PA2023.org Network Training

Below threshold contracts

12 November 2026

Getting you ready - Training



In2
the bargain

www.in2thebargain.com

Network PA2023.org

Our Consulting Services

In2 the bargain

Procurement Compliance	Forensic Investigations	Operating Model Improvement
• Compliance reviews and challenge risk mitigation under Procurement Act 2023, Provider Selection Regime, or Public Contracts Regulations 2015 • Template design • Tender document review • T&Cs review • Advice & mentoring	• Open book audits • Contract cost validation • Contract savings • Supplier performance & KPI reviews	• Procurement function design • Contract management process & control • Insourcing

Better outcomes and reduced costs through effective compliant procurement and contract management

PA2023.org Training

Training schedule to June 2027		
19 November 2026	Introduction to Public Procurement	Practitioner – full day
26 November 26	Common assessment standard – how to use CAS in tenders?	Practitioner – half day
03 December 2026	How to apply social value in your tenders	Bitesize – 2 hours
10 December 2026	How to design and run a Competitive Flexible Procedure	Practitioner – full day
14 January 2027	Frameworks	Bitesize – 2 hours
26 January 2027	Introduction to JCT 2024 Contracts	Practitioner – full day
4 February 2027	Introduction to the Procurement Act 2023	Practitioner – full day
23 February 2027	Modifying contracts under the Procurement Act	Bitesize – 2 hours
16 March 2027	Direct Awards	Bitesize – 2 hours
24 March 2027	Assessing and monitoring the financial standing of suppliers	Practitioner – half day
15 April 2027	Excluding suppliers under the Procurement Act	Bitesize – 2 hours
29 April 2027	The Provider Selection Regime for practitioners	Practitioner – full day
13 May 2027	The Procurement Specific Questionnaire	Bitesize – 2 hours
27 May 2027	Tender evaluation & moderation	Practitioner – full day
15 June 2027	Different methods of price evaluation	Bitesize – 2 hours
24 June 2027	Publishing key Procurement Act 2023 notices	Practitioner – half day

For details and bookings:
[Training – In2 the bargain]

Technical & news update 12 November 2026

1. The Procurement of Innovation Playbook
2. Draft Wales Procurement Policy Statement | GOV.WALES
3. Guidance on using PPN 026: The Social Value Model
4. API Code update for all e-senders
5. PAL Aerospace Limited and Secretary of State For The Home Department and Dea Aviation Limited
6. Verity Healthcare Limited v Cambridgeshire County Council-[2026] EWHC 2830 (TCC)
7. NHS England » Independent Patient Choice and Procurement Panel review of a proposed contract award: community ophthalmology service in Nottinghamshire
8. Abnormally Low Tenders Discussion Paper
9. Provision of a Strategic Partnership for Delivery of Intelligent Intake Orchestration & Autonomous Sourcing Service - Find a Tender
10. Commission proposes simpler and more strategic Public Procurement rules

Below Threshold Contracts

The Syllabus – The Legislation

Primary focus of this training	
Procurement Act	Procurement Act 2023 (legislation.gov.uk)
The Procurement Regulations	The Procurement Regulations 2024
The Procurement (Wales) Regulations	The Procurement (Wales) Regulations 2024
Procurement Policy Notes	Procurement policy notes - GOV.UK (www.gov.uk)
Welsh Procurement Policy Notes	Procurement policy notes | GOV.WALES
Procurement Act Guidance Documents	Procurement Act 2023 guidance documents - GOV.UK (www.gov.uk)
Welsh Procurement Act Guidance Documents	Procurement Act 2023: guidance documents | GOV.WALES

Our focus is not on the following:

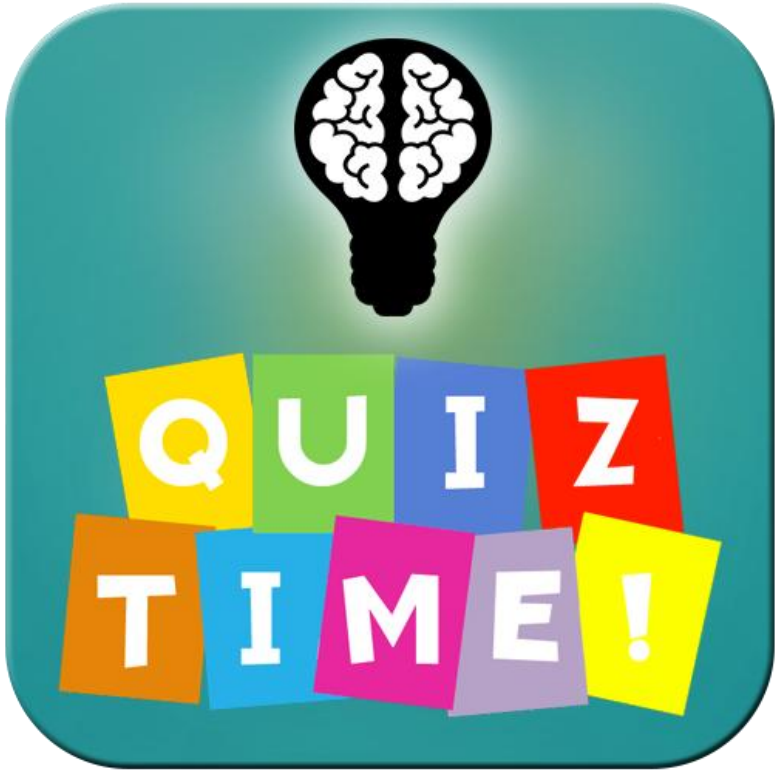
- Public Contracts Regulations 2015 and related pre 24 February 2025 law
- Utility Contracts and Utility Providers, Defence & Security
- The Provider Selection Regime

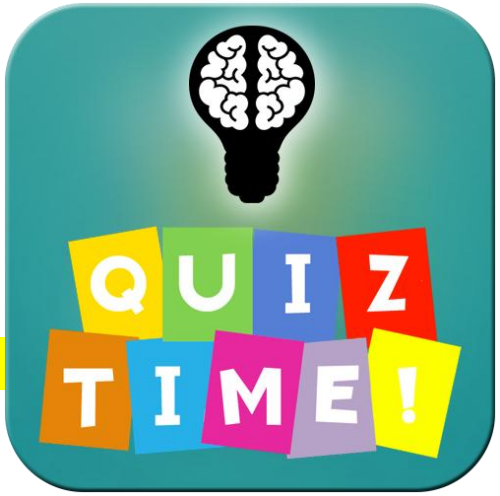
Key provisions relevant to today's session

Procurement Act 2023	
Part 6	Below-threshold contracts
Schedule 1	Threshold Amounts
Section 13	The national procurement policy statement
Section 14	The Wales procurement policy statement
Section 90	Treaty state suppliers: non-discrimination
Section 74(1)	Convertible Contract
Schedule 3 para 4	Anti-avoidance

Chose your answer: Yes, No, Don't Know

1. Do the PA2023 Conflict of Interest rules apply to below-threshold procurements?
2. Can you use conditions of participation for below threshold procurements?
3. Standstill periods for below threshold procurement – does it apply?
4. Are you required to publish a Contract Award Notice for below threshold contracts?
5. Do you have to issue a transparency notice for a below threshold direct award above £30k contract?
6. Do you have to check if a supplier is excluded or excludable?
7. If a contracting authority buys the service every year from the same supplier using the 3 quotes process and not a full competition, do they need to aggregate the value over the years to consider whether the spend is above or below threshold?





Chose your answer: Yes, No, Don't Know

1. Do the PA2023 Conflict of Interest rules apply to below-threshold procurements ? [Conflict of Interest PA2023 requirements only apply to Public Contracts not below threshold contracts, although other law and governance will apply]
2. Can you use conditions of participation for below threshold procurements? [Yes, you can base your suitability criteria on conditions of participation when you are assessing tenders, but you cannot down-select or limit participation. You cannot restrict participation based on assessment of suitability]
3. Standstill periods for below threshold procurement – does it apply? [No]
4. Are you required to publish a Contract Award Notice for below threshold contracts? [No]
5. Do you have to issue a transparency notice for a below threshold direct award above £30k contract? [No]
6. Do you have to check if a supplier is excluded or excludable? [No, but it is best practice to do so]
7. If a contracting authority buys the service every year from the same supplier using the 3 quotes process and not a full competition, do they need to aggregate the value over the years to consider whether the spend is above or below threshold? [Yes, the aggregation rules must be considered]

Which parts of PA2023 apply to below threshold contracts?

Reference
Act 2023 Part 6

- Generally, the only provisions in the Act that are relevant to the procurement of below-threshold contracts are those set out in Part 6
- Section 13(1) to have regard to the national procurement policy statement (NPPS) or Welsh procurement policy statement (where applicable) and
- Section 90(1) to not discriminate against a treaty supplier (but only to the extent that below threshold procurements are covered by an international agreement set out in Schedule 9 of the Act).
- Other guidance and specific department requirements (example DfE handbook)
- Other Law for example: Misconduct in public office criminal offence.

Importantly: Remedies Part 9 of PA2023 does not apply to below threshold contracts. Although an unhappy supplier can always bring a Judicial Challenge.

Below-Threshold Procurement

"Below-threshold" procurement refers to the procurement, by contracting authorities, of contracts with an estimated value below certain thresholds.

These thresholds are established internationally and are revised once every two years.

The current thresholds were set in January 2026 and are:

- For **Goods** and **Services**:
  - Where the contracting authority is a Central Government body: **£135,018**
  - For all other Contracting Authorities: **£207,720**
- For **Works** (including construction and demolition): **£5,193,000**
- For **Concession Contracts**: **£5,193,000**
- For **Light Touch Contracts**: **£663,540**

When calculating whether a contract is above or below the relevant threshold, you must include all applicable taxes, including VAT.

Below-Threshold Procurement – Overview of Legal Position

The full legal regime for public procurement is intended to *primarily* apply to ***above-threshold*** procurement activity – because the public procurement regime partly exists to promote and facilitate cross-border trade.

Below-Threshold procurements are not subject to most of the rules of the Procurement Act 2023.

The limited rules which do apply are contained in **Part 6** of the Act, and can be broken down into categories:

- Advertising and Competition
- Award Notifications
- Shortlisting and Selection
- Procurement Principles

Below-Threshold Procurement – Overview of Legal Position

The full legal regime for public procurement is intended to *primarily* apply to ***above-threshold*** procurement activity – because the public procurement regime partly exists to promote and facilitate cross-border trade.

Below-Threshold procurements are not subject to most of the rules of the Procurement Act 2023.

The limited rules which do apply are contained in **Part 6** of the Act, and can be broken down into categories:

- Advertising and Competition
- Award Notifications
- Shortlisting and Selection
- Procurement Principles

Key distinction

The Act clarified the position that the main rules do not apply to below-threshold contracts, by expressly stating that "Public Contracts" and "Below-threshold contracts" are two entirely separate things. Thus, a below-threshold contract is not a "Public Contract" for the purposes of applying any rules which apply to "Public Contracts".

Regulated Below Threshold Contracts

S.84 of the Act defines the concept a “Regulated below-threshold contract”.

This means a below-threshold contract which is not—

(a) an exempted contract,
(b) a concession contract, or
(c) a utilities contract,
or
(d) being awarded by a school.

With regard to schools – note that Part 6 of the Act does not apply to schools at all. Therefore none of the below-threshold rules in the Act apply when a school or Multi Academy Trust is dealing with a below threshold contract.

Regulated Below Threshold Contracts

S.84 of the Act defines the concept a “Regulated below-threshold contract”.

This means a below-threshold contract which is not—

(a) an exempted contract,
(b) a concession contract, or
(c) a utilities contract,
or
(d) being awarded by a school.

However, schools / MATs must follow the DfE guidance and the MAT Handbook, which does set requirements for below threshold contracts.

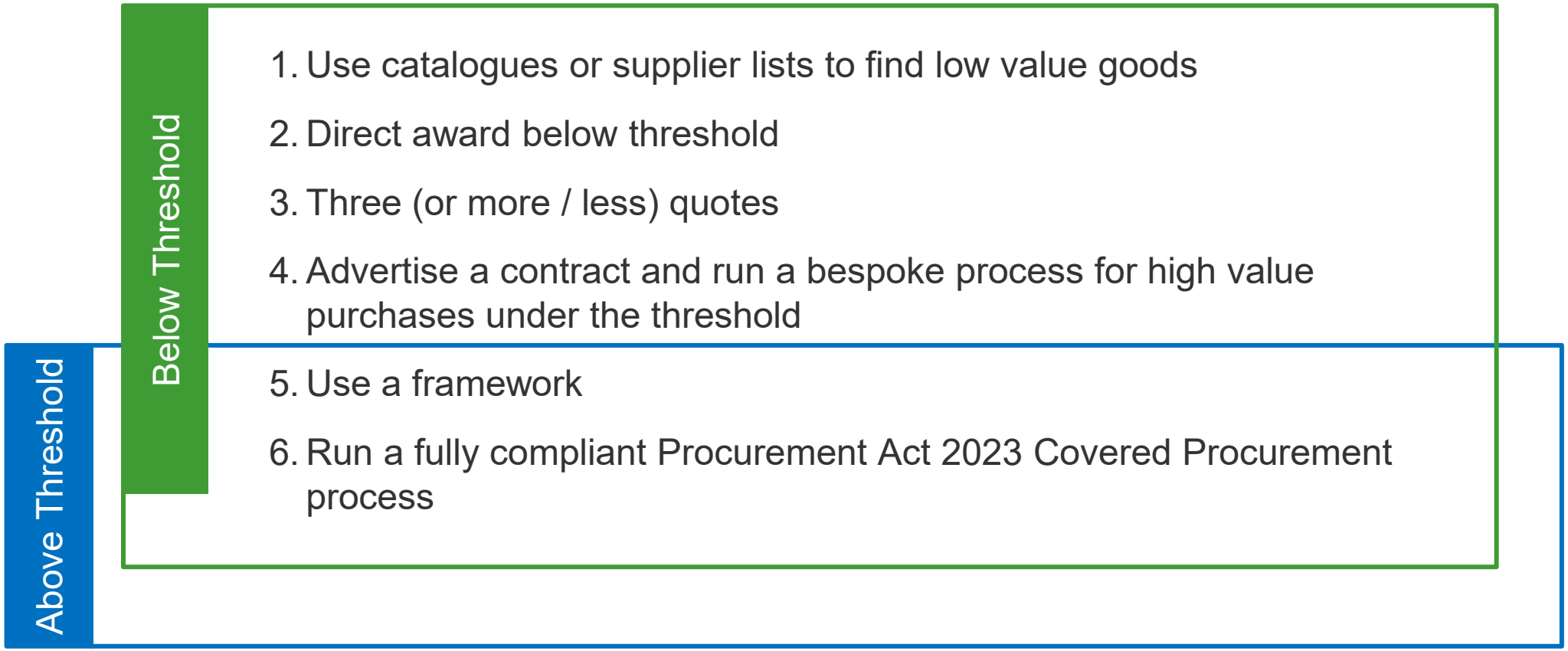
With regard to schools – note that Part 6 of the Act does not apply to schools at all. Therefore none of the below-threshold rules in the Act apply when a school or Multi Academy Trust is dealing with a below threshold contract.

Advertising and Competition

- Below-threshold, there is no automatic requirement to carry out an **advertised** procurement process.
- Below-threshold, there is no automatic requirement to carry out a **competitive** process.
- It is left for authorities to decide what internal rules and procedures they wish to put in place.
  - Some authorities require three quotations to demonstrate value for money.
  - Some authorities choose to set a value threshold (perhaps £50,000, or £75,000) above which they require officers to run a below-threshold tender.
  - Some authorities leave it to officers to decide on a case-by-case basis whether to seek multiple quotations or simply award directly to a trusted local supplier or specialist provider.
- The point is that it's up to the authority.
- In some exceptional cases, there may be an obligation to carry out an advertised competitive procurement process – but this is not a default requirement. (We will examine this under "principles").

Contract standing orders / Contract procedure rules

What could your internal rules require - a practical view



Advertising and Competition

However:

If the authority decides to carry out an ***advertised*** procurement process for a **regulated** below-threshold contract…

And if the estimated value of that contract is over:

£12,000 including VAT (for a Central Government authority), or
£30,000 including VAT (for anyone else)…

…***then*** it must ensure that an advert is placed on the appropriate Government Website.

The appropriate Government Website is now the **Find A Tender Service**.

The advert must be published on the appropriate Government Website *before the opportunity is advertised anywhere else*, such as on your own website.

Advertising and Competition

Key change from PCR2015: NHS Trusts are now subject to the £12,000 central government threshold whereas, under the PCR, they were treated as a sub-central authority with a £30,000 threshold.

However:

If the authority decides to carry out an ***advertised*** procurem s for a **regulated** below-threshold contract…

And if the estimated value of that contract is over:

£12,000 including VAT (for a Central Government authority), or
£30,000 including VAT (for anyone else)…

…***then*** it must ensure that an advert is placed on the appropriate Government Website.

The appropriate Government Website is now the **Find A Tender Service**.

The advert must be published on the appropriate Government Website *before the opportunity is advertised anywhere else*, such as on your own website.

Advertising and Competition

However:

If the authority decides … **lated** below-threshold contract…

And if the estimated v…

£12…
£30…

…***then*** it must ensure … site.

The appropriate Gove…

The advert must be publi… *e opportunity is advertised anywhere else*, such as on your own website.

Important note:

"Advertising" in this context means advertising openly, in the public domain or on a portal or system which any supplier could access.

Sending private invitations to suppliers, inviting them to quote, without openly signalling an opportunity to the market, is not "advertising" and does not trigger the requirement for a below threshold Tender Notice.

(and is allowed, as long as this is consistent with your own internal rules).

Award Notifications

Whether or not a below-threshold contract has been advertised, once the contract has been awarded, if the value of that contract is over:

£12,000 including VAT (for a Central Government authority), or
£30,000 including VAT (for anyone else)…

… and if the contract is a **regulated** below-threshold contact…

…***then*** the authority must, "as soon as reasonably practicable", publish a **Contract Details Notice**, giving details of the contract award, on the appropriate Government Website.

For Central Government bodies, the Government's own position is that "as soon as reasonably practicable" means ***within 30 days***, but this does not explicitly apply to sub-central authorities. However, a degree of proportionality must be observed – leaving it longer than 90 days would be hard to justify.

Shortlisting and Selection

Restrictions on shortlisting and selection procedures apply to any procurement (regardless of category) with a value of less than:

- **£135,018** where the contracting authority is a Central Government body, or:
- **£207,720** for all other contracting authorities.

Below this threshold, authorities are ***prohibited*** from carrying out any kind of shortlisting phase as part of a procurement exercise.

Essentially this means, for below-threshold procurements under this value, if a competition is held, it must be a single-stage bidding exercise.

Shortlisting and Selection

Restrictions on shortlisting and selection procedures apply to any procurement (regardless of category) with a value of less than:

- **£135,018** where the contracting authority is a Central Government body, or:
- **£207,720** for all other contracting authorities.

Below this threshold, authorities are *prohibited* from carrying out any kind of shortlisting phase as part of a procurement exercise.

Essentially this means, for below-threshold procurements under this value, if a competition is held, it must be a single-stage bidding exercise.

Pass-or-fail **Conditions of Participation** (*covering issues such as financial standing, insurance, holding required certification, or evidence of previous technical experience*) can be used to filter out potential bidders. But this must be done as part of tender submission, not as a separate stage.

Shortlisting and Selection

Restrictions on shortlisting and selection procedures apply to any procurement (regardless of category) with a value of less than:

- **£135,018** where the contracting authority is a Central Government body, or:
- **£207,720** for all other contracting authorities.

Below this threshold, authorities are *prohibited* from carrying out any kind of shortlisting phase as part of a procurement exercise.

Essentially this r… s held, it must be a single-stage bi…

Pass-or-fail **Con**… *…ance, holding required certifica*… potential bidders. But this must be done as part of tender submission, not as a separate stage.

Note: The PA23 guidance confirms that a **Dynamic Market** is a form of pre-qualification procedure.

Therefore, Dynamic Markets **may not** be used for procurement below these thresholds.

Reference

Act 2023 Part 6

Using dynamic markets below threshold - Find a Tender

Using dynamic markets

Above-threshold use of dynamic markets must be through a competitive flexible procedure. Dynamic markets can also be used below threshold, but conditions for membership are not allowed below threshold, except for works contracts above certain values (see Section 85 of the Procurement Act 2023), for schools, or if Welsh or Northern Irish rules apply.

Below-threshold: Advertising and Competition

- Below-threshold, there is no automatic requirement to carry out an **advertised** procurement process.
- Below-threshold, there is no automatic requirement to carry out a **competitive** process.
- It is left for authorities to decide what internal rules and procedures they wish to put in place.
  - Some authorities require three quotations to demonstrate value for money.
  - Some authorities impose a value threshold (
    officers to run a below-threshold tender.
  - Some authorities leave it to officers to decid
    quotations or simply award directly to a trust
- The point is that it's up to the authority.

The Procurement Act **guidance** confirms that requesting "targeted quotes" from local suppliers is an appropriate (and lawful) approach, in general, for below-threshold contracts.

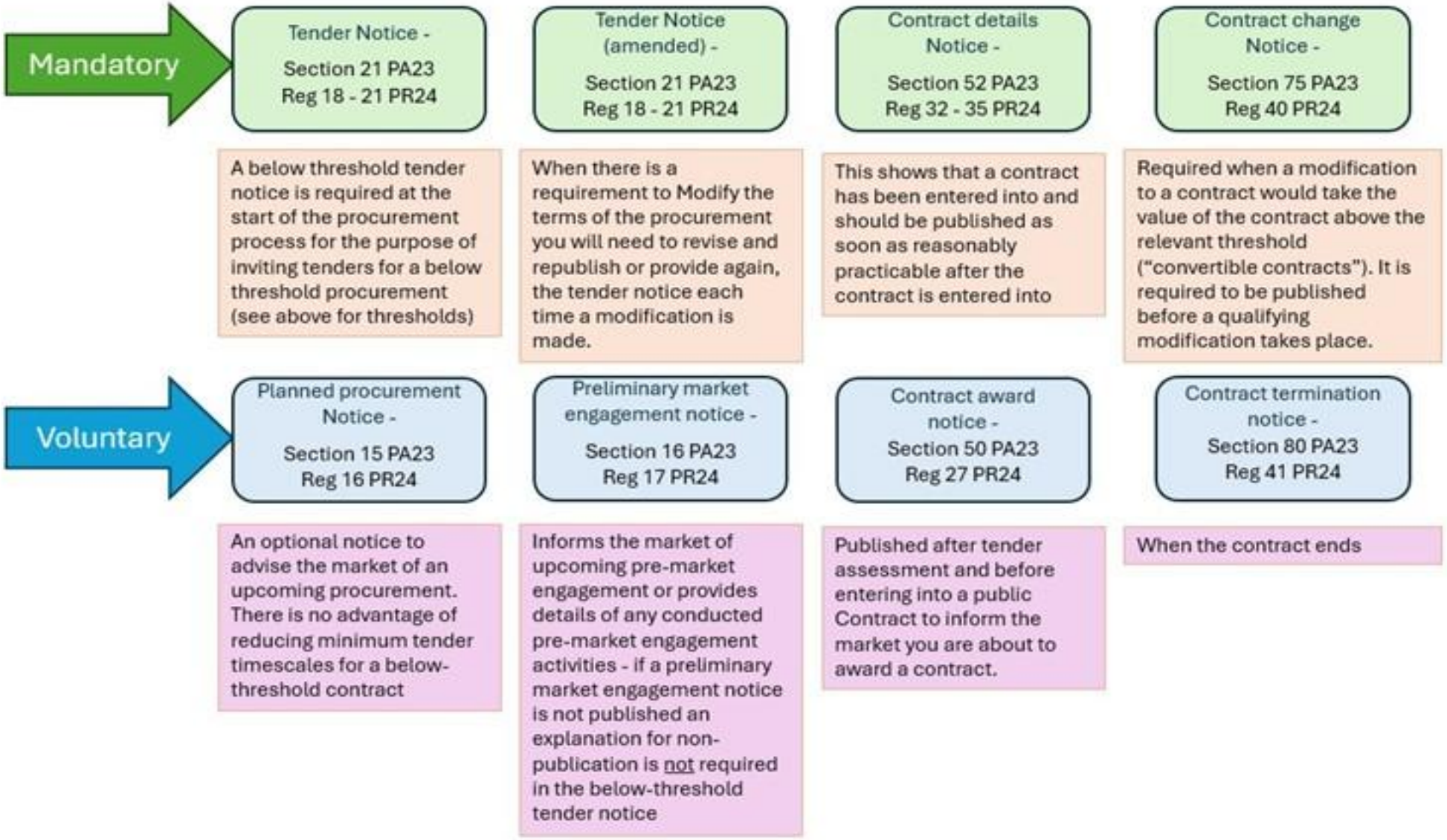
(More on this under "policy" shortly…)

Below-Threshold Procurement: Notices

A summary of the two specific notices which apply in Below-Threshold procurements:

Notice	Purpose	When required?
Below-Threshold Tender Notice (Using UK4: Tender Notice)	Advertises a competitive below-threshold tender opportunity	When an authority decides to publicise a regulated below-threshold tender opportunity by advertising it anywhere at all.
Contract Details Notice (Using UK7: Contract Details Notice)	Announces that a below-threshold contract has been awarded	Within a reasonable period after awarding a regulated below-threshold contract (regardless of process).

Below-threshold Notice requirements



Scenario 1 – tenders are above threshold

A contracting authority publishes a below threshold tender notice. However, all of the suppliers submit prices above the relevant threshold.

What should the authority do, and which notices should be published?

What do you think?



Scenario 1 – tenders are above threshold

A contracting authority publishes a below threshold tender notice. However, all of the bidders submit prices above the relevant threshold.

What should the authority do, and which notices should be published?

The best course of action, if possible, is to pause the process and consider re-running the procurement, re-starting with a proper, above-threshold Tender Notice.

If the authority does not want to do that, or has a pressing need to award the contract, in deciding whether it is safe to proceed with the award, it should carefully consider why the tender prices exceed its original estimate; there are a number of possibilities depending on why the situation has come about:

1. The authority's estimated value was very close to the threshold, they decided to treat the procurement as below-threshold, and the tenders are only slightly over the threshold.

2. The tender prices are all substantially over the relevant threshold – and this is a surprise to the authority.

3. The tender prices are above threshold, yet the authority can reasonably assert that its original estimate was valid.

Scenario 1 – tenders are above threshold

1. The authority's estimated value was very close to the threshold, they decided to treat the procurement as below-threshold, and the tenders are only slightly over the threshold.

In this case, the authority's value estimate was perhaps just under the threshold by 5% to 10%, and the authority decided to treat the procurement as below threshold, and hope for the best. The tender prices are slightly above threshold, but are reasonably within range of the authority's estimate.

If this scenario applies, the problem is that the authority has taken a risk, and their gamble has not paid off. There is a moderate level of risk if they proceed with the contract award. A more careful authority would have treated the contract as having a material likelihood of being above threshold.

To mitigate the risk in this case, if the authority genuinely cannot re-run the procurement as an above-threshold exercise, then it should publish a **Contract Award Notice** (and issue Assessment Summaries) and wait out a **standstill period**. This approach at least gives any other suppliers, who were not aware of the opportunity because a Tender Notice was not published, an opportunity to become aware of the contract, and to challenge the procedure if they wish.

(If such a challenge is received, the only option is to terminate the procurement, cancel the award, and start again - and make sure the challenging supplier is made aware when the new procedure is launched).

Scenario 1 – tenders are above threshold

2. The tender prices are all substantially over the relevant threshold – and this is a surprise to the authority.

In this scenario, the fact that the tender prices are all so high, likely demonstrates that the authority's original estimate was completely wrong.

In this case, proceeding with the contract award is at much high risk of challenge and is not advisable.

The procurement should be terminated and re-run, starting with a Tender Notice with a revised estimated value.

If a re-started competition is genuinely not possible for any reason, then either:

(a) a Direct Award must be considered, if a specific Direct Award justification exists, or

(b) the authority will need to award a shorter-duration, below-threshold contract, to make time to re-run an above-threshold exercise.

Scenario 1 – tenders are above threshold

3. The tender prices are above threshold, yet the authority can reasonably assert that its original estimate was valid.

This scenario is probably rare, but could arise if the authority can demonstrate that other suppliers in the market would normally price below threshold for a contract of this nature, but that those suppliers have not bid on this occasion, and this is for reasons outside the authority's control.

(For example, the most cost-effective suppliers are too busy, they lack capacity on this occasion, but at other times could have delivered at a below-threshold price).

In this case, provided the authority is satisfied that it has done enough to invite a reasonable degree of competition, and provided that it is satisfied that the winning tender, while more costly than anticipated, still represents value for money *(perhaps it is very high in quality or provides a local SME with its first major public sector contract)*, then it should have confidence to go ahead and award the contract.

Once again (as in scenario (i)) it would be advised to publish a **Contract Award Notice** and wait out a **standstill period**, if possible, although in this scenario, the risk is lower than in scenario (i) because, in effect, the authority did not get its original estimate "wrong“; rather, particular circumstances have simply led to a slightly higher price in the end.

Scenario 2 – tenders are lower than expected

A contracting authority publishes an above-threshold Tender Notice.

To its surprise, all of the tender prices are below the threshold.

What should the authority do, and which notices should be published?

What do you think?



Scenario 2 – tenders are lower than expected

A contracting authority publishes an above-threshold Tender Notice.

To its surprise, all of the tender prices are below the threshold.

What should the authority do, and which notices should be published?

In this case, the authority should take care to ensure the tenders are not **abnormally low** – make sure the bidders have not misunderstood the requirement, made serious errors in their pricing, or are not otherwise submitting unsustainably low prices.

If the authority is satisfied that there is a winning tender which constitutes a viable offer, then it can proceed to award the contract.

The contract is now no longer regarded as a “Public Contract” which means no Contract Award Notice is required by the Act – only a Contract Details Notice.

However, the authority may *voluntarily* publish a Contract Award Notice and observe a voluntary standstill, just in case, if it wishes.

Scenario 3 – School procurement

A School wishes to advertise a below-threshold tender opportunity, estimated at £50,000 in value, on its own website.

What notices does it have to publish?

What do you think?



Scenario 3 – School procurement

A School wishes to advertise a below-threshold tender opportunity, estimated at £50,000 in value, on its own website.

What notices does it have to publish?

The answer:

None!

Schools are entirely exempt from Part 6 of the Act (as stated in S.84(2)(a)) therefore they are not obliged to publish any type of below-threshold notice.

(They could do so voluntarily, if they like).

Scenario 4 – A Catering Contract

A Local Authority is going to use a Competitive Selection Process using a PA 2023 Framework for Catering Services, to provide a snack bar service at one of its premise. The total value of the contract is estimated at £400,000.

Is this a Below Threshold Procurement, or above-Threshold? What notices will it have to publish?

What do you think?



Scenario 4 – A Catering Contract

A Local Authority is going to use a Competitive Selection Process using a PA 2023 Framework for Catering Services, to provide a snack bar service at one of its premise. The total value of the contract is estimated at £400,000.

Is this a Below Threshold Procurement, or above-Threshold? What notices will it have to publish?

Catering services are a form of **Light Touch** contract. The Light Touch threshold is £663,540. Therefore the contract is a **regulated below-threshold contract**.

(Provided that the Framework specified that it is for the procurement of Light Touch services – which it should do!).

Inviting bids from suppliers already on a Framework does not constitute "advertising" for the purpose of Part 6 of the Act.

This means that the only notice that will be required is a **Below-Threshold Contract Details Notice**.

Scenario 5 – A Concession Contract

A Local Authority intends to put in place a single Concession Contract to operate three ice-cream kiosks, one at a boating marina, and two at a large public park, all owned by the Council. The total estimated value of the concession contract, over a five-year term, is £320,000.

The Council intends to advertise the opportunity in the local newspaper, and on the Council website.

What notices will it have to publish?

What do you think?



Scenario 5 – A Concession Contract

A Local Authority intends to put in place a single Concession Contract to operate three ice-cream kiosks, one at a boating marina, and two at a large public park, all owned by the Council. The total estimated value of the concession contract, over a five-year term, is £320,000.

The Council intends to advertise the opportunity in the local newspaper, and on the Council website.

What notices will it have to publish?

The answer:

None!

The Concessions threshold is **£5.193m**

Below-threshold concessions are not “regulated below-threshold contracts”, and therefore Part 6 of the Act does not apply to them.

No notices are required (by law) at all, in respect of this concession.

Below Threshold Contracts – Aggregation & Anti-avoidance

Reference
Act 2023 Part 1 Act 2023 Sch 3

Cannot exercise discretion about contract value to disapply any requirement of the Act

Schedule 3 para 4 Anti-avoidance:

> Where — a contracting authority estimates the value of two or more contracts, and the goods, services or works to be supplied under the contracts could reasonably be supplied under a single contract. The contracting authority must estimate the value of each of the contracts as including the value of all of the contracts, unless the authority has good reasons not to do so.

- Aggregation rules prevent artificial splitting of contracts for the purposes of evading the requirements of the Act
- Authorities must consider the total estimated value of multiple similar below-threshold contracts over time
- Example: For five separate contracts of £50,000 each for IT consultancy, if combined value exceeds the threshold (£207,720), a covered procurement process is required, for a combined contract or each (£50,000) contract.

Valuation of contracts – Sec 4

- **If cannot estimate**, then must be treated as over the threshold

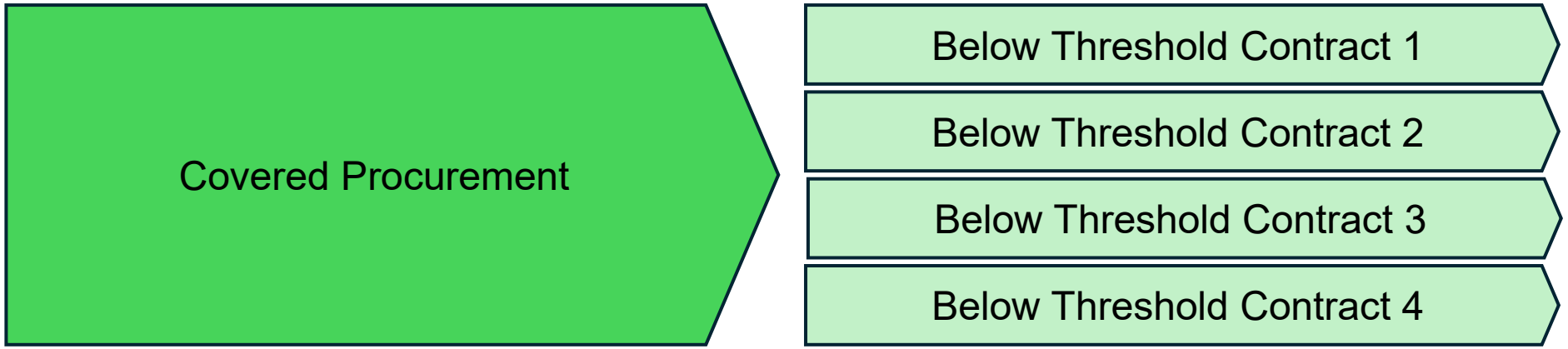
A Covered Procurement but not Public Contracts

S.1(1)(b) “covered procurement” means the award, entry into and management of a public contract.

S.3 **Public contracts.** Any contract for the supply, for pecuniary interest, of goods, services or works to a contracting authority which:

(a) has an estimated value of not less than the threshold amount for the type of contract,…..

A Covered Procurement but not Public Contracts



Example: A procurement has a total estimated value of £250,000 and is divided into four lots of equal value and a contract awarded for each lot. While the procurement is a covered procurement (as the total value is above the relevant threshold amount), the value of each individual contract is below the applicable threshold, so from the point of decision to award onwards these would be classed as below-threshold contracts. Each of these contracts is set out in a below threshold contract details notice.

The Principles of Public Life

As we have seen, there are only a few rules applying specifically to below-threshold procurements.

The key Principles of Public Life (Nolan Committee's First Report on Standards in Public Life) which include Openness, Integrity, Objectivity, Honesty, Acting in the Public Interest, Leadership and Accountability are reflected in the Procurement Act and are also generally held to apply to below threshold procurement.

This means that when selecting suppliers, especially when carrying out a competitive below-threshold tender, authorities should:

- Treat suppliers **equitably**.
- Be **transparent** about (a) the **rules** of the procedure, and (b) the **reasons** for their decisions.

Treaty state suppliers: non-discrimination – Section 90

(1) A contracting authority may not, in carrying out a procurement, discriminate against a treaty state supplier.

(2) A contracting authority discriminates against a treaty state supplier if it treats the supplier less favourably than it treats, or would treat, a United Kingdom supplier or other treaty state supplier because of—

(a)the supplier's association with the supplier's treaty state, or

(b)the supplier's lack of association with—

(i)the United Kingdom, or

(ii)another treaty state.

In cases where there is a likelihood of ***cross-border interest***, the case law from the *Mansfield** case is still likely to apply in future. (Indeed there has been another case in 2026 confirming the *Mansfield* case law still applies).

This means that, before deciding not to advertise a below-threshold contract (particularly one which is close to being above the threshold) an authority should take basic steps to satisfy itself that there is unlikely to be significant cross-border interest in bidding.

** Mansfield District Council v Secretary of State for Communities and Local Government [2014] EWHC 2167*

Below-threshold: Policy Matters

- **The National Procurement Policy Statement and The Wales Procurement Policy Statement** apply to Below Threshold Procurements.
- Therefore, the requirement for procurement activity to “have regard to” the NPPS applies below-threshold, and procurement teams should ensure they are generally aware of the policy content of that document.
- Take note – it is possible that the Government will, in future, seek to use the NPPS as a means to give specific policy direction for Below Threshold Procurement.
- The current very high-level policies aimed a Small and Medium Enterprises (SMEs) in the NPPS, for example, may be particularly relevant in the Below-Threshold space.

Reference
Act 2023 Part 4

Convertible Contract – Sec 74(1)

A Convertible Contract is a contract that becomes a Public Contract as a result of a modification.

This can happen when a regulated below threshold contract goes above the threshold for that type of contract due to the modification.

Modification of a Convertible Contract is only permitted using the grounds in Sec 74 and/ or Schedule 8

Once the modification has taken place the Convertible Contract becomes a Public Contract and after modification, the contract will be subject to all of the provisions in the Act that apply to public contracts.

When a convertible contract becomes a public contract, there is no requirement to set and assess performance against key performance indicators (KPIs) for that contract even if, once modified, the contract is valued at over £5 million. This is because the requirement to set key performance indicators under section 52(1) arises before a public contract is entered into.

In2 the bargain

Walter Akers
Mohamed Hans

This is an area of change from PCR2015: The Act allows below-threshold contracts to be reserved for UK or local suppliers, which was not possible under the PCR.

Buying local for below-threshold contracts

PPN 005: Reserving below threshold

Central government departments, their executive agencies and non-departmental public bodies may for the procurement of below threshold contracts: - reserve the procurement by supplier location and /or reserve the procurement for small and medium sized enterprises (SMEs) and voluntary, community and social enterprises (VCSEs). Other public sector contracting authorities may wish to apply the approach set out in this PPN. However, application of the PPN should be considered in the light of authorities' relevant legal obligations.

The option to reserve procurements on the basis of location should not be used in relation to procurements which are of cross-border interest (i.e. which may be of potential interest to suppliers from EU Member States including the Republic of Ireland) that involve the provision of goods into Northern Ireland.

Local Government Act 1988

Previous restrictions on Local Authorities (and all Contracting Authorities subject to the Local Government Act) have been amended. This allows affected Contracting Authorities to reserve below threshold contracts to suppliers based locally or in the UK, and also to Small and Medium-Sized Enterprises (SMEs) and Voluntary and Community Social Enterprises (VCSEs). There are however specific rules that must be followed.

Guidance on reserving competitions for below-threshold contracts – GOV.UK

The Local Government (Exclusion of Non-commercial Considerations) (England) Order 2026

Reference

PPN 005: Reserving below threshold

Non-commercial considerations: Achieving local impact

- Local Government (Exclusion of Non-commercial Considerations) (England) Order 2026 went live on 4 February 2026
- Section 17 of the Local Government Act 1988
- Applies to best value authorities and parish councils in England
- Reserve **below-threshold contracts**
- Reserving contracts to a UK-base suppliers only, or to suppliers ‘based within the local area’
- What does ‘local area’ mean?
- If one council is procuring, the area can be that council’s area, or that area plus the areas of the county(ies) or London borough(s) that border that area
- Where more than one council is procuring jointly, ‘local area’ can mean the administrative areas of both/all procuring councils, or those plus the areas of the counties or London boroughs bordering them
- Area’ is then ‘…determined by reference to where the authority primarily exercises its functions, disregarding any areas outside of the United Kingdom’.
- Based within’ is defined in article 3(4) of the 2026 Order as being “where that supplier is **based** or has **established substantive business operations**, not taking account of the location of the corporate ownership or control of the supplier”.
- The options to reserve competitions for below-threshold contracts should be considered on a case-by-case basis.
- Flexibility to include SME or VCSE-only reservations
- Record in S98 Report, Judicial Review and provide Reasons under Section 20 LGA88

Reservation status of a contract must be included in:

a. the below-threshold tender notice if an authority is advertising the competition of a ‘notifiable below-threshold contract’, or

b. In the advertisement if the authority is advertising the competition of another ‘relevant contract’ (that is not a notifiable below-threshold contract)

Conditions of Participation’ free text box field:

This contract is reserved to suppliers based within [insert UK or London borough of XXX in accordance with article 3 of the Local Government (Exclusion of Non-commercial Considerations) (England) Order 2026

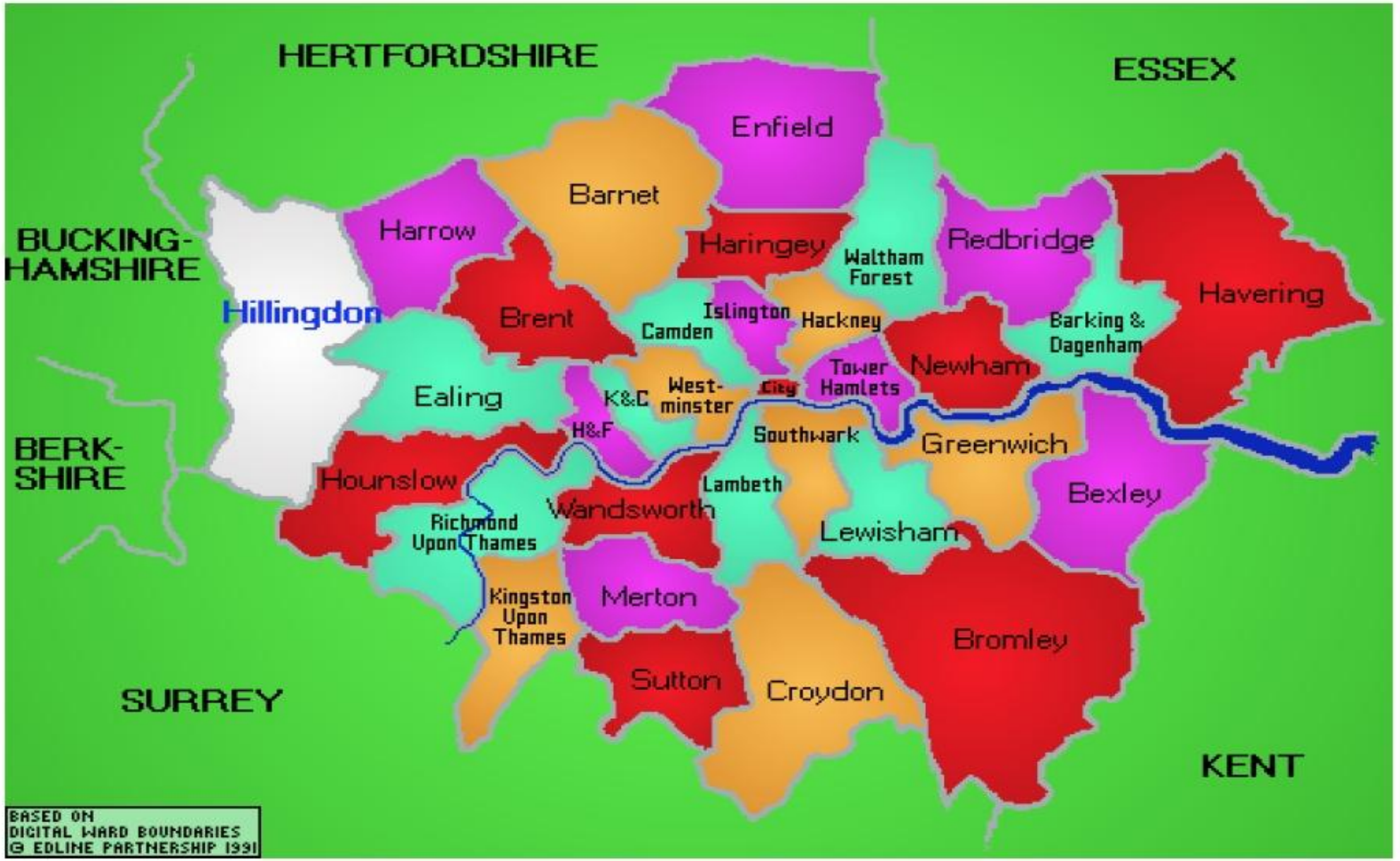


In2 the bargain

PA2023.org network training

Below threshold contracts

Walter Akers
Mohamed Hans



In2
the bargain

Summary - non-commercial considerations

- Apply reservations proportionately and responsibly, ensuring you don't undermine competition or lead to inappropriate direct awards
- Authorities must keep records of decisions - scrutinised by the Procurement Review Unit
- Apply on a case-by-case basis, weighing value for money, market health, competition and supply chain resilience.
- Joint procurements – clear alignment early on combined local area and how eligibility will be evidenced at selection/award stages
- Transparency & record keeping
- Checking that supplier is genuinely 'local' as part of evaluation
- Clear internal interpretation of 'local' to avoid misapplication
- Strong audit trails important
- Update internal policies/procurement templates

Final thoughts & close



Walter Akers



Mohamed Hans

Thank you for attending

If you enjoyed today's session, please like and comment on our website and share on social media

Training – In2 the bargain

www.in2thebargain.com

Network PA2023.org Membership

AGM Procurement	North East Lincolnshire Council
Basildon Borough Council	North Lincolnshire Council
Bedfordshire Fire and Rescue Service	North Warwickshire Borough Council
Breckland Council	North Yorkshire Council
Bright Futures Educational Trust	North Yorkshire Police and North Yorkshire Fire & Rescue
Bromsgrove District Council	Northumbria Healthcare Facilities Management Limited
Buckinghamshire Fire & Rescue	Nottingham College
Buckinghamshire New University	Nursing and Midwifery Council
Cambridgeshire Fire & Rescue Services	Orchard Community Trust
Canterbury City Council	Ormiston Academies Trust
Cheshire East Council	Portsmouth City Council
Chesterfield Borough Council	Prestolee Multi Academy Trust
City Hospitals Independent Commercial Enterprises Limited	River Learning Trust
City of Lincoln Council	Royal Berkshire Fire & Rescue
City of York	Royal Parks
Comcentric Limited	Sheffield City Council
Conwy County Borough Council	South Gloucestershire Council
Cottsway Housing Association	South West London and St George's Mental Health NHS Trust
Cumbria Constabulary	Southend-on-Sea City Council
Dacorum Borough Council	Sparsholt College Group
Devon County Council	Staffordshire Police Fire & Rescue
Dudley Council	Stamford Park Trust
Dyfed-Powys Police	Tai Hedyn Housing Association
E Act Academies Trust	Tamworth Borough Council
Eastleigh Borough Council	The Mayor's Office for Policing and Crime - MOPAC
Enfield London Borough	Torbay Council
Fareham Borough Council	Torridge District Council
Harper Adams University	Vico Homes
Harrow London Borough	Walsall College
Karbon Homes	Warwick District Council
Lancashire Constabulary	West Lancashire Borough Council
Lancashire Fire & Rescue Services	West Midlands Fire Service
London Universities Purchasing Consortium	Worcestershire County Council
Money and Pension Services	Wychavon Council

Forward membership details: Network PA2023.org

Join – In2 the bargain



For technical support please contact:

walter.akers@in2thebargain.com or
mohamed.hans@in2thebargain.com

In2
the bargain

PA23 Templates

Our PA23 templates are robust, easy to use and will help you undertake compliant competitive procurement processes.

Each template comes as a Word document with highlighted sections for you to complete and tailor to your procurement.

We can also support you with additional drafting and training to adapt the templates to your organisations' specific requirements at competitive rates.

1.	Open Procedure under PA23 Template
2.	Competitive Flexible Procedure Template – (Based on previous Restricted Procedure)
3.	Competitive Flexible Procedure Template – (Based on previous Competitive Procedure with Negotiation)
4.	Assessment Summary Template (successful/ unsuccessful)
5.	Conflicts Assessment
6.	Ethical Walls Agreement/ Non-Disclosure Agreement
7.	Section 98 Record
8.	Compendium Publishing PA23 Notices
9.	Standard Contract (Short version)
10.	Standard Contract Services (Long version)
11.	Standard Contract Goods & Services (Long version)
12.	PO Terms and Conditions
13.	Evaluation Chart
14.	Non-Disclosure Agreement (1-way)
15	Non-Disclosure Agreement (2-way)
16.	Guidance on Tender Evaluation For Evaluators

www.in2thebargain.com

In2 the bargain

Network PA2023.org

Membership Offer

2026

In2 the bargain

Join our growing community

Network PA2023.org - providing expert advice, guidance, support and fellowship in public procurement

What PA2023.org membership includes

Advice

Phone or email an expert helpdesk for technical support. Answering your questions on procurement as they arise. An expert on the line to talk things through with.

Training

A programme of PA2023.org exclusive network member training. Supporting CPD.

In addition, discounts on paid-for practitioner training events.

Updates

Timely technical procurement updates on latest developments and new regulations.

Full access to PA2023.org website resources.

The membership package is designed around three key areas; helpdesk expert advice, training and technical updates. It will be invaluable to experienced practitioners as well as those starting out in the profession. This is particularly important in this period of change as we all move to operate under the new Procurement Act and Provider Selection Regime. Additional benefits of membership include; discounted attendance fees on open training, conferences and summits; access to all PA2023.org website resources; and meeting and networking with other members.

For details of benefits and pricing contact:

walter.akers@in2thebargain.com or mohamed.hans@in2thebargain.com

Network PA2023.org

Membership Offer

2026

In2 the bargain

What PA2023.org membership offers

For your organization

- Supporting you and your teams in getting procurement right
- Helping you deliver better value-for-money whilst being compliant with the new procurement legislation
- Keeping you and your teams up to date with best practice

For you

- Supporting your career development and knowledge
- Giving you access to our experts, resources, events, insights and training
- Investing in your career and professional development
- Networking across your profession

How subscriptions work

Subscription fees cover a 12-month period. Pricing is based on the number of delegate training tickets purchased. Within your subscription, you get full access to the advice helpdesk, free attendance on all PA2023.org training for the delegate tickets purchased and free technical updates for a year. The fees also include full access to the PA2023.org website resources. For full details see PA2023.org Membership Terms & Conditions.

For details of benefits and pricing contact:

walter.akers@in2thebargain.com or mohamed.hans@in2thebargain.com