

What does no-deal Brexit mean for public procurement?

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18 September 2019

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The UK has been immersed in negotiations to unravel the UK from EU law by the Brexit day on 31 March 2019. What does this mean for local government and public procurement?

The EU legal framework setting out the package of Public procurement Directives is largely contained within:

- The public contracts directive 2014
- The concessions contracts directive 2014
- The utilities directive 2014.

The above govern procedures for the award of contracts to suppliers for contracts exceeding threshold. The public procurement directives were implemented in England and wales and Northern Ireland by the following:

- Public contracts Regulations 2015
- Concession contracts Regulations 2016
- Utilities contracts Regulations 2016.

What happens in the event of no deal?

According to the [guidance](#) published in January 2019 and updated on 4 September 2019, not a lot will change to the current position.

The Government had previously committed to amending existing legislation to ensure that the current arrangements could continue to operate after 'exit day.' In March this year a Statutory Instrument was created to amend the procurement regulations to ensure that they continue to operate effectively after the UK leaves the EU. This is due to come into force on "exit day". The main difference for contracting authorities will be the need to send notices to a new UK e-notification service instead of the EU Publications Office.

The requirement to publish public procurement notices will remain. However, in the event of no deal Brexit contracting authorities may no longer have access to the EU Publications Office and the online supplement to the Official Journal of the EU (OJEU) dedicated to European public procurement. The government has amended current legislation to instead require UK contracting authorities to publish public procurement notices to a new UK e-notification service. The new service is called Find a Tender (FTS). This is scheduled to be deployed 11pm on 31 October 2019 in the even if no deal.

If contracting authorities are currently using e-senders to submit notices to OJEU/TED this should continue to be the case as long as the provider has completed integration work to post notices to FTS. Contracting authorities that publish direct to OJEU will need to register with Find a Tender. This will involve creating a [Contracts Finder Supplier Registration Service account](#).

Procurements already in progress on Brexit day

Further guidance has been published in a procurement policy notice ([PPN](#)) which sets out:

For procurements that have commenced before the UK leaves the EU contracting authorities will need to comply with the new regulations from that point, for example by posting subsequent contract award notices on the new UK e-Notification service instead of OJEU/TED.

Contracting authorities which commence their procurements after the UK leaves the EU will need to follow the amended regulations.

There are further practical pointers on the above in the following [FAQ](#) section.

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