



Procurement Bill podcast:

Episode 4 – Direct award

Making a direct award

Under the Procurement Bill, contracting authorities will be able to directly award contracts if a **direct award justification** is met. The direct award justifications are listed in Schedule 5 of the Bill.

These justifications are very similar to the cases where the **negotiated procedure without a prior publication** can be used currently under Regulation 32 of the Public Contracts Regulations 2015 (PCR).

Switching to direct award

The ability to move to direct award after a failed tender process is referred to as “switching to direct award”. This applies where the contracting authority does not receive any suitable tenders and it considers that an award is not possible.

The Procurement Bill sets out the reasons why a tender would not be considered suitable which includes where the price is abnormally low. At present, the Procurement Bill does not set out the process for dealing with abnormally low bids as is currently provided for under the PCR.

Minister of the Crown powers

Under a new direct award justification, the Minister of the Crown will be able to issue regulations which permit a direct award which is necessary to protect human, animal or plant life or health, or to protect public order or safety.

This is likely to be a temporary measure for specific issues such as the pandemic.

User choice

This new justification for direct award will allow a contracting authority to make a direct award where the services are for a particular individual and there is a legal obligation to take into account the views of the individuals or their carers.

This is going to apply to **light touch** services such as social or healthcare services and we expect that secondary legislation will define these further.

Transparency notices

A new **transparency notice** will need to be published before making a direct award (other than for user choice contracts).

Currently it also looks like a **contract award notice** will need to be published before award. This is the new notice that is issued before the award of any public contract, which triggers the standstill period.

After award, a **contract details notice** will need to be published (again, other than for user choice contracts).

Contact



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