

Progress of procurement reforms

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A new procurement bill

As we look ahead to planned and potential legal developments in 2022, one area we have been keeping a close eye on is the progress of the Government's planned [reforms to procurement law](#). Many of our readers will recall that at the end of 2020 the Cabinet Office issued a Green Paper: Transforming public procurement. Following that publication we held a series of roundtables with clients and interested parties to explore what the proposed changes may mean for them and used those insights to feed into our response to the consultation. At the end of last year the Government released its response to the consultation [Transforming Public Procurement - Government response to consultation](#) and it has revealed a number of changes to its original proposals.

Key take aways include:

- The proposal to abolish the light touch regime is dropped, although a review of which services fall in scope will be carried out;
- The proposed creation of an oversight unit has been scaled back instead we will see changes to the powers of the current Public Procurement Review Service; and
- The proposed cap on damages has also been dropped.

Other key proposals such as the inclusion of a central debarment list will be progressed and the response gave further details as to the basis of how this would work. However, there will be significant changes to how bidder exclusions will operate. You can read our in-depth analysis of the response here [Transforming Public Procurement: Government Response](#).

From a timing perspective we expect the new legislation to make its way through Parliament this year and there may yet be further changes to the current proposals. However, we won't see the implementation of the new regime until 2023. That said there will be plenty of planning for contracting authorities to contend with this year once the legislation has been passed and in due course we will be releasing our full package of training options to support contracting authorities to understand the changes and ready themselves to implement the new regime.

NHS Provider Selection Regime

Whilst there is considerable focus on the regime which will be brought in by the new Procurement Bill, we are also keeping a watch on the developments surrounding the proposed NHS Provider Selection Regime which will affect how healthcare services are 'arranged' in the future. The Health and Care Bill will revoke the current National Health Service (Procurement, Patient Choice and Competition) (No.2) Regulations 2013 and allow the Secretary of State to remove the commissioning of health care services from the scope of the Public Contracts Regulations 2015. The Bill will also include a power for the Secretary of State to create regulations implementing the proposed NHS Provider Selection Regime. NHS England and Improvement consulted on the proposed NHS Provider Selection Regime last year. As we move closer to ICS go live we will keep you up to date with developments in this area too.

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