers can input their information once which can then be used when bidding for any public sector opportunity. This will alleviate resource concerns when bidding and make it easier for information to be standardised and shared amongst contracting authorities. The use of frameworks is established in the public sector, however stakeholders raised concerns around lengthy frameworks essentially locking suppliers out of a market for a number of years, without the opportunity to re-bid. This is particularly of concern for SMEs who may benefit from a place on a framework to assist business growth and gain experience in delivering contracts for the public sector.

### Inflexibility in procurement processes

Feedback from both suppliers and buyers has always suggested that processes for procurement can be lengthy, with a lack of flexibility requiring some procurements to be re-run in the event of market failure. In turn, this can create a perception that procurement teams are not achieving the most innovative and optimal outcomes.

Views from industry suggest that there is perceived aversion to risk from procurement teams which restricts innovation and this is in large part due to the complexity and rigidity of procurement processes which makes it difficult for teams to negotiate with suppliers.

### Transparency

Whilst improvements have been made over the past few years, public sector procurement data is incomplete and inconsistent. The current system of data collection is fragmented across multiple systems, making it difficult for central government and contracting authorities to use consistent data to inform better, more targeted decisions which drive value for money in public spending. Under the current regime, there is no unified process of central data collection on procurement spend at different phases of the contract lifecycle and the processes for collecting this vary significantly by contracting authority. This lack of information and data available can make it difficult to achieve transparency and accountability in public spending.

At the end of the Transition Period, the UK's new Find a Tender Service was launched, replacing the Official Journal of the European Union's Tenders Electronic Daily in the UK as the official platform for publishing above threshold contract notices for new procurements. However, the landscape remains fragmented, with most contracting authorities relying on a small number of specialist 'e-senders' and 'e-procurement systems' to host their procurements and publish contract notices. For suppliers, this

fragmentation makes it resource intensive to keep abreast of future public procurement with limited access to public procurement pipelines.

#### Remedies and associated legal risk

The remedies regime is viewed as costly and time-consuming for all parties involved. Industry believes there is a barrier to challenging poor procurement practices whereas contracting authorities are frustrated by the impact of challenges on delivery, especially when these arise from suppliers who seem to be on a 'fishing expedition' to search out non-compliance. Similarly, feedback from public sector procurement teams demonstrates that there is uncertainty around supplier evaluation and assessment of past performance when awarding contracts.

#### Holding suppliers to account and effective contract management

Although many of the problems identified were in relation to the procurement process early in the commercial lifecycle, stakeholders also commented that the current legislation does not provide comprehensive regulation for contract management and ensuring that suppliers are held accountable for poor performance and negative behaviour within their supply-chains (for example, late payment of their own suppliers). Industry and contracting authorities see the current rules around contract amendments as too restrictive and would welcome more flexibility.



## 2. Policy objective

The intended outcomes of the procurement reform bill can be summarised simply: “*The Government’s goal is to speed up and simplify our procurement processes, place value for money at their heart, and unleash opportunities for small businesses, charities and social enterprises to innovate in public service delivery*”.<sup>1</sup>

Building on the problem statements identified by stakeholders, the policy objectives for establishing a new procurement regime and associated legislation are as follows:

- **Simplifying and streamlining the regulatory framework and processes;** there are currently numerous regulatory frameworks associated with public procurement, by creating a single, uniform framework this will make it easier for public bodies to procure goods and services.
- **Offering greater flexibility;** the new procurement regime will allow more freedom to negotiate during procurement and achieve better outcomes in the provision of public services.
- **Providing opportunity for new entrants;** the Government is committed to ensuring new suppliers do not face unnecessary barriers in bidding for and winning public sector contracts and the reforms will provide easier access to public sector commercial agreements and develop a single registration system for suppliers.
- **Driving Innovation;** the new procurement regime will encourage new ways of working and provide opportunity for suppliers to offer different solutions.
- **Embedding transparency;** this is a core objective for the new regime and through publication of data relating to procurement throughout the lifecycle, the process will become more transparent.
- **Focusing on value for money;** the new procurement regime will provide both public bodies and suppliers with a clearer understanding of what can be included in the evaluation of bids and how value is demonstrated, including social value.
- **Enhancing capability;** alongside the introduction of the new regime, the Government has the opportunity to raise the bar for commercial capability across the public sector and focus on ensuring procurement teams are equipped to maximise the benefits that the new regime will offer.

**Table 1: Description of Strategic Objectives and how they will be achieved**

Strategic Objective	How will this be met? (NB: there are additional legislative measures which will contribute to achieving the objectives which are set out in the Green Paper)	Success criteria
<p><b>To simplify and streamline the regulatory framework and processes</b></p>	<p>The procurement reform bill will integrate a number of current regulatory frameworks into a single, uniform framework, including the current procurement regulations (the Public Contracts Regulations 2015, Utilities Contracts Regulations 2016, Concession Contracts Regulations 2016 and Defence and Security Public Contracts Regulations 2011).</p> <p>We will separately pursue reforms to certain Court processes that apply to the determination of procurement disputes, including through the introduction of expedition measures aimed at speeding up the resolution of challenges and making it more accessible.</p>	<p>Delivery of a single regulatory framework applicable to all contracting authorities</p> <p>An expedited process to enable faster decisions on procurement challenges.</p>
<p><b>To offer greater flexibility in procurement</b></p>	<p>A new ‘flexible competitive procedure’ that gives buyers freedom to negotiate and innovate to get the best from the private,</p>	<p>Improvement in commercial outcomes and innovative solutions for procurement.</p>

<sup>1</sup> Transforming Public Procurement Green Paper, page 7.

	<p>charity and social enterprise sectors; an 'open procedure' that buyers can use for simpler, 'off the shelf' competitions; a 'limited tendering procedure' that buyers can use in certain circumstances, such as where there are IPR considerations. The Government will also include "extreme urgency" as a new ground on which limited tendering can be used (to provide greater certainty for contracting authorities should there be a local or national emergency).</p> <p>The legislation will set out the exclusion grounds which can be used to tackle unacceptable behaviour in public procurement such as fraud and introduce a centrally managed debarment list. The new procurement regime will also allow past performance to be more easily taken into account in the evaluation.</p>	<p>Improved and clearer mechanisms for procurement teams to conduct due diligence.</p>
<p><b>To provide greater opportunity for SMEs, VCSEs and new entrants to public sector contracts.</b></p>	<p>The procurement reform bill will legislate for a number of commercial tools which will be available for contracting authorities, for example a new Dynamic Market that can be used for all types of procurement and allow suppliers to access opportunities at any time.</p> <p>The legislation will also cover new options in framework agreements including an option for an 'open framework' with multiple joining points and a maximum term of 8 years. This will be of benefit to businesses who may be locked out of longer-term frameworks.</p> <p>The procurement reform bill will enable contracting authorities to tackle payment delays in public sector supply chains and give small businesses, charities and social enterprises deep in the supply chain better access to contracting authorities to expose payment delays.</p> <p>A single digital platform for supplier registration that ensures businesses only have to submit their data once to qualify for any public sector procurement will be developed.</p>	<p>Suppliers will find it easier to do business with public sector organisations, accessing frameworks and dynamic markets.</p> <p>Suppliers will be able to input details once and use this across a range of customers, saving time and resources associated with bidding.</p>
<p><b>To drive innovation in the procurement of public services</b></p>	<p>There will be three modern procedures for procurement introduced: a new 'flexible competitive procedure' that gives buyers freedom to negotiate and innovate to get the best from the private, charity and social enterprise sectors.</p>	<p>Contracting authorities should find it easier to procure innovation through more flexibility.</p>
<p><b>To embed transparency throughout the procurement lifecycle</b></p>	<p>Contracting authorities will be required to disclose procurement and contract data throughout the commercial lifecycle from planning through procurement, contract award and performance.</p>	<p>Public sector procurement data will be easily accessible through centralised systems.</p>

	<p>All contracting authorities will be required to implement the Open Contracting Data Standard so that data across the public sector can be shared and analysed at contract and category level.</p> <p>A centralised platform will be offered to collate public sector procurement data and a series of standardised notices will be required throughout the procurement lifecycle.</p>	
<b>To focus on driving value for money</b>	<p>Value for money in public procurement will be the key principles in the new regime. Legislation will also require contracting authorities to have regard to the Government's strategic priorities for public procurement in a new National Procurement Policy Statement.</p>	<p>Greater emphasis on value for money and ensuring public procurement delivers for the public good.</p>
<b>To enhance procurement capability</b>	<p>Establishment of a new unit called the Procurement Review Unit to oversee the integrity of public procurement with powers to review and, if necessary, intervene to improve contracting authorities' compliance with the procurement regulations.</p> <p>Designing and implementing a (centrally funded) Learning and Development programme which will be available to contracting authorities across the public sector.</p>	<p>Raising commercial awareness and capability across the public sector will lead to better commercial outcomes.</p>

This list of legislative changes is not exhaustive and detailed reforms and outcomes are described in the Green Paper on Transforming Public Procurement, published in December 2020, and the associated Government Response to the Green Paper, published in December 2021.

### 3. Description of options considered

#### Policy development process and options longlist

The proposals which form the Procurement Reform Bill were developed over a period of 2 years following the UK's commitment to leaving the EU. The Cabinet Office established a series of workshops with contracting authorities from across the public sector including representatives from central and local government, universities, public utilities, and the education, health and housing sectors in order to create a list of potential areas to address. Parallel discussions were held with numerous stakeholders from industry, including strategic suppliers and small businesses, academics and procurement lawyers.

The Government also established a Procurement Transformation Advisory Panel (PTAP), which brought together procurement experts from across the world to discuss the opportunity for reform and ideas of how that could best be done. During these initial engagements, a number of potential options were defined and subsequently analysed by policy officials and cleared by Ministers. An example of some of the longlist of options considered during these early stages is laid out below:

**Table 2 - Description of Policy Development Process**

Topic	Options considered	Option taken forward
Procurement Procedures	<p>Remove the 7 existing procurement procedures and transcribe the three broad "methods" as set out in the GPA but without additional detail (not recommended due to lack of detail).</p> <p>Retain existing procedures and commercial tools with additional steps for clarification (not recommended due to lack of flexibility).</p>	<p>Creation of 3 modern procedures which streamline elements of the existing procedures but allow for more negotiation.</p> <p>Creation of a new set of commercial tools which will allow more flexibility.</p>
Remedies	<p>Limiting the level of damages payable for a successful challenge to a procurement (not recommended due to unintended consequences).</p> <p>Creation of a separate procurement tribunal (not feasible due to court process).</p>	<p>Retain the judicial system in part but introduce a dedicated procurement judge.</p> <p>Make evaluation outcomes available to unsuccessful bidders.</p>
Transparency	<p>Retain current transparency notices and process (not recommended due to current non-compliance).</p>	<p>Creation of a number of standardised notices which will be mandatory.</p> <p>Provision of a centralised point for holding data.</p>
Oversight	<p>Retain certain powers for oversight (not recommended due to current limitation of powers).</p>	<p>Give the Minister for the Cabinet Office powers to investigate non-compliance.</p> <p>Review the length of required standstill periods.</p>

In addition to the above, stakeholders strongly recommended that alongside any transformation, wraparound support would be needed for the public sector in order to maximise the benefits. This includes the following enabling workstreams:

**Table 3 - Description of Policy Development Process**

Topic	Options considered	Option taken forward
Digital Platform	Replace existing systems across the public sector with one new central system.	Develop new platform capability which will provide suppliers with a single portal to provide information and integrate existing systems.
Learning and Development	<p>Do nothing beyond issuing statutory and non-statutory guidance (not recommended due to complexity of regulation and evidence from previous regulatory regime changes that without investment, behavioural change does not happen).</p> <p>Light touch training regime (e.g. Knowledge Drops, Online Sessions) (not recommended due to complexity of the regulation and evidence of ineffectiveness such an approach previously).</p> <p>Create a Learning and Development regime which would be paid for by contracting authorities (not recommended due to resource implications and the risk of creating a two-tier approach).</p>	Develop and implement a bespoke training plan for contracting authorities and centrally fund the L&D offer.

The proposals were subsequently included in the Government's Transforming Public Procurement Green Paper, published in December 2020. The consultation included 42 specific questions asking for public feedback on the detail of the proposals. In total, 619 responses to the consultation were received. There was a mix of responses between contracting authorities who will be responsible for procuring within the future regime and suppliers to the public sector who will be bidding in procurements and delivering under contracts under the proposed regime. There were 226 responses from contracting authorities, 269 from suppliers and 124 from other interested parties such as academics, legal professionals and members of the public.

Overall, levels of support for the reforms in the Green Paper were high and many responses recognised the ambition and breadth of the package of proposals. The majority of answers to individual questions were positive. A clear majority of respondents agreed with the overarching legal principles of public procurement. Many respondents also recognised that the reforms would present a significant implementation challenge in order to realise the expected benefits.

There were some specific areas highlighted where stakeholders did not agree with the Government's proposals or wanted to emphasise areas of importance and some areas of policy were shifted as a direct result of stakeholder feedback. This was summarised and published in the Government's response to the Transforming Public Procurement Green Paper in December 2021.

Building on the policy development and consultation carried out to date, there are three options which have been considered in this Impact Assessment which cover the key topics and key considerations as outlined above.

The three options are: the business-as-usual option (*continuing with current regulation*); the do minimum option (*transcribing WTO GPA thresholds and procedures without additional investment*) and the preferred option (*the proposed measures in the Public Procurement Reform Bill*).

### **Option 1: Business as usual (Do nothing)**

**Description:** This option is to continue with regulations set out in the Public Contracts Regulations 2015 (PCR15), the Utilities Contracts Regulations 2016 (UCR16), the Concession Contracts Regulations 2016 (CCR16) and the Defence and Security Public Contracts Regulations 2011

(DSPCR11) as they are. This is presented as a baseline, however would not meet ministerial priorities or make use of the unique opportunity the UK has to transform public procurement.

**Costs:** no direct marginal cost, however the investment in reform to date would be a sunk cost. As highlighted above, option 1 does not capitalise on the opportunity for wider reform of the public procurement regime.

**Benefits:** the principal benefit of business as usual would be a retention of the status quo, meaning that contracting authorities would not be required to change processes.

**Risks:** There is a risk that this option will not meet ministerial priorities and challenges within the current procurement regime will not be resolved.

### **Option 2: Implement a legislative regime in line with WTO GPA Principles without additional support (Do minimum)**

**Description:** This option would be to design a new set of regulations which transcribes the principles and rules set out in the World Trade Organisation (WTO) Agreement on Government Procurement (GPA), of which the UK is a member, namely: non-discrimination, transparency and impartiality. Competitive procurement will continue to be the standard approach, with single source procurement remaining the exception, to be used only in strictly defined circumstances. This would ensure the UK would be compliant with its obligations under the WTO GPA. In addition, the transparency requirements would be based on current processes without enhancement of publishing procurement pipelines and contractual Key Performance Indicators. An alignment of all of the current regulations would pose risk because Defence as a sector is not covered extensively under the GPA, thereby creating the need to potentially retain separate regimes. This option would be less prescriptive and would not be accompanied by investment in digital platforms or learning and development. In order to maximise any commercial benefit of a new regime and meet outline objectives, stakeholders, both through information engagement and in response to formal consultation have provided clear feedback that any legislation change needs to be accompanied by a refinement in systems and capability in order for the regime to succeed.

**Costs:** Compared to Option 1, there will be some cost associated with the establishment of new legislation and limited costs will be required for additional capability and functionality. These costs are however expected to be less than Option 3 (preferred option) given the more limited extent of reform.

**Benefits:** There will be some additional flexibility in procurement procedures, and potential time saving benefits. The scale of these will however be limited compared to Option 3 due to the absence of a learning and development programme and the implementation of a centralised digital platform.

**Risks:** There is a risk that whilst legislation will be simplified, parallel regimes may still be required due to a minimal coverage of defence procurement within the GPA. There is also the risk that benefits of new legislation will not be realised without additional learning and development for contracting authorities and the Government will fail to leverage its purchasing power through centralising and investing in digital systems.

### **Option 3: Wholesale reform of the procurement regime (Preferred option)**

**Description:** The preferred option is to rationalise and clarify the parallel rules in the PCR15, UCR16, CCR16, and DSPCR11, replacing them all with a single, uniform set of rules for all contract awards. This will be supplemented with sector-specific parts or sections where different rules are required for effective operation or to protect our national interest, for example in the defence or utilities sectors. In addition to the core elements of a procurement regime, the Cabinet Office proposes to offer a number of refined procedures, commercial tools and mechanisms to exclude suppliers which will be easier to implement for contract authorities whilst allowing for maximum commercial outcomes. Alongside the legislation, the Procurement Transformation programme will offer a number of digital tools for suppliers and contracting authorities to centralise and standardise ways of working and a comprehensive Learning and Development programme which will enhance commercial capability across the public sector.

**Costs:** There will be associated costs with designing and implementing the legislation for Cabinet Office, including investment in learning and development and centralised systems. There may be some opportunity costs for contracting authorities to undertake training and ensure administratively they are in a position to follow the proposed transparency regime.

**Benefits:** There will be benefits from simplifying the regulatory framework. Additionally, the streamlining of procurement processes through the introduction of a centralised digital platform will generate efficiencies and time saving benefits to contracting authorities and suppliers. Simplified procedures will allow additional flexibility and improve procurement outcomes, with implications for service delivery and value for money.

**Risks:** There is a risk that the benefits are not realised due a “reversion to the norm” effect.

### Options assessment

In assessing the three options, an analysis has been carried out against the policy objectives as described in section 2:

**Table 4 - Performance of Options Against Policy Objectives**

Objectives	Option 1 - Baseline (Do Nothing Option)	Option 2 - Do Minimum	Option 3 - Preferred Option
<b>Simplifying and streamlining Regulatory Framework</b>	Not achieved	Partially achieved	Achieved through creation of a single uniform framework
<b>Offering Greater Flexibility</b>	Not achieved	Partially achieved through rationalisation of procedures	Achieved through offer of new procedures and processes, new commercial tools.
<b>Opportunity for New Entrants</b>	Not achieved - though this can partially be achieved by policy action rather than legislation, however has proved challenging to date.	Achieved through reducing complexity	Achieved through new commercial tools and creation of single supplier platform
<b>Driving Innovation</b>	Not achieved	Achieved through addressing approach to procurement procedures	Achieved through addressing the approach to procurement procedures.
<b>Embedding Transparency</b>	Not achieved - though this can partially be achieved by policy action rather than legislation, however has proved inconsistent to date.	Partially achieved as notices will still be required in accordance with the GPA however would not be enhanced with notices throughout the whole lifecycle.	Achieved through adoption of ODCS and creation of standardised notices throughout the entire lifecycle, from planning to contract management.
<b>Focussing on Wider Value</b>	Not achieved - though this can partially be achieved by policy action rather than legislation, however has proved challenging to date.	Partially achieved through breaking the subject matter of the contract but difficult to implement.	Achieved through implementation of National Procurement Policy Statement outlining strategic priorities and breaking subject matter of the contract
<b>Enhancing Capability</b>	Not achieved	Achieved, however benefits would not be maximised without investment	Achieved through investment in Learning and Development

**Options summary**

Option 1 (Do Nothing) is not recommended because it does not meet the policy objectives for reform. Option 1 also runs the risk that, without extra oversight, public procurements may not be compliant and aligned with international trade obligations.

Option 2 (Do Minimum) partially meets policy objectives for reform through some rationalisation of procedures and reduction in complexity. There would be some costs to implement this option, largely associated with programme costs for Cabinet Office with some minimal costs falling on contracting authorities. Although costs are expected to be lower than Option 3, realisation of benefits will be impaired by more limited investment in learning and development and less ambitious measures on areas such as establishing a centralised platform. Whilst the objectives for the Do Minimum are partially achieved, however, stakeholders were keen to emphasise in their responses to the Green Paper that any legislative change needed to be accompanied by additional capability and digital functionality in order to maximise the opportunity that transformation presented.

Option 3 (Preferred Option) fully meets the policy objectives set out above through wholesale reform of procedures, the regulatory framework, transparency and the establishment of a single procurement platform. Although costs are expected to be higher than Option 2, this option is expected to deliver significant benefits in a range of areas. This includes time-savings to contracting authorities and bidders from adoption of new procedures and processes; potential increased competition from access to a more diverse range of suppliers; as well as improved accountability and transparency from more open procurement data. Unlike Option 2, this option will be supplemented through investment in a programme of learning and development, to embed capability and support the realisation of these benefits.

Therefore, Option 3 is the recommended option which meets all of the objectives and presents the biggest opportunity to maximise benefits through the reform programme which will have wider-reaching impact.

**Table 5 - Summary of options**

Option	Assessment of Costs	Description of Benefits	Risks	NPV Over Appraisal Period
<b>Option 1: Business as usual (Do nothing)</b>	No cost	No change required to establish ways of working for procurement teams.	There is risk of reputational damage for not taking the opportunity to change following the UK's departure from the EU.  There is a risk that without additional oversight, procurements may not be aligned with international trade agreements.	N/A
<b>Option 2: Do minimum: New legislation based on GPA without additional transparency, digital platforms and investment in training</b>	One-off cost associated with programme.  No anticipated costs to industry.	Procurement procedures would become more flexible  Time savings achievable through streamlined processes	There is a risk that without additional investment in systems and training, the benefits will not be realised and the challenges faced currently will remain.	N/A



<p><b>Option 3: Preferred Option: New legislation with new procedures, widened transparency, digital platforms and investment in training</b></p>	<p>One-off costs associated with programme delivery, digital platform development and learning and development.</p> <p>No significant costs to industry</p>	<p>Policy objectives are met</p> <p>Commercial capability enhancement should lead to better outcomes.</p> <p>Industry can offer more innovative solutions</p> <p>More flexibility for both suppliers and buyers</p> <p>Time savings achievable through streamlined procedures.</p> <p>Time savings to suppliers from not having to complete tender information already saved in the procurement platform</p> <p>Greater competition from access to a more diverse range of suppliers and increasing the number of bids on public procurements.</p> <p>Greater transparency and better public sector procurement data (implications for better decision making and improved accountability)</p>	<p>There is a risk that additional flexibility and requirements overwhelm procurement teams and they revert to the easiest path.</p>	<p><b>£205m</b></p>
---	---	--	--	---------------------

#### 4. Rationale and evidence to justify the level of analysis used in the IA (proportionality approach)

Given the complexity of regulations it is often difficult to analyse and quantify the impacts of procurement reform in a meaningful way, which attributes both cause and effect. In many cases, the benefits of impacts that cannot be quantified are likely to significantly outweigh those that can be monetised. The delivery of a unified system of data collection on procurement spend for example, would deliver significant value for money by way of improved transparency and decision making, but this cannot be accurately measured in a meaningful way. Accordingly, the evidence presented in this impact assessment is largely qualitative in nature. This reflects two main challenges:

- **Data Availability:** public sector procurement data can be incomplete and inconsistent. The current system of data collection is fragmented across multiple systems, making it difficult for central government and contracting authorities to use consistent data to inform better, more targeted decisions which drive value for money in public spending. Under the current regime, there is no central data collection of procurement spend at different phases of the contract lifecycle and the processes for collecting this vary significantly by contracting authority. This is a challenge which the reforms aim to address.
- **Uncertainty Around Behaviour Change** the uncertainty around behaviour change, and the willingness of contracting authorities to take advantage of additional flexibility is another unknown, which will not be clear until the evaluation phase. This makes estimating the scale of benefits subject to a degree of uncertainty. Sensitivity analysis is conducted later on to highlight the impact of lower-than-expected uptake of new procedures.

The Cabinet Office will continue to monitor the impact of public procurement reforms as the regime is implemented and more data becomes available through the proposed centralised digital platform. More details are set out in Section 12 on Monitoring and Evaluation.

## 5. Summary and preferred option with description of implementation plan

The preferred option, as described in Section 3, which meets the stated policy objectives in Section 2 is to introduce a wholesale reform for public procurement. The principal step is to introduce a new Procurement Reform Bill into primary legislation, replacing the existing procurement regulations in addition to providing investment in digital platforms and learning and development. In summary, the preferred option covers a mix of legislative outcomes and enabling tools;

- Embedding the principles of procurement in UK law, including principles of non-discrimination, value for money and maximising public benefit
- Establishment of a Procurement Review Unit, aimed at ensuring compliance in public procurement across the public sector
- Creating a single, uniform framework for public procurement, combining 4 existing sets of regulatory frameworks including Defence and Utilities regulations.
- Introduction of 3 modern procurement procedures, replacing 7 previous procedures, which will offer greater flexibility for contracting authorities to conduct procurements
- Strengthening of supplier exclusion mechanisms, which will allow contracting authorities to confidently exclude suppliers who have previously demonstrated negligence or poor-performance.
- A set of more flexible commercial tools, which includes longer-term frameworks and dynamic markets for common goods and services
- Embedding transparency throughout the commercial lifecycle through the mandating of new notices required during the procurement process.
- Ways of ensuring effective contract management and publication of amendments to contracts
- Implementation of a centralised digital platform to support the regime which will allow reporting of transparency data and greater visibility for suppliers.
- A comprehensive Learning and Development package to support contracting authorities in order to maximise benefits for the regime.

The new procurement regime will be introduced as primary legislation when parliamentary time allows. Once the Bill becomes an Act, there will need to be secondary legislation (regulations) to implement specific aspects of the new regime.

In parallel, the Cabinet Office plans to produce a detailed and comprehensive package of published resources (statutory and non-statutory guidance on the key elements of the regulatory framework, templates, model procedures and case studies). In addition, the Cabinet Office intends to roll out a programme of learning and development to meet the varying needs of stakeholders.

It is important to note that the scale of change to the procurement regime is significant, and organisations will need time to prepare themselves to function effectively under the new regime. Although it is not yet possible to confirm when the new regime will come into force, we intend to provide six months' notice of "go-live", once the legislation has been concluded, in order to support effective implementation. In any event, given the timescales around the legislative process, the new regime is unlikely to come into force until 2023 at the earliest.

In order to manage the transition between regimes, Cabinet Office will issue communications and guidance to ensure contracting authorities will be able to make decisions relevant to their organisations and plan for the change. The Cabinet Office is responsible for developing and implementing central government commercial policy which underpins the public procurement regulation and will continue its role in doing so. Further assessment of the effectiveness of the regime will be possible through the establishment of the Procurement Review Unit which will monitor compliance with the regime. More information on this approach is detailed in section 12 on Monitoring and Evaluation.

## 6. Costs and Benefits

### Methodology

This section outlines the methodology used to calculate costs and benefits. This sets out in high level the main categories of monetised impacts as well as the assumptions used in the analysis. This also includes a discussion of the main data sources used for the analysis.

Where the impacts of reform can be quantified these largely fall into two categories:

- 1) Value of time costs and savings
- 2) Direct programme level costs

### **Quantifiable Impacts 1): Value of time costs and savings**

Where impacts can reasonably be quantified, these are generally expressed by way of time savings/costs to contracting authorities or suppliers. The median salary for a full-time Procurement and Buying officer (assumes a salary of £31,588 a year or £16.11 an hour based on ASHE 2021) has been used to estimate the value of time. Throughout the impact assessment, assumptions are made on the length of time of:

- a. **Current and future procurement cycle:** The average length of a procurement cycle for all parties is based on data from a PwC Europe wide study. This assumes a total procurement cycle length for all parties of 118 days<sup>2</sup> for all procedures (*from contract notice to contract award*) based on an average of 26 days for contracting authorities and 17 days contracting time for each bidder responding, taking the assumption of an average number of bidders of 5.4 per procurement based on Tenders Electronic Daily data for 2018. These base assumptions are used later in the impact assessment to estimate the value of time savings to contracting authorities and bidders from implementing new procurement procedures.

**Table 6 Average No. of Procurement Days in the UK**

No of Procurement Days	All Procedures
Average Decision Days for contracting authorities	26
Average contracting time for bidders	17
<b>Total Days*</b>	<b>118</b>

- b. **Time for Suppliers to register information for participation in public procurement:** Under the current system suppliers often have to provide the same information each time they apply for a public sector contract. For above threshold contracts, it is assumed that the provision of this information takes around 5 hours per procurement. This is based on SME engagement research by Cabinet Office and CaSIE user engagement surveys. These base assumptions are used in the subsequent section to calculate the time saving benefits of a single point registration system for suppliers for public procurement.
- c. **Length of administration times for contracting authorities:** The new transparency requirements will provide a new framework for published notices from contracting authorities, both through the requirement of new notices and the simplification of current notices. Through engagement with contracting authorities, each phase of the extended lifecycle has been assessed to understand the potential additional time burden to procurement professionals in hours directly worked on new notices. It is understood and recognised that these additional requirements will impact different contracting authorities and procurement professionals in different ways due to a wide number of factors. Assumptions have been made to provide a ‘most

<sup>2</sup> Based on average no. of days for UK procurement procedures, figure 2.9, p83, PwC “Public Procurement in Europe” (2011). 118 days = 26 days for contracting authorities + (17 days for bidders \* 5.4 bidders)

likely' cost estimate, however, sensitivity analysis later in this document will incorporate a maximum additional administrative burden.

- d. **Time spent by procurement professionals in training and development:** there will be a programme of training to support procurement professionals implement reform measures. This includes e-learning modules which are assumed to be 10 hours per attendees (200,000 hours for all 20,000 e-learners) and Deep Dive sessions which are assumed to last around 20 hours for each attendee (150,000 hours for all 7,500 attendees)<sup>3</sup>. These assumptions are used to calculate the opportunity cost to procurement professionals of attending training on changes to the procurement regime.

### **Quantifiable Impacts 2): Direct programme level costs**

There are also a number of programme costs associated with the reform of public procurement systems. These include direct costs associated with introducing a new public procurement platform as well as the design and delivery of a learning and development programme to support implementation.

### **Non-Monetisable Impacts**

As a complex set of regulations, the costs and benefits of procurement systems at a national level have been difficult to analyse and quantify. Due to the inherent nature of a procurement system which has 20,000 plus contracting authorities and immeasurable suppliers, a great number of impacts will be unquantifiable. In many cases the benefits of those which have not been monetised significantly outweigh quantifiable effects. Where this is the case, these have been described clearly as non-monetisable benefits. For example, the delivery of a unified system of data collection on procurement spend would deliver significant benefits in terms of improved transparency and decision making, though the scale of this cannot currently be accurately measured in a meaningful way.

### **Baseline data used in Impact Assessment**

A baseline of the available procurement data is set out below to establish: the potential scale of spend impacted by reform; the volume of public sector contracts that the measures may apply to; and the split of procurement between various contracting authorities. This provides a snapshot of the public procurement market on which the estimated costs and benefits of reform are applied.

### **Scale of Public Procurement Spend**

In 2018-19, the UK spent nearly £300bn on public procurement<sup>4</sup>. This covered all areas of spend including the provision of public services; defence; health; education; transport; public order and social protection. Of this £300bn, adjustments must be made to estimate the scale of spending impacted by reform. For example, not all activity may go through a tender process and as such some spending related to health and defence must be excluded. In addition, as the measures will exclude procurement spend in Scotland an adjustment of £12.6bn is made<sup>5</sup>. The value of procurement spend affected by the proposed reforms is estimated to be in the region of £208bn. The split of procurement spend and adjustments which are made are highlighted below in Figure 1.

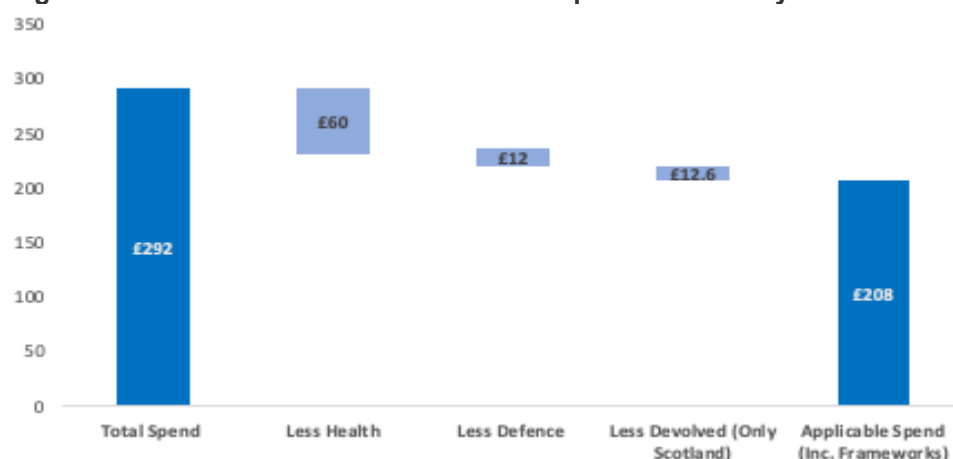
---

<sup>3</sup> Estimates of the size of the commercial audience have been provided by Cabinet Office policy officials. These are derived from data provided by members of the Transforming Public Procurement Working Group (departmental and sectoral leads), and analysis of a range of data sources.

<sup>4</sup> Public Expenditure Statistical Analysis 2019, Table 5.6

<sup>5</sup> Procurement activity: annual report 2018 to 2019, Scottish Government, Section 3.1

**Figure 1 - Estimated Value of Procurement Spend Affected by Measures £bn**



Data on public procurement spending by contracting authority is patchy and comes from a mix of sources. Public procurement spend data is largely derived from Public Expenditure Statistical Analysis (PESA) 2019<sup>6</sup>. While reasonable data is available in relation to central government departmental spend, there are no comprehensive single source estimates covering central government, local authorities and the wider public sector. According to PESA, local government procurement (current and capital) accounted for around 30% of total public procurement spend at £91bn in 2018-19<sup>7</sup>. PESA does not provide granularity of data of central departmental spend, though returns from government departments suggest that this was in the region of £58bn in 2019-20<sup>8</sup>. The following analysis includes data and assumptions from Wales and Northern Ireland who have given indication they are planning to join the UK's Procurement Reform Bill.

### **Volume of Contracts Between Contracting Authorities**

In terms of the split of contract volumes, between 2015-19, an average of 32,000 contracts were awarded across public sector bodies across England, Wales and Northern Ireland (*including call-offs from Framework Agreements*). The bulk of these were in local authorities, which made up around 40% of contract awards. The next largest contracting sector was central government, which accounted for around 26% of all awards. Call-offs awarded under Framework Agreements, made up around 13% of contract awards.

**Table 7 – Average No. of Contract Awards by Contracting Authority (2015-2019)**

Total Contract Awards	Including Call-Offs	Excluding Call-Offs	% of Total
Central Government	8,300	6,400	26%
Local Government	13,700	12,600	42%
Education	3,100	2,900	10%
NHS	3,100	3,000	10%
Wider Public Sector	4,100	3,700	12%
<b>Total</b>	<b>32,400</b>	<b>28,600</b>	<b>100%</b>

\*Contracts Finder, TED, Find a Tender, Extracted from Tussell Platform

<sup>6</sup> <https://www.gov.uk/government/statistics/public-expenditure-statistical-analyses-2019>

<sup>7</sup> Public Expenditure Statistical Analysis, Table 7.8

<sup>8</sup> Data provided by Cabinet Office Commercial Function

The geographical split of contract awards is shown at table 8 below.

**Table 8 - Average No. of Contract Awards by Region (2015-2019)**

Total Contract Awards	Including Call-Offs	Excluding Call-Offs	% of Total
England	31,000	27,000	94%
Wales	1,200	1,100	4%
Northern Ireland	600	600	2%
<b>Total</b>	<b>32,400</b>	<b>28,600</b>	<b>100%</b>

**Option 1: Business as usual (Do nothing)**

This option is to continue with regulations set out in the Public Contracts Regulations 2015 (PCR15), the Utilities Contracts Regulations 2016 (UCR16), the Concession Contracts Regulations 2016 (CCR16) and the Defence and Security Public Contracts Regulations 2011 (DSPCR11) as they are. The main costs associated with this option are non-monetised in nature.

**Costs and benefits of Option 1 - Do Nothing**

**Non-Monetised Costs of Option 1**

*Failure to Realise Benefits*

Feedback from users of the current procurement regime is that there are a number of issues with the current system. For example, the complexity makes it challenging for commercial teams and suppliers to navigate the current rules; the requirement to enter details on numerous portals and e-senders creates barriers to entry for new suppliers; and a lack of flexibility means that procurement times are often lengthy. Continuing with the current regime, would not meet ministerial priorities or make use of the opportunity the UK has to transform public procurement. In addition, contracting authorities and suppliers would continue to face the problems outlined above, with consequences for competition in public procurement; ease of processes; and transparency in public spending.

**Option 2: Implement a legislative regime in line with WTO GPA Principles without additional support (Do Minimum)**

The second option is to design a new set of regulations which transcribes the principles and rules set out in the World Trade Organisation (WTO) Government Procurement Agreement (GPA), of which the UK is a member, namely: non-discrimination, transparency and impartiality. Competitive procurement will continue to be the standard approach, with single source procurement remaining the exception, to be used only in strictly defined circumstances. This would ensure the UK would be compliant with its obligations under the WTO GPA. The main costs and benefits associated with this option are non-monetised in nature.

**Costs and Benefits of Option 2 - Do Minimum**

**Non-Monetised Costs for Option 2**

*Implementation Costs*

There would be some costs to implement this option, largely associated with programme costs for Cabinet Office with some minimal costs falling on contracting authorities.

## Failure to Realise Benefits

The main costs associated with option 2 are that the associated wider benefits of improving commercial outcomes would likely not be realised. There is also a risk that any flexibility allowed in the new legislation would not be maximised and processes would be equally complex. Option 2 would be less prescriptive and would not be accompanied by investment in digital platforms or learning and development. In order to maximise any commercial benefit of a new regime and meet outline objectives, stakeholders, both through information engagement and in response to formal consultation, have provided clear feedback that any legislation change needs to be accompanied by a refinement in systems and capability building in order for the regime to succeed. Behavioural change is key to embedding capability in contracting authorities and ensuring procurement professionals in these organisations have the knowledge to take advantage of flexibility in procurement procedures. Ultimately benefits will not be realised without additional learning and development for contracting authorities and the Government will fail to leverage its purchasing power through centralising and investing in digital systems.

### Non-Monetised Benefits of Option 2

#### *Greater flexibility in procurement procedures and potential time Savings through streamlined processes*

Transcribing WTO GPA principles into UK law would be a simplification compared to the current regulations and would allow a degree of flexibility to contracting authorities. This simplification would likely create more streamlined processes which generate time saving benefits to contracting authorities. However, the absence of additional learning and development is likely to limit the realisation of these benefits.

### **Option 3 - Wholesale reform of the procurement regime (Preferred Option)**

The preferred option is to rationalise and clarify the parallel rules in the PCR15, UCR16, CCR16, and DSPCR11, replacing them all with a single, uniform set of rules for all contract awards. This will be supplemented with sector-specific parts or sections where different rules are required for effective operation or to protect our national interest, for example in the defence or utilities sectors. In addition to the core elements of a procurement regime, Cabinet Office proposes to offer a number of refined procedures, commercial tools and mechanisms to exclude suppliers which will be easier to implement for contract authorities whilst allowing for maximum commercial outcomes. Alongside the legislation, the Procurement Transformation programme will offer a number of digital tools for suppliers and contracting authorities to centralise and standardise ways of working and a comprehensive Learning and Development programme which will enhance commercial capability across the public sector.

### Costs and Benefits for Option 3 (Preferred Option)

#### Summary of Option 3

Taking into account monetised costs and benefits, option 3 is expected to result in a positive NPV of **£205m over the 10-year appraisal period (2021/22-2030/31)**. This reflects the costs of setting up the transparency platform; a programme of learning and development; the opportunity cost of staff attending training as well as potential compliance implications of transparency requirements. These costs have been offset against time saving benefits from adoption of new procurement procedures and from the proposed supplier registration system.

**Table 9 - Net Present Value of Option 3 (Preferred Option) Over Appraisal Period (2021/22-2030/31)**

Present Value Costs (£)	
Platform	£17,385,114
Learning and Development	£6,175,980
Opportunity Cost of L&D	£5,290,461



Compliance with Transparency Notices	£4,158,436
<b>Total PV Costs</b>	<b>£33,009,992</b>
<b>Costs + Optimism Bias (10%)</b>	<b>£36,310,991</b>
<b>Present Value Benefits (£)</b>	
Procedures Time Savings to Contracting Authorities	£53,378,904
Procedures Time Savings to Bidders	£188,468,591
Registration Platform Time Saving to Bidders	£26,348,529
<b>Total PV Benefits</b>	<b>£268,196,024</b>
<b>PV Benefits + Optimism Bias (10%)</b>	<b>£241,376,422</b>
<b>Net Present Value</b>	<b>£205,065,431</b>
<b>Benefit Cost Ratio</b>	<b>7</b>

This costing includes an adjustment for optimism bias which increases costs and decreases benefits by 10%. Sensitivity analysis conducted later on, which shows that even when stress testing key assumptions the NPV remains positive, with monetised benefits outweighing costs (under sensitivities the Benefit to Cost Ratio falls to 3.6).

As highlighted throughout this section, it is important to note that many of the impacts of reform cannot be quantified and it is expected that non-monetised effects will be significant. Non-monetised costs and benefits are described in full later in this section.

### **Monetised Benefits for Option 3 (Preferred Option)**

Two main areas of monetised benefits are included in this impact assessment. This looks at the potential time savings to contracting authorities and bidders from the competitive flexible procedure, as well as time saving benefits from to suppliers from the single point registration system.

All monetised benefits are presented as the marginal impact relative to current regulations (i.e., benefits relative to the status quo, business-as-usual option).

#### *1) Time savings to contracting authorities and bidders under new competitive flexible procedure*

It is expected that the adoption of flexible, streamlined procedures will generate time savings for bidders and contracting authorities. There are currently seven procurement procedures available to contracting authorities. These will be reduced to three: the competitive flexible procedure; open procedure and limited tendering procedure. It is expected that the competitive flexible procedure – which will be similar in nature to the current light touch regime – will account for the bulk of procurement procedures and allow contracting authorities to adopt a more flexible approach. Based on contract award data, a central assumption is made that the competitive flexible procedure will apply to around half of awarded contracts. While this will depend on levels of adoption by contracting authorities, a sensitivity analysis later in the impact assessment looks at how alternative assumptions impact this costing.

This estimate looks at the potential cost savings from bringing procurement timescales in line with those seen currently through the Light Touch Regime (LTR), reducing the number of decision days from 118 to 100 for all procurements (15%). This is split between 26 days for contracting authorities, and 17 days for bidders (assuming an average of 5.4 bidders). This assumes a 15% reduction in timescales split equally between contracting authorities and bidders.

**Table 10 – Estimated average reduction in Procurement Cycles**

No of Procurement Days	All Procedures	Assuming Light Touch Timescales (15% Reduction)
Average Decision Days for Contracting Authorities	26	22
Average contracting time for bidders	17	14
<b>Total Days*</b>	<b>118</b>	<b>100</b>

\* Assuming average of 5.4 bidders (based on TED 2018)

Analysis of contract award data from 2015-19 shows that around half of contracts are procured under the open procedure. It is expected that with reform, a portion of those contracts will in future be procured under the competitive flexible procedure as contracting authorities take advantage of additional flexibility of the new regime. Accordingly, it is assumed that 50% of contracts will in future fall under the competitive flexible procedure. While this will ultimately depend on the scale of behaviour change in contracting authorities, a programme of learning and development will be in place to support uptake of new procedures. A sensitivity analysis is included in the subsequent section which assesses the impact of lower-than-expected uptake on programme level benefits.

Assuming time savings are applied across 50% of the average number of public sector contracts awarded between 2015-2019, the adoption of stream-lined procedures could generate time savings of up to 64,000 days for contracting authorities and 227,000 days for bidders. This is based on the average procurement day reductions outlined in table 10 above, and an average of 5.4 bidders per contract. Sensitivity analysis later in this impact assessment looks at the impact of alternative assumptions on affected contract volumes.

**Table 11 – Estimated time savings for contracting authorities and bidders**

	Estimated No. of Affected Contracts	Estimated No. of Days Saved for Contracting Authorities	Estimated No. of Days Saved for Bidders
Central Government	4,200	16,500	58,300
Local Government	6,900	27,300	96,300
Education	1,500	6,100	21,700
NHS	1,600	6,200	22,000
Wider Public Sector	2,100	8,200	28,900
<b>Total</b>	<b>16,200</b>	<b>64,300</b>	<b>227,200</b>

\* Assuming average of 5.4 bidders (based on TED 2018)

Estimating the value of time savings to contracting authorities and bidders involved assigning a per day procurement cost. For this analysis, a per day procurement cost of £157 was used. This was based on the per day cost of 1 FTE procurement officer, using a median full-time salary for a Buying and Procurement Officer of £31,588 with a 30% uplift to cover non staffing costs. Based on these assumptions, this could generate annual savings of around £10m for contracting authorities and £36m for bidders. It is expected that realisation of benefits will be gradual as contracting authorities become more familiar with using the new procedures. Accordingly, it is assumed that full realisation of time saving benefits of new procedures will not be realised until 2025/26

**Table 12 – Estimated value of time savings to contracting authorities and bidders (£)**

	<b>Estimated No. of Affected Contracts</b>	<b>Estimated Value of Time Savings to Contracting Authorities</b>	<b>Estimated Value of Time Savings to Bidders</b>
Central Government	4,200	2,592,000	9,150,000
Local Government	6,900	4,282,000	15,119,000
Education	1,500	965,000	3,406,000
NHS	1,600	980,000	3,461,000
Wider Public Sector	2,100	1,287,000	4,546,000
<b>Total</b>	<b>16,200</b>	<b>10,106,000</b>	<b>35,682,000</b>

\* Assuming average of 5.4 bidders (based on TED 2018)

A number of caveats should be applied to this analysis. Firstly, it is possible that more efficient procurement procedures could have a counteracting effect, should it result in an increase in the number of bidders, potentially resulting in further administrative costs for contracting authorities with implications for procurement times. Secondly, it will be at the discretion of contracting authorities whether they make use of the new competitive flexible procedure and some may choose not to adopt this procedure. There is also an implicit assumption that a reduction in procurement cycles will correspond to a saving to contracting authorities and suppliers, when not all of this time may be spent on procurement. Finally, it has been assumed that hours will be reduced by bidders in response to reduced timescales.

## 2) *Time saving to suppliers from single point registration process*

It is expected that business hours will be saved by being able to complete a single government procurement registration process which feeds into other systems. The single registration point will make it easier for both buyers and suppliers, by holding supplier (and buyer) information that is provided once, and made available for use many times across multiple procurements.

At present paperwork needs to be submitted each time a supplier wishes to bid on a public procurement opportunity. With the current system there are requests for the same evidence each time a supplier engages with public sector procurement, creating inefficiencies and duplication of effort. The Crown Commercial Service have estimated average time savings to suppliers of around 5 hours per procurement. This was based on SME engagement research and CaSIE user surveys. This average time saving assumption is used throughout the analysis.

These time savings are assumed to apply to contracts over OJEU thresholds (*£138,760 for central government and £213,477 for other contracting authorities*). This is based on the premise that these contracts involve a disproportionate amount of paperwork, and are expected to account for the bulk of potential time savings to suppliers. Accordingly, this does not take account of potential time savings to suppliers on contracts below these thresholds. The analysis also assumes an average number of bidders of 5.4 across all applicable contracts, based on Tenders Electronic Data from 2018. In reality, this is likely to differ significantly by sector.

Based on these assumptions it is estimated that suppliers could save around 265,000 hours a year. At £16.11 per hour for the median Procurement and Buying officer, this could generate annual savings to suppliers in the region of £4.3m. It is important to note that the time saving benefits will be sensitive to the assumptions used. Sensitivity analysis has been conducted later in the impact assessment to show how alternative assumptions could impact on these estimated benefits.

**Table 13 - Estimated Annual Value of Time Saving to Suppliers**

	Estimated No. of Affected Contracts	Estimated Hours Saved by Suppliers	Value of Time Savings
Central Government	3,100	84,600	£1,362,800
Local Government	3,300	90,000	£1,450,100
Education	800	22,100	£355,700
NHS	800	20,900	£336,000
Wider Public Sector	1,800	47,300	£762,500
<b>Total</b>	<b>9,800</b>	<b>264,900</b>	<b>£4,267,100</b>

\*Contracts above OJEU thresholds

\*\* Assuming 5.4 bidders per contract (TED 2018)

### Non-Monetised Benefits for Option 3 (Preferred Option)

As highlighted previously, quantifying the benefits of public procurement reform in a robust way is highly challenging and subject to high levels of uncertainty. This is partly due to the nature of available data, which procurement reforms aim to address. The uncertainty around behaviour change, and the willingness of contracting authorities to take advantage of additional flexibility is another unknown, which will not be clear until the evaluation phase. Despite this, the non-monetised benefits of reform are expected to be highly significant and ultimately dwarf the scale of those which can be meaningfully quantified. Some of the main areas include: the impact of transparency and data collection on public procurement; the impact of reforms on procurement outcomes and innovation; and the wider effect of social value proposals.

#### 1) *Impact of Transparency and Better Data Collection on Public Procurement*

The transparency requirements and the use of a central procurement platform will ensure more consistent commercial data, making it easier to find tenders and bids. The proposal to implement the Open Contracting Data Standard will mean that data across the public sector can be shared and analysed at contract and category level. Although it is challenging to accurately quantify the potential scale of impacts of improved collection and disclosure of data; empirical studies highlight that benefits are likely by way of: reduced costs to contracting authorities; potential creation of new markets; improved accountability; and reduced corruption.

##### 1(a) *Reduced Costs through Better Disclosure*

International evidence shows that the benefits of publishing more contracting information include increased competition and reduced prices. For example, when social housing contracts in Paris were publicly disclosed, bid prices dropped by 26% on average, and bid renegotiations became less common. Other examples include in Slovakia, where after the launch of an e-procurement system that disclosed contracting information, the prices of winning bids declined dramatically, with cost savings of around 25% in the first year.

Greater transparency and improved data also reduce the chances of 'single bidding', where only one supplier bids for a public contract<sup>9</sup>. Modelling by the Open Contracting Partnership calculated that an increase in transparency could reduce single bidding by 2% to 3.5% and make tendering 0.14% to 0.25% cheaper. Making those savings on the £292 bn procurement spend in the UK is equivalent to hundreds of millions of pounds every year.

Open data can deliver wider economic benefits and may generate new commercial opportunities. For example, a number of firms use published spending and contracts data. Improving the quality of this data

<sup>9</sup> [http://digiwhist.eu/wp-content/uploads/2017/09/D3.2-Light-on-the-Shadows-of-Public-Procurement\\_corr.pdf](http://digiwhist.eu/wp-content/uploads/2017/09/D3.2-Light-on-the-Shadows-of-Public-Procurement_corr.pdf)

may increase commercial opportunities for these firms. Similarly, for contracting authorities, better data around procurement spend can enhance opportunities for collaboration. For example, contracting authorities could work together on the procurement of similar services, which would have previously been procured individually, potentially generating opportunities for cost savings.

#### *1(b) Improved Accountability in Spending*

Better procurement data would enable the public to better understand how taxpayer money is being spent, enhance scrutiny of contracts and could improve public trust in Government spending. As the Institute for Government has noted in previous research, Government contracting “can lead to a lack of clarity on where issues originate, and where accountability lies for fixing them”, particularly with regard to public services. The transparency proposals in the Green Paper aim to ensure that there is appropriate scrutiny and accountability for the use of public money in procurement. Making data available at each stage of the contract lifecycle is likely to lead to better and more targeted spending decisions, with contracting authorities and Ministers better informed of challenges and barriers around procurement on a more granular basis. This is important to a wide range of parties including taxpayers and civic society. For example, this may facilitate better public understanding of how taxpayer money is being spent, as well as enhancing scrutiny of contracts and improving public trust in Government spending.

#### *1(c) Reduced Scope for Corruption*

The increased publication of high-quality procurement data would make it easier to spot instances of corruption. At present, it is not possible to track procurement spend data through the entire lifecycle of a contract. Generally, the chances of identifying corruption are improved when information is available for every stage of the contracting process. As highlighted above, improving the granularity of data is likely to lead to improved transparency around public procurement decisions. While corruption in public procurement can be difficult to spot, the Open Contracting Partnership have identified a number of “red flags” which can be mapped to OCDS data. This looks at a range of indicators such as single bidders for contracts; the advertising period for contracts being unusually short; and the tender value being significantly lower than the average for specific categories. While flags individually may not constitute corruption, where multiple flags are raised this could be used to alert authorities to suspicious patterns in public procurement which may warrant further investigation.

#### *1(d) Potential Time Savings from Publication of Final Evaluation Records*

Under the current rules, after the tender process has concluded and the contracting authority has chosen the supplier it intends to award the contract to, they are required to create 'debrief letters'. These letters are unique to each bidder, containing information on how the bidder scored on each criterion. This is an additional requirement on top of the scoring process. The new rules will instead ask contracting authorities to share a final scoring matrix rather than the debrief letter. As this is something that will be produced in the scoring process, it is unlikely to require additional resources from contracting authorities and may yield a time saving benefit.

### *2) Impact on Quality of Outcomes and Innovation in Public Procurement*

Innovation in public procurement is important for designing contracts with better suited outcomes and delivering value for money. The Green Paper consultation response highlighted a number of barriers to improving innovation in public procurement practices. While innovation in part depends on cultural factors within contracting authorities such as differing risk appetites, internal processes and governance arrangements; the design of the regulatory framework is also important. Procurement reform can contribute by improving collaboration and capability within contracting authorities; increasing competition and access to new suppliers; using data to encourage suppliers to improve performance; and facilitating greater pre-market engagement and negotiation.

#### *2(a) Collaboration and Capability*

The Green Paper response highlighted that innovation is currently hampered by insufficient collaboration through a lack of contracting authorities' understanding of the market, lack of effective engagement and negotiation with prospective suppliers before and during the process and post-award.

The reforms aim to create the flexibility to allow more innovative procurement. This includes more emphasis on planning and pre-market engagement and this should support effective use of the new competitive flexible procedure (*which gives contracting authorities the ability to design and run a procedure that suits the market in which they are operating*). The new public notice requirements for planning procurements and early market engagement will also provide transparency of contracting authorities' procurement pipelines and processes. This aims to support contracting authorities through guidance to encourage earlier engagement and openness in procurements to get potential suppliers involved sooner.

### 2(b) Diversity of Supplier Base

Access to a wider and more diverse supplier base is likely to aid the development of more innovative solutions in public procurement. Under the current regime, SMEs face a number of barriers including: lack of resources to service complex and burdensome procurement procedures, disproportionate bidding requirements, and problems with accessing information about potential contracting opportunities. The reforms aim to address many of these barriers by making it easier and less burdensome for suppliers to bid for public contracts.

### 2(c) Accountability of Suppliers

Tightened controls on suppliers, by way of an updated exclusions framework and gathering of KPIs, may also be beneficial in tackling poor contract performance. Making information available to contracting authorities could act as an incentive to suppliers to focus on improved outcomes. Timely availability of performance KPIs could help monitor supplier risks.

### 3) *Impact on Social Value*

Through the publication of a National Procurement Policy Statement, the Government had laid out its intention that public procurement should be leveraged to support priority national and local outcomes for the public benefit. This Statement sets out the national priorities that all contracting authorities should have regard to in their procurement where it is relevant to the subject matter of the contract and it is proportionate to do so. Through the procurement reform bill, contract authorities will be able to give more weight to bids that create jobs and opportunities for communities in the delivery of the contract, for example, legislation sets out that buyers should contract with the bidder offering the "Most Advantageous Tender".

#### 4) *Value for money through increased competition from access to new or more suppliers increasing the number of bidders per procurement.*

One of the main benefits of greater competition is the ability to deliver cost savings. Should the new procurement regime lead to an increase in competition, this could generate value for money benefits by potentially reducing the cost of public sector contracts. While it is not possible to accurately model the impact of procurement reform on competition, two rough illustrative scenarios are set out around the potential impact of increasing the number of bidders on contract costs. This derives from potentially attracting more suppliers through having more efficient, streamlined and flexible procedures including pre and post tender; reduced time for processing legal challenges; driving commercial excellence and improving commercial capabilities. These should be taken as illustrative scenarios only to highlight the potential scale of savings from potential increased competition. Two scenarios are looked at below:

**Scenario 1** – Increasing the Number of Bidders by 1 Leads to a 2% Reduction in Costs - Potential impact of £4bn.

**Scenario 2** – Increasing the Number of Bidders by 1 Leads to a 3.8% Reduction in Costs - Potential impact of £7.7bn.

The upper bound estimate is taken from Consult Australia (2015) which is based on data from Carr (2005) of construction projects in New York with a scenario of c. 5 bidders. The assumption used is that an increase in 1 bidder could reduce contract values by c. 3.8%. The lower bound estimate for an increase in 1 bidder is estimated to reduce contract values by c. 2.0%. This value is from an Institute for Government paper which noted that a US study of the procurement of construction services found that increasing the number of bidders from two to eight led to savings of 12–14%, and suggested that in

those procurements between six and eight bidders are needed to achieve the highest level of competitiveness. Using an assumption, a 12% reduction as a result of 6 additional bidders can be applied linearly, the impact of an additional bidder could reduce contract values by c. 2.0%.

A number of caveats apply to these estimates. Firstly, if there is an increase in the number of bidders per procurement this could have indirect implications for the length of procurement time. If competition is higher, more bidders will lose out, and could potentially price this risk in leading to higher contract values. Finally, procurement spend in areas such as health and defence tend to be dominated by a small number of suppliers, limiting scope for the benefits of increased competition. These areas tend to account for a large volume of spending. Excluding defence spend is estimated to reduce the scale of potential impacts by £0.2bn and £0.4bn respectively.

#### 5) Impact on Timescales for Legal Challenge

One of the areas in the Green Paper proposed reforms to certain Court processes, including the introduction of expedition measures aimed at speeding up the resolution of challenges as well as making the system more accessible. Feedback from stakeholders is that the current system of legal review is too expensive, with SMEs often finding the process too resource-intensive to pursue.

### Monetised Costs for Option 3 (Preferred Option)

Several monetised costs are assessed in this impact assessment. This includes: the cost of delivering a central platform; the cost of training; the opportunity cost of staff attending training; as well as the potential administrative costs to contracting authorities associated with the transparency requirements. All monetised costs are presented as the marginal impact relative to current regulations (i.e the status quo, do nothing option).

#### 1) Cost of delivering a central digital platform for procurement

The Green Paper proposed requiring all contracting authorities to implement the Open Contracting Data Standard so that data across the public sector can be shared and analysed at contract and category level. This recommended establishing a single digital platform for supplier registration that ensures businesses only have to submit their data once to qualify for any public sector procurement. This will integrate procurements across the country and provide a consistent data storage facility to improve transparency.

In order to deliver the platform, elements of Commercial Policy teams within the Cabinet Office need to be scaled up. In addition, there is a need to contract a supplier for specialist development skills. Taking into consideration estimated development and operating costs, and scaling up the existing in-house teams, Cabinet Office estimated the total whole life cost of the required contract to be £19.7m over ten years.

The bulk of the platform costs are expected to be incurred in the first three years (2021/22-2023/24). During this time, there is expected to be £150,000 in initial set-up costs; £3.8m in running costs and £5.2m in capital expenditure over 3 years. Beyond 2023/24, running costs in the region of £1.5m a year are expected. This is anticipated to include around £900,000 in running costs - covering hosting, technical support, security testing and staffing - as well as £600,000 in potential future development costs.

**Table 14 - Estimated Running Costs for Transparency Platform (£000)**

Costs	21/22	22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	Total
Set Up	£150										£150
Running and resource	£830	£1,415	£1,515	£1,500	£1,500	£1,500	£1,500	£1,500	£1,500	£1,500	£19,535

Capital	£900	£2,375	£2,000								
<b>Total</b>	<b>£1,880</b>	<b>£3,790</b>	<b>£3,515</b>	<b>£1,500</b>	<b>£1,500</b>	<b>£1,500</b>	<b>£1,500</b>	<b>£1,500</b>	<b>£1,500</b>	<b>£1,500</b>	<b>£19,685</b>

2) *Cost of delivering training on the new regime.*

Specialist training will be needed to embed new procurement procedures. Up to 20,000 public sector buyers are expected to complete a 10-module e learning package, 7,500 of those who are advanced practitioners will also go on to complete instructor-led deep dive training. Plus, there will be engagement events for an additional 50,000 non-commercial public sector staff who need material awareness and understanding. The learning and development component is a critical enabler to secure delivery of the benefits of the new procurement regime. This will be key to ensure that central government and the wider public sector staff are aware of the new regulatory requirements and have the capability to use them correctly, delivering the benefits of the reform.

The Cabinet Office Commercial Capability team estimates the total cost of developing and delivering the training to be £6.5m for all the audiences across the wider public sector that need to have access to it, based on similar training packages. This is made up of:

- **Knowledge Drops** (expected learner population 50,000+) - Learning delivered through online briefings lasting approx. one hour. This is expected to be made up of 50 sessions at a cost of £1,000 per session.
- **Digital learning** (expected learner population 20,000) – e-learning content to be covered with approximately 10 hours of learning. Estimated development and delivery cost of £350,000, which includes a marginal cost of £3 platform licence fee per users.
- **Deep Dives** (expected learner population 7,500) - learning to be delivered via small cohort instructor led virtual web classes. There will be 7 Deep Dives per practitioner, 20 practitioners per session with an estimated delivery cost of £925 per session. Estimated likely total costs for Deep Dives are expected to be £2.4m.

Resource costs are expected to account for around half of total learning and development costs, at around £3.5m over three years. This is made up of a core team which will be supplemented by additional Subject Matter Experts who are sourced as contingent labour. Programme costs are expected to run until 2025.

**Table 15 – Estimated Costs of Learning and Development Programme**

Cost area	22/23	23/24	24/25	Total
<b>Pay</b>	£1,169,000	£1,260,000	£1,060,000	£3,489,000
<b>Covers the development team and Policy team</b>				
<b>Non-Pay Elements</b>				
Delivery of deep dives using Contingent Labour and Knowledge Drops	£394,500	£2,120,500	£25,000	£2,540,000



Learning Delivery / systems/ operations (GCC) configuration changes	£250,000	£100,000	-	£350,000
Comms and Marketing	£70,000	£70,000	£70,000	£210,000
<b>Totals</b>	<b>£1,883,500</b>	<b>£3,550,500</b>	<b>£1,155,000</b>	<b>£ 6,589,000</b>

### 3) *Opportunity Cost of Learning and Development Programme*

Though learning and development will be a key enabler of wider reform benefits, there is an opportunity cost in how time spent by attendees in training would otherwise be used. For the purposes of the analysis, the opportunity cost of attending training is expressed in terms of expected hours lost for the average procurement official.

Using broad assumptions of number of attendees, time requirements and wages, we have assessed the costs to those who will require training across a wide range of organisations in central and local government and the wider public sector. The current central estimate on the opportunity cost of attending training is around £5.6m. This is based on:

- 7,500 advanced practitioners attending Deep Dive sessions and 20,000 undertaking e-learning. Estimates of the size of the commercial audience have been derived from data provided by members of the Transforming Public Procurement L&D Working Group (departmental and sectoral leads), and analysis of a range of data sources, including the number of active users of Contracts Finder, GCF Blueprints data, LGA and NHSEI workforce survey data, and discussions with public buying organisations and representative groups
- E-learning modules are estimated at 10 hours per attendees (200,000 hours for all 20,000 e-learners) and Deep Dive sessions will last around 20 hours for each attendee (150,000 hours for all 7,500 attendees)
- The median wage is taken from the Annual Survey for Hours and Earnings (ASHE) data for a “Buyer and Procurement Officer” where the median hourly wage is £16.11.
- Using our assumed average wage, attendees per training type, and hours per training produces an estimated opportunity cost of £5.6m is produced for those who need training for Deep Dives and e-learning.

### 4) *Impact of compliance with contract notices requirements of transparency proposals*

The new transparency requirements will provide a new framework for published notices from contracting authorities, both through the requirement of new notices and the simplification of current notices. We estimate that this will have a total discounted cost impact of **£4m** over a 10-year time horizon (see table 20, £5m in nominal terms). In general terms, the transparency requirements will embed transparency into the commercial lifecycle, and unlock the benefits of a transparent procurement process, by introducing additional requirements pre-tender and post-award. In order to monetise the additional administrative burden of these requirements, we have split this extended lifecycle into three phases to cost: the planning phase, the tender evaluation phase, and the post-contract phase.

Through engagement with contracting authorities, we have assessed each phase of the extended lifecycle to understand the additional time burden to procurement professionals in hours directly worked on new notices. As with other sections of this impact assessment, we have assigned a monetary value to the administrative burden through using an average wage of £16.11 for “Buyer and Procurement Officers” within the Annual Survey of Hours and Earnings (ASHE) dataset. It is understood and recognised that these additional requirements will impact different contracting authorities and procurement professionals in different ways due to a wide number of factors. Assumptions have been made to provide a ‘most likely’ cost estimate, however, sensitivity analysis later in this document will

incorporate a maximum additional administrative burdens. The maximum values have been gathered by taking the highest estimates from contracting authorities' estimates of additional administrative burdens.

This analysis has been based on Tussell data of Award Notices published between 2015 and 2019. Average annual contract volumes have then been calculated which are used to estimate costs. As improved contract data is a benefit of the reformed legislation, it follows that there is currently no data within Tussell to apply to costings of certain widened requirements. Where this issue has arisen, cost estimates have been based on alternative data sources or have been included in the non-monetizable section of this impact assessment.

**The Planning Phase** includes the requirement for contracting authorities with a total annual procurement spend of £100m, to publish Planning and Pipeline notices to outline their pipeline of contracts. It is understood that many contracting authorities currently produce similar documents for internal use, and so the additional administrative burden is incurred through preparing a notice in line with the required standards and publication. The intention is to ensure this process is where possibly integrated with existing systems and Cabinet Office will provide functionality via the Find a Tender Service meaning that any burden for a discrete and separate publication should be reduced.

It is difficult to estimate the number of contracting authorities who would be in-scope of this requirement, principally because procurement spend can be variable and many organisations do not disclose procurement spend, rather they publish total expenditure which includes staffing costs. Cabinet Office estimates there will be between 350 and 500 contracting authorities would be in-scope. It is then assumed that these contract authorities will incur an additional 2 hours of administrative burden for the planning phase. However, it is important to note that increasing or decreasing the number of contracting authorities which will be subject to planning phase requirements is likely to have a marginal impact on the overall results.

The assumption has been made that as central government departments are already required to publish pipelines in line with the Sourcing Playbook, this would not represent an additional burden for them.

**Table 16 – Estimated Annual Costs of Additional Administrative Requirements within the Planning Phase**

Number of contracting authorities with Annual Spend over £100m	Estimated Annual Cost
Minimum - 350	£11,280
Most Likely - 500	£16,100
Maximum- 800	£25,800

**The Tender Evaluation Phase** involves a restructuring of notices which will simplify the process in areas, but also have the possibility for increased requirements. There are additional requirements incurred by the Award Notice. The Award Notice impacts all contracting authorities, and as such an administrative time burden of 2 hours has been applied to the annual average of above threshold contracts (*£138,760 for central government and £213,477 for wider public sector bodies*) from the Tussell data.

**Table 17 – Estimated Annual Costs of Additional Administrative Requirements within the Tender Evaluation Phase**

Tender Evaluation Phase	Estimated Annual Cost
Award Notice	£316,085
Total	£316,085

**The Contract-Life Phase** contains the majority of the additional notices required. Assumptions have been made for each notice on the frequency of publication during a contract's duration and the additional administrative burden required to produce and publish. This is then applied to the average contract duration in order to produce a cost estimate.

In the contract-life phase there is the additional requirement to redact and publish contracts by non-central government contracting authorities, as well as four additional notices: Contract Detail Notice,

Contract Change Notice, Contract Implementation Notice, and Termination Notice. Since central government contracting authorities are currently required to publish contracts with relevant redactions as part of the Public Contracts Regulations 2015, they are not impacted by the contract publication section of this legislation. Following consultation, the requirement to publish contracts will only be required for contracts with a value of over £2m.

All contracting authorities are, however, impacted by the additional notices. Whilst the latter three mentioned notices are entirely new, the Contract Detail Notice and the current Award Notice are very similar, meaning that there is assumed to be no additional administrative burden for contracting authorities which are already required to publish an Award Notice. As such, the contract detail notice applies only to contracts from frameworks outside of central government. Given the current lack of a requirement for Contract Awards under frameworks to be published by non-central government authorities, Tussell data will show an under-representation of the number of contracts this new requirement will pertain to. As such, the Contract Detail Notice should be considered an underestimate of the impact of the new requirements.

The Contract Implementation Notice is only required for contracts over £2m and involves the publication of KPIs related to the contract's performance. Central government contracting authorities currently already manage and collect KPI's, and as such the time burden associated is for simply collating and publishing this information. It is currently not a requirement for non-central government contracting authorities; however, we have been unable to ascertain a reliable estimate for the time burden associated with this process since the process is incredibly varied depending on a large number of factors. As such, the element related to the management and collection of KPIs will be included in the non-monetisable section of the impact assessment, with the contract implementation notice in this section detailing the collation and publication of this information. The regularity and additional administrative burden for each are shown in the table below.

**Table 18 – Assumed Frequency and Administrative Burden of Additional Notices within the Contract-Life Phase**

Notice Type	Frequency	Administrative Burden
<b>Contract Publication Notice</b>	1 per contract	2 hours
<b>Contract Detail Notice</b>	1 per contract	2 hours
<b>Contract Change Notice</b>	1 per 12 months of contract duration	30 minutes
<b>Contract Implementation Notice</b>	1 per 12 months of contract duration	30 minutes
<b>Termination Notice</b>	1 per contract	30 minutes

These assumptions have been applied to the average contract duration of 19.4 months and the average annual above threshold contracts of 9,810. Costs are then estimated in the following table.

**Table 19 – Estimated Annual Costs of Additional Administrative Requirements within the Contract-Life Phase**

Tender Evaluation Phase	Annual Estimated Costs
<b>Contract Publication</b>	£3,112
<b>Contract Detail Notice</b>	£3,112
<b>Contract Change Notice</b>	£128,009
<b>Contract Implementation Notice</b>	£128,009
<b>Termination Notice</b>	£79,021
<b>Total</b>	£341,264

Total costs have then been calculated over a 10-year horizon using time preference discounting as per Green Book guidance. A breakdown of the full cost horizon can be seen below.

**Table 20 – Total Estimated Costs of the Additional Administrative Burden from New Transparency Requirements (Discounted)**

Year	2021/22	2022/23	2023/24*	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	Total
Planning Phase			£8,055	£16,110	£16,110	£16,110	£16,110	£16,110	£16,110	£16,110	£120,825
Tender Evaluation Phase			£158,042	£316,085	£316,085	£316,085	£316,085	£316,085	£316,085	£316,085	£2,370,635
Contract-Life Phase			£170,632	£341,264	£341,264	£341,264	£341,264	£341,264	£341,264	£341,264	£2,559,479
<b>Nominal Total</b>			<b>£336,729</b>	<b>£673,458</b>	<b>£673,458</b>	<b>£673,458</b>	<b>£673,458</b>	<b>£673,458</b>	<b>£673,458</b>	<b>£673,458</b>	<b>£5,050,938</b>
Discount Factor	1	0.97	0.93	0.90	0.87	0.84	0.81	0.79	0.76	0.73	-
<b>Discounted Total</b>			<b>£314,340</b>	<b>£607,421</b>	<b>£586,880</b>	<b>£567,034</b>	<b>£547,859</b>	<b>£529,332</b>	<b>£511,432</b>	<b>£494,137</b>	<b>£4,158,436</b>

\* Implementation from October 2023

### Non-Monetised Costs of Option 3 (Preferred Option)

A number of potential costs around procurement reform have been identified which are non-monetisable in nature and cannot be quantified for this impact assessment. These largely relate to uncertainties in how contracting authorities and suppliers may respond to reforms. This may affect the extent to which expected benefits are realised.

#### 1) *Negative behavioural change*

This could include companies deciding not to bid for contracts as they are concerned about the commercial sensitivities around publishing data due to the new transparency requirements. Potential supplier hesitancy could result in sub-optimal outcomes, with value for money implications through less competition. Similarly with the monitoring and reporting of supplier KPIs, suppliers may push for easier targets if it is known that this information will be published.

On the impact of the former, it is not expected that this impact will materialise. Under the new disclosure requirements, only redacted information on the winning bid will be shared with other bidders. Other information will be shared to bidders privately.

There is uncertainty around the degree to which contracting authorities will adopt the new procurement procedures and take advantage of additional flexibility. The competitive flexible procedure will be unfamiliar and likely result in familiarisation costs and time to bed in; or buyers may choose not take advantage of the increased flexibility and revert to traditional methods, resulting in limited benefits from the new procedure. The lack of precedent may encourage risk-averse contracting authorities to adopt the open rather than competitive flexible procedures, limiting scope for benefits realisation. For example, if 'allowing flexibility to design the appropriate process' results in seeking legal advice on each proposed procedure, this will quickly get very expensive and push contracting authorities who are concerned around legal challenge to use the Open procedure when they wouldn't otherwise.

This risk can be mitigated through clear and robust guidance to accompany the new procedures. Specialist training to embed new procurement procedures, and ensure capability in contracting authorities will be a key enabler of programme benefits. This will be crucial in addressing concerns around adoption of new procedures.

Another area of potential cost is around the potential impact on administration costs, should the reforms lead to increase in the level of competition. This may have some resource implications associated with assessing an increased number of bids for public contracts. However, it's likely that any rise in costs would be more than offset by the positive competition impacts by way of reduced contract values.

Similarly, the resource implications of compliance with new notices requirements may result in longer commercial life-cycles, detracting from the goal to speed up procurement times.

Table 21 - Comparison of Costs and Benefits of Options

Options	Costs		Benefits		NPV Over Appraisal Period
	Monetised	Non-Monetised	Monetised	Non-Monetised	
<b>Option 1 - Business as Usual - Current Regulations</b>		Failure to capitalise on opportunity for reform			-
<b>Option 2 - Do Minimum - WTO Principles</b>		Some initial programme implementation costs		Sometime saving benefits from streamlined procedures and processes, though scope for benefits will be limited by absence of a comprehensive programme of learning and development	-
		Failure to capitalise on wider opportunities for reform			
<b>Option 3 (Preferred Option) - Wholesale Reform of Procurement System</b>	Opportunity cost of attending training	Not adopting/taking advantage of the new procedures until there is detailed guidance	Time Savings from Streamlined Flexible Procedures	Greater competition from access to a more diverse supplier base. Potential taxpayer benefits through reduced costs	<b>£205m</b>
	Potential burden of contract notices associated with transparency requirements (though digitisation means cost is likely to diminish after initial set-up costs)	Legal Costs checking different processes from competitive flexible workarounds.	Time Savings from Streamlined Flexible Procedures	Improved procurement outcomes, through greater scope for innovation  Improved transparency, and better procurement data with implications for accountability in spend	
	Cost of Delivering Training on the New Regime	Companies Deciding Not to Bid for Contracts Due to Concerns around Transparency Requirements	Time saved from not having to complete tender information already saved on register of suppliers platform	Reduced Legal challenges over time  Wider benefits including more SME and VCSE engagement as well as	

	Cost of Delivering Central Digital Platform	Potential Admin Costs from Potential Increase in Bidders		improvements in social value Potential reduction in due diligence costs for contracting authorities	
--	---	--	--	--	--

## Sensitivity Analysis for Option 3 (Preferred Option)

There are a number of uncertainties around the scale of reform impacts. For example, realising the full benefits of reform requires a shift in behaviour by contracting authorities. Although there will be greater flexibility, exploiting this will require increased buyer capability and rely on the delivery of effective learning and development to embed new behaviours. Accordingly, many of the benefits will be subject to behavioural change, which is far from certain. To reflect this, sensitivity analysis has been conducted to stress test the impact of alternative assumptions. Table 22, below, highlights the range of sensitivities tested and the rationale behind these.

**Table 22 - Summary of Sensitivities Tested (Cumulative Discounted Value, 2021/22 - 2030/31)**

Assumption	Sensitivity Tested	Description / Rationale	Impact on NPV (£m)
Impact of lower-than-Expected Uptake of Competitive Flexible Procedure on Contracting Authorities	Competitive flexible procedure applied to 35% of contract awards ( <i>average 2015-19</i> )	Extent of behavioural change not yet clear, and highly contingent on the success of L&D programme. Contracting authorities concerned of legal challenge may opt for familiarity and procure the bulk of contracts under open procedure	-16
Impact of lower-than-Expected Uptake of Competitive Flexible Procedure on Bidders	Competitive flexible procedure applied to 35% of contract awards ( <i>average 2015-19</i> )	Extent of behavioural change not yet clear, and highly contingent on the success of L&D programme. Contracting authorities concerned of legal challenge may opt for familiarity and procure the bulk of contracts under open procedure	-57
Impact of lower-than-Expected Time Savings from Supplier Registration Platform	Time savings to suppliers from single point registration assumed at 2.5 hours per bidder	Extent of time savings to suppliers won't be clear until the evaluation stage. Sensitivity assumes time savings are half the expected level.	-13
Impact of higher-than-expected transparency cost at Planning Phase	Planning Phase Notices assumed to take 4 hours per contracting authority ( <i>Central assumption is 2 hours</i> )	Compliance with new contract notices and transparency requirements imposes a greater than expected cost on contracting authorities.	-0.22
Impact of higher-than-expected transparency cost at Tender Evaluation Phase	Tender Evaluation Phase Notices are assumed to take 4 hours per contract ( <i>central assumption is 2 hours</i> )	Compliance with new contract notices and transparency requirements imposes a greater than expected cost on contracting authorities.	-1.95
Impact of higher-than-expected transparency burdens at Lifecycle Phase	Notice requirements for the contract lifecycle stage are assumed to take 15 hours per contract ( <i>central assumption is 5</i> ).	Compliance with new contract notices and transparency requirements imposes a greater than expected cost on contracting authorities.	-5.31

Table 23 below shows the overall impact of these sensitivities on the NPV. Accounting for these, the overall NPV over the 10-year appraisal period remains positive at around £112m, with a benefit cost ratio of 3.6.

**Table 23 - Impact of Sensitivity Analysis on NPV over 10 Year Appraisal Period (2021/22-2030/31)**

<b>Impact of Sensitivities on NPV</b>	
<b>Present Value Cost + Optimism Bias (10%)</b>	£36,310,991
<b>Sensitivities</b>	£7,477,933
<b>Total Present Value Cost</b>	£43,788,924
<b>Total Present Value Benefits + Optimism Bias (10%)</b>	£241,376,422
<b>Sensitivities</b>	-£85,728,513
<b>Total Present Value Benefit</b>	£155,647,909
<b>Net Present Value</b>	<b>£111,858,985</b>
<b>Benefit-Cost Ratio</b>	<b>3.6</b>



## **7. Direct costs and benefits to business calculations**

There is not expected to be an annual direct cost to businesses as a result of the proposals included within the preferred option. The costs associated with the preferred option are largely borne by central and contracting authorities, rather than businesses. On balance the proposals are expected to be a net positive for businesses. For example:

- Companies bidding to public sector opportunities will only have to submit their core credentials once, onto a single platform, making it easier, especially for SMEs, to bid for any public contract.
- New entrants to the market can be added more frequently and easily to framework agreements (the EU rules currently prevent new companies from having the chance to bid for new contracts under these deals). A central register of commercial tools will assist SMEs to make decisions on where to offer their services.
- Procurement teams will be able to design more flexible procurement procedures, which will benefit businesses offering innovation led solutions.
- A greater focus on transparency and publication of evaluations following competition will provide small businesses with more information to refine and develop their business development for future opportunities.
- By legislating for the publication of procurement pipelines, small businesses will be provided with a greater opportunity to plan ahead and identify potential contracts to focus their resources on.

## 8. Risks and assumptions

A detailed risk assessment has been carried out for the preferred option. There are some risks to delivery of the programme, however the main risks lie in not realising the benefits as expected. Given the scope of change, it is likely that these risks will cover a number of years until the new procurement regime is fully implemented and in “steady-state”. Appropriate project governance will monitor the impact and likelihood of risks occurring over time and identify suitable mitigation as part of this process. An indication of some potential risks is summarised in the table below:

**Table 24 - Table of Risks and Mitigations**

Risks	Mitigations
There is a risk that reforms do not realise the benefits as expected, which could lead to a negative reputational impact for UK Government.	<ul style="list-style-type: none"> <li>● Programme level benefits realisation plan to be developed once Impact Assessment is complete,</li> <li>● Establish ways of monitoring and evaluating the regime post go-live in order to continually assess effectiveness.</li> </ul>
There is a risk that due to availability of parliamentary time, the bill takes longer to progress through parliament leading to a lack of preparation time for CAs to get ready for the new regime	<ul style="list-style-type: none"> <li>● The Cabinet Office will work with all contracting authorities and issue guidance on timescale to ensure enough time is available through any “transition” period</li> </ul>
As a result of attempting to address general commercial capability, there is a risk that the scope of Learning and Development will be stretched beyond its intended aims, which could lead to dilution of quality and damage to the reputation of the programme.	<ul style="list-style-type: none"> <li>● Design of the programme, incorporating a narrow focus in e-learning broadening to very flexible Communities of Practice, provides appropriate space for different requirements.</li> <li>● Scope clearly articulated in the project brief, strategy documents and communications with stakeholders.</li> <li>● Planning for legacy products and hand over to business-as-usual capability.</li> </ul>
There is a risk that behaviours do not change which could lead to flexibility not being used and some benefits not being delivered.	<ul style="list-style-type: none"> <li>● Design content of the programme carefully and consult with stakeholders during development.</li> <li>● High impact learning and development delivered by skilled trainers</li> <li>● Programme level benefit realisation methodology in place and clear articulation as to how the projects enable/support that.</li> </ul>
As a result of technical challenges in designing and building several new transparency notices, there is a risk that development times may become disproportionate, which could lead to delays to project delivery.	<ul style="list-style-type: none"> <li>● Process to institute pipeline for the project is essential to not only manage this risk, but lend efficiencies as iterations grow in number.</li> <li>● Good metadata management is key.</li> <li>● Identify priority order of transparency notices for development</li> </ul>
There is a risk that additional flexibility in procurement process may result in significantly different processes being employed by individual contracting authorities resulting in more complexity for suppliers	<ul style="list-style-type: none"> <li>● The Cabinet Office to issue guidance and scenario template for competitive flexible procedure</li> <li>● Learning and Development programme will highlight where opportunities can be maximised for all contracting authorities</li> <li>● Suppliers will be encouraged to work in collaboration with contracting authorities to embrace flexibility</li> </ul>
There is a risk that transparency requirements will be watered down in the interest of expediency resulting in a lack of consistent and mature data	<ul style="list-style-type: none"> <li>● Central platform and notices will be designed to offer standardisation.</li> <li>● Learning and Development will focus on importance of transparency</li> <li>● Stakeholders and interested parties to test transparency parameters and how data can be measured.</li> </ul>

<p>There is a risk that suppliers may take the opportunity to revisit pricing and agreements under the existing regime</p>	<ul style="list-style-type: none"> <li>• Supplier relationship management and contract management should focus on current vs future agreements</li> </ul>
<p>There is a risk in certain markets where competition is limited that prices will be raised as a result of the regime</p>	<ul style="list-style-type: none"> <li>• Procurement teams to continue to engage with suppliers and benchmark expected prices within sectors to understand market dynamics</li> </ul>
<p>There is a risk that the reforms result in more challenges to procurement decisions which will increase time taken to procure and increase legal risk</p>	<ul style="list-style-type: none"> <li>• Behaviours to be tracked based on surveying contracting authorities and where required additional guidance or intervention to be addressed.</li> </ul>

## **9. Impact on small and micro businesses**

The Government has a commitment to increase spending with small and medium-sized businesses and an established policy in this area has been embedded within central government departments since 2010. Historically, small businesses have found it challenging to navigate the barriers to entry in public sector supply-chains and the procurement reforms have been designed with this in mind in order to make it easier for small businesses to bid for and win public sector tenders. It is our assumption that there will be no disproportionate burdens on small businesses and that they will benefit from the streamlined approach, in particular as a result of the following reforms:

- Companies bidding to public sector opportunities will only have to submit their core credentials once, onto a single platform, making it easier, especially for SMEs, to bid for any public contract.
- New entrants to the market can be added more frequently and easily to framework agreements (the EU rules currently prevent new companies from having the chance to bid for new contracts under these deals).
- A greater focus on transparency and publication of evaluations following competition will provide small businesses with more information to refine and develop their business development for future opportunities.
- By legislating for the publication of procurement pipelines, small businesses will be provided with a greater opportunity to plan ahead and identify potential contracts to focus their resources on.

The Government has engaged with numerous representatives of small businesses, including the Cabinet Office Small Business Advisory Panel and the Federation of Small Businesses, in order to test the proposals.

## 10. Wider societal impacts

The Transforming Public Procurement Green Paper established that maximising public benefit is a key principle of the reform plans and the benefits of an effective public procurement can have a big impact on wider society and local communities. A summary of these wider impacts is as follows:

**Levelling Up:** Procurement Reform is an important part of the Government’s levelling-up agenda where public spending can be focussed on supporting local community development. For example, the reform will encourage local authorities to include social value criteria which may have wider impacts for their regions - for example, by including criteria aimed at creating local jobs.

**Social Value:** the Government has already developed significant policy in this area within the bounds of the existing procurement regime through the introduction of a new social value model for central government (PPN 06/20) so that social value benefits are explicitly evaluated in all central government procurement where relevant (rather than just ‘considered’ as currently required under the Public Services (Social Value) Act 2012). Through the procurement reform bill, contracting authorities will be able to give more weight to bids that create jobs and opportunities for communities in the delivery of the contract, supporting our levelling up objectives and will be able to take account of a bidder’s behaviours across the whole of their business operations in such things as their commitment to net zero emissions and prompt payment in their supply chains. For example, legislation sets out that buyers should contract with the bidder offering the “Most Advantageous Tender” (rather than “Most Economically Advantageous Tender”), and allow them to take into account benefits wider than those just those affecting the purchaser.

Additionally, through the publication of a National Procurement Policy Statement, the Government had laid out its intention that public procurement should be leveraged to support priority national and local outcomes for the public benefit. This Statement sets out the national priorities that all contracting authorities should have regard to in their procurement where it is relevant to the subject matter of the contract and it is proportionate to do so. It states that contracting authorities should consider social value outcomes alongside any additional local priorities.

A detailed Equalities Assessment was carried out for the implementation of the Government’s Social Value model, drawing on evidence from a number of sources and stakeholders across the Civil Society sector, this concluded that the opportunity to further improve the economic, social and environmental well-being (i.e. the *social value*) that can be realised through public sector procurement will add real benefit to communities and contribute to the Government’s levelling-up agenda.

**Innovation:** The UK wants to enable a culture of innovation and has recently published its Innovation Strategy.<sup>10</sup> Public procurement has a role to play in this and driving innovation is one of the core objectives of procurement reform. The Government wants to support innovation through public procurement reform. For example, the legislation will put more emphasis on planning and pre-market engagement and this should support effective use of the new competitive flexible procedure (which gives contracting authorities the ability to design and run a procedure that suits the market in which they are operating). The new transparency requirements for planning procurements and early market engagement will provide transparency of contracting authorities’ procurement pipelines and processes.

**Competition:** Effective competition in public procurement can reduce costs, raise quality and generate innovation, delivering value for money for taxpayers and service users. These benefits depend in part on procurement processes being designed to promote competition between bidders. Where this is absent or where the design and implementation of contracts restricts competition, this can make collusion between suppliers easier to maintain. Competitive procurement markets mitigate these risks, though rely on buyers being clear about contract requirements as well as an adequate number of suppliers competing to offer what buyers want. Procurement rules and processes can influence the number of bidders for a contract, and whether they compete on a level playing field.

---

<sup>10</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1009577/uk-innovation-strategy.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1009577/uk-innovation-strategy.pdf)



## **11. Trade implications**

International obligations on the UK, through its membership of the WTO Government Procurement Agreement (GPA) and a further 20 bilateral international agreements to which the UK is a party, require us to have procurement regulations that public procurement covered by those agreements must be conducted in accordance with certain principles, including that suppliers must be treated equally and without discrimination on grounds of nationality. The new regime will maintain these principles and be compliant with all the UK's international obligations contained in these agreements. It is the Cabinet Office's assessment that these measures do not introduce different requirements for domestic and foreign businesses, or different requirements for businesses from different countries and therefore there is no impact on trade obligations.

## 12. Monitoring and Evaluation

Historically, measuring the performance of an entire public procurement system has been challenging and there is little current evidence to show its effectiveness. However, under new legislation there are mechanisms which would be able to be employed to assess how the legislation is functioning and whether intended benefits are realised.

Most importantly, the Government intends to provide powers to the Minister for the Cabinet Office to investigate cases of non-compliance. The focus will be on addressing systemic or institutional breaches of the procurement regulations (i.e. breaches common across contracting authorities or regularly being made by a particular contracting authority).

Following an investigation, the Minister for the Cabinet Office may make recommendations to the contracting authority(ies) for the purposes of improving compliance with procurement functions under the new regime. These recommendations will not target specific procurement decisions. Instead, they will be focussed on actions to ensure future compliance. Examples of valid recommendations might include a revision to local operating procedures which have been found to be discriminatory or that procurement staff undertake additional training in evaluation methodologies.

A power will be introduced in the Bill, to enable the Minister for the Cabinet Office to publish statutory guidance which contracting authorities will have a duty to have regard to when exercising procurement functions under the legislation.

The Cabinet Office plans to measure the following which could be subsequently used to assess success of the regime. This list is still in development and may be expanded based on implementation decisions.

**Table 25 - Table of Benefit Realisation Measures**

Performance Measure	Benefit Realisation assessment
Number, nature and status of breaches	Will demonstrate whether procurement regime is resulting in more breaches
Number, nature and status of challenges	Will monitor effectiveness of the remedies approach over time
Number of suppliers registered	Will measure the diversity of public sector supply
Number, nature and status of suppliers debarred	Will measure supplier performance
Number of investigations proposed/delivered to expected standards	Will measure the effectiveness of the procurement regime
Number, nature and status of recommendations made	Will measure the compliance of CAs against the regime
Number, nature and status of outcomes achieved	Will measure the compliance of CAs

Additionally, the creation of a new digital platform to collate transparency and data will make it easier to understand and analyse trends in procurement and evaluate how improvements have been embedded, for example procurement cycle times are currently challenging to quantify but with a better baseline of data and an established centralised approach, Government will be able to assess effectiveness of the regime. This information will also be available for the public, some examples of information available for measurement include;



**Table 26 - List of potential data sources for measurement**

<b>Data Sources</b>
Measurement of spend with SMEs and VCSEs
Spend data over time
Use of procurement procedures
Use of commercial tools
Procurement cycle time (length of procurement process)
Number of planned procurements
Number of registered suppliers
Time taken for suppliers to respond to tenders
Number of bidders per procurement

In order to assess the impact on the regime with suppliers, the Government has an established Annual Review process with its strategic suppliers. Questions and assessments could be incorporated into this process in order to gather feedback from industry. The Cabinet Office also intends to carry out surveys of the population of Contracting Authorities to test how the regime is being implemented and to assess the degree of confidence with which the new regime is being used. This will provide insight into specific topics and provide a basis for tracking improvements throughout the implementation of the regime.