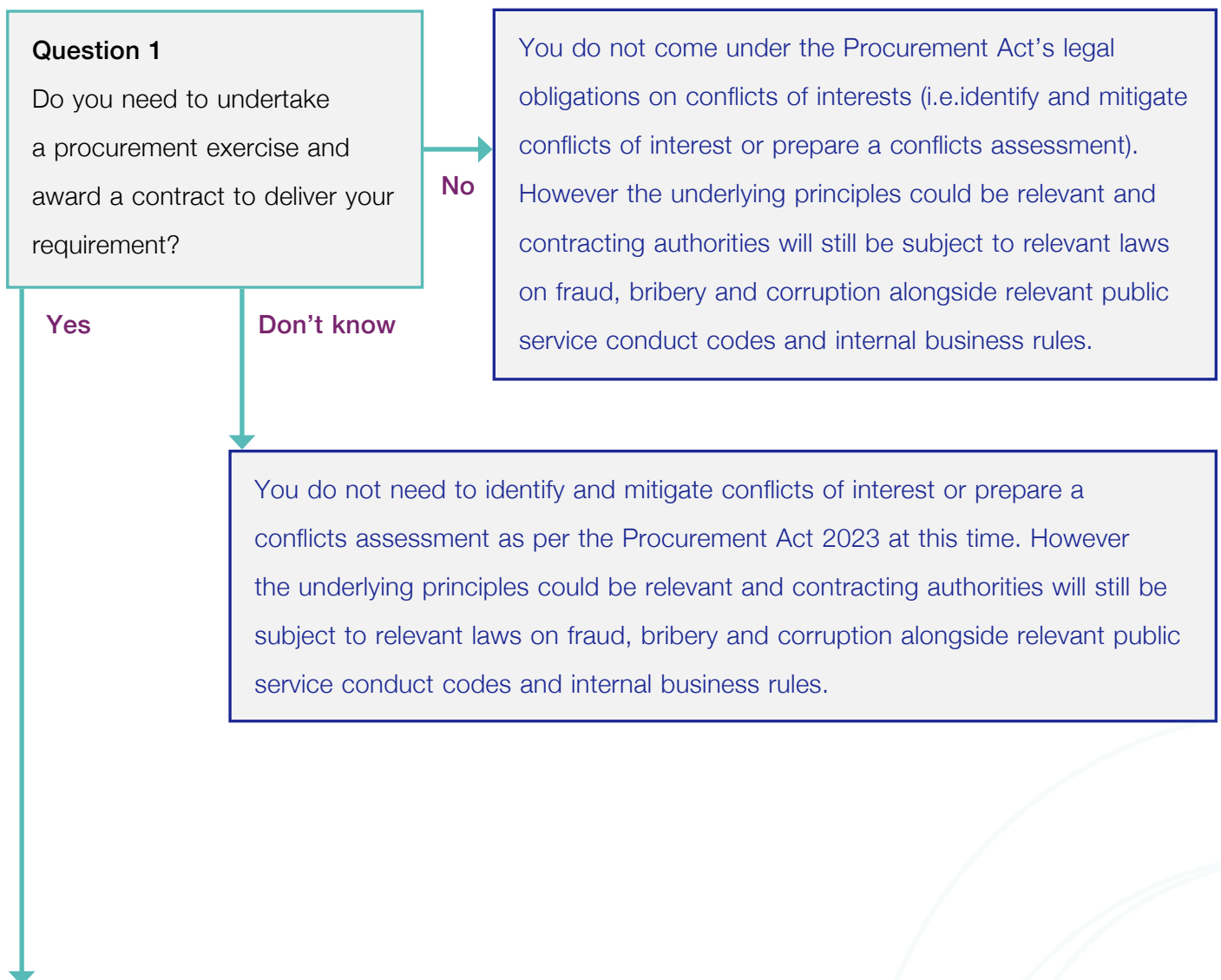




# Conflicts of interest requirement

## Decision tree



Yes

### Question 2

Is the estimated value of your contract equal to or above the threshold amount for its type of contract?

No

You do not need to identify and mitigate conflicts of interest or prepare a conflicts assessment as per the Procurement Act 2023. However the underlying principles could be relevant and contracting authorities will still be subject to relevant laws on fraud, bribery and corruption alongside relevant public service conduct codes and internal business rules. Good practice would be to ensure a proportionate conflicts of interest check is undertaken.

Yes

### Question 3

Is your contract an exempted contract? Or for other reasons not covered procurement under the Procurement Act?

Yes

You do not need to identify and mitigate conflicts of interest or prepare a conflicts assessment as per the Procurement Act 2023. However the underlying principles could be relevant and contracting authorities will still be subject to relevant laws on fraud, bribery and corruption alongside relevant public service conduct codes and internal business rules. Good practice would be to ensure a proportionate conflicts of interest check is undertaken.

No

### Question 4

You need to comply with the conflicts of interest obligations set out in the Procurement Act 2023. Does your organisation have a conflicts of interest procedure that meets these obligations?

Yes

Before publishing a tender or transparency notice follow your organisation's conflicts of interest procedure to identify conflicts of interests or potential conflicts of interest and prepare a conflicts assessment.

No

No

### Question 5

For the forthcoming procurement can you list the following individuals?

- a. any persons acting for or on behalf of your organisation in relation to the procurement;
- b. any ministers acting in relation to the procurement;
- c. any persons that will have influence over a decision made in relation to your procurement?

No

You must take all reasonable steps to identify conflicts and potential conflicts, identify the individuals and follow the steps under 'yes'.

Yes

Follow the steps below:

1. Confirm you have taken reasonable steps to identify any actual or potential conflicts of interests? Make sure your consideration of interests include personal, professional or financial interest and which may be direct or indirect.
2. Think about any circumstances that are likely to cause someone to wrongly believe there is a conflict or potential conflict of interest, beyond any conflicts already identified? If so make a note of the steps taken or will be taken to demonstrate that no such conflict or potential conflict exists.
3. You must take all reasonable steps to ensure that any identified conflicts or potential conflicts of interest does not put a supplier at an unfair advantage or disadvantage in relation to your procurement (this may include requiring a supplier to take reasonable steps).
4. Before publishing a tender or transparency notice you must prepare a conflicts assessment using the information and steps taken so far.
5. Keep the conflicts assessment under review and update it as and when required - until either procurement termination, contract termination or, for dynamic markets, the market ceases to operate (via the relevant procurement notice).
6. Provide confirmation that a conflicts assessment has been prepared and revised when publishing relevant procurement notices.

Does a supplier remain at an unfair advantage - even after all reasonable steps to mitigate this? If yes, this supplier **must** be excluded.

# Conflicts of interest assessment quick guide

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## ■ When do I need to complete a conflicts of interest assessment?

At the start of the a procurement process, unless your procurement is not covered by the Procurement Act, you must prepare a conflicts assessment before you publish the following notices:

- a. a tender notice
- b. a transparency notice
- c. a dynamic market notice in relation to the establishments of a dynamic market

## ■ What information does my conflicts assessment need to include?

The conflicts assessment must include details of conflicts or potential conflicts of interest identified.

This could include a list of any interests (or confirmation of none) for each person:

- a. acting for or on behalf of your organisation, or individuals that influence a decision of the contracting authority in relation to the procurement
- b. a minister acting in relation to the procurement
- c. a supplier or other external body with an identified interest in the decisions in question

The conflicts assessment must include the information on what steps you have taken or will take to mitigate any identified conflicts or potential conflicts of interest and the outcome or next steps. This could include details of reasonable steps that have been requested and/or actioned by suppliers.

Also the details of any known perceived conflict of interest and the steps taken or planned to take to demonstrate that no such conflict or potential conflict exists.

## ■ What do I need to do to meet the transparency obligations around conflicts of interest?

When you publish one of the following notices you must confirm you have prepared and/or revised a conflicts assessment:

- a. a tender notice
- b. a transparency notice
- c. a dynamic market notice in relation to the establishments of a dynamic market
- d. a contract details notice
- e. a contract change notice

## ■ When do I need to review and update my conflicts of interest assessment?

Review your conflicts assessment either on a set routine basis and/or at key stages of your procurement process, such as when new information comes to light.

Update your conflicts assessment as and when required following your review, for example:

- a. when additional people acting for or on behalf of your organisation who will have influence over a decision made in relation to your procurement process and award of the contract are identified
- b. when you move to the next stage of the procurement process and new information is available, for example, when suppliers have submitted a tender you may need to cross check this information with the evaluation panel members

## ■ What should I do with my conflicts of interest assessment?

Your conflicts assessment should be held as a record as it may be needed in the future for audit purposes or as part of the application for discovery in the event of a court case.