

Procurement Act delay: What's the impact for higher education institutions?

15 October 2024

What's the latest?

The Procurement Act 2023 should have come into force on 28th October 2024. The commencement date is now 24th February 2025. This is something that contracting authorities can use to their advantage.

Why the delay?

In a ministerial statement made by the Parliamentary Secretary for the Cabinet Office (available [here](#)), the Government has explained that the key reason for this postponement is to allow the creation and publication of a revised National Procurement Policy Statement (NPPS). This document outlines the government's procurement priorities and is essential for contracting authorities to consider under the new Act.

The Government is now holding a survey of the NPPS to "understand how a new, mission-driven approach to public procurement could support delivery of the Government's missions alongside local priorities." This clearly links with the missions in the Labour Government's manifesto and first 100 days plan. (You can [access the survey here](#)).

What does this mean for contracting authorities?

Contracting authorities now have an additional four months to get acquainted with the new Act. This period is crucial for updating policies, processes, and systems to align with the new public procurement regime. The delay is a relief for many, especially those not fully prepared for the significant changes the Act introduces. Browne Jacobson now has a product designed to support our education clients, please contact us for more details.

One frustration for some of our clients is that they had procurements planned for November 2024 onwards, that they had prepared to be under the new regime. Contracting authorities now have a choice: to run the procurement, but under the PCR 2015 (requiring changes to the drafted tender documents); or postpone the procurement until the end of February 2025. For many contracting authorities it won't be much of a choice because it's rare to find a procurement that has a four month grace period, but there will be the odd one that isn't time sensitive.

Higher education institutions in particular must be aware of the requirement under section 93 of the Act, for the publication of pipeline notices. A pipeline notice is required for every contracting authority with an annual spend on contracts of more than £100million. Where an institution meets this threshold, the pipeline notice must be published every 12 months setting out all tender notices or transparency notices (used for directly awarded contracts) within that period for contracts worth more than £2million.

The slight rub for universities is that this period starts on 1 April each year, meaning the first one will be 1 April 2025. This of course, doesn't align with education institutions' own financial years, and therefore, with most of their financial planning. Indeed, the same is true for any contracting authority that doesn't have April to March as its financial year. It brings forward the planning that education bodies will need to do next year (and every year thereafter) if they meet the threshold. Many bodies will not meet the £100million threshold, but for those that do, start planning now!

What's still to come?

As well as anticipating an updated NPPS, we are expecting further updates to various guidance documents already produced, and possibly some additional ones as well. For example, the guidance on Assessment Summaries was updated at the end of September.

We're also waiting to see what the central digital platform looks like, along with the standard notices. It will be really important for contracting authorities to ensure that they are registered for all updates from Cabinet Office, and that they take time to familiarise themselves with the system as soon as it's available.

So overall, while this delay has prolonged the wait for the new procurement regime, it is time that can be well spent, maximising the opportunity to be fully ready for the Procurement Act 2023.

Key contact

Anja Beriro

Partner

anja.beriro@brownejacobson.com

+44 (0)115 976 6589

Related expertise

Services

Education law

Public law

Public procurement