

# Procurement Bill podcast:

## Episode 6 – Who and what?

### Contracting authorities (CAs)

A new definition says this is a **public authority**. This is one with “**functions of a public nature**” that is **funded wholly or mainly from public funds** or is subject to **oversight** by a contracting authority.

The intention is that the same bodies covered by the Public Contracts Regulations 2015 will still be subject to the new legislation, but this current definition may raise questions for registered providers of social housing and subsidiaries/trading companies.

### Mixed procurement

Where a contract contains a mixture of goods, services or works or light touch and other services, the CA needs to consider if it could reasonably separate the elements into different contracts.

If this can be done and any of the contracts would be an above threshold public contract, then the CA has to treat the whole contract as such (if it decides to keep the contracts in a single contract).

### Public contracts

The Bill now talks about contracts for goods (not supplies), services and works which are above the relevant financial threshold.

The applicable thresholds are listed in Schedule 1 and these remain the same as currently with different thresholds for central and sub-central authorities (the list of each category will be in secondary legislation).

When referring to a public contract, this now includes frameworks.

### Works contracts

Secondary legislation will define works.

There is a new definition of **works contracts**. This will cover contracts to carry out works and contracts to facilitate the carrying out of works otherwise than under the contract.

Here, this must be where the works are intended to result in a complete work (a functioning structure that results from the carrying out of works) and that complete work complies with specifications set out in or determined under the contract.

### Valuing contracts

CAs will need to look at what they will spend under contracts, including any options and extensions, etc.

If the CA cannot calculate the value then it is considered to be over threshold.

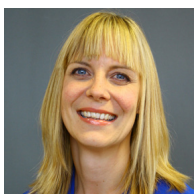
Aggregation principles still apply - if goods, services or works could reasonably be supplied in a single contract then the CA must estimate the value of all of the contracts unless it has **good reasons not to**.

### Vertical and horizontal arrangements

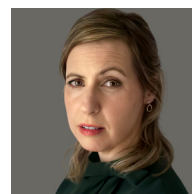
These are the new names for the exemptions for intra-group/controlled entity contracts (often referred to as Teckal) and co-operation arrangements between CAs.

The exemptions remain very similar to the current approach, but changes in language may impact on current arrangements if these remain in the final version of the legislation. For example, under the vertical arrangement exemption there is currently no provision allowing two contracting authorities to jointly control.

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This summary relates to the first publication of the Procurement Bill in May 2022. The final version of the legislation may be different. Please check for the most up to date position under the legislation.