

Brexit Briefing Note

The UK is scheduled to leave the European Union on January 31st 2020. Regardless of how the exit is achieved (whether through a ratified deal or in the event of no deal) this will have a minimal impact on how the council conducts its procurements.

The European Union Public Contracts Directives (2014) establish how EU public procurements must be conducted in order to create an open and competitive market, the UK government were instrumental in determining the changes within these directives. As a member of the EU, the UK was required to transpose these directives into national legislation by way of the Public Contracts Regulations (2015).

Public procurement is also subject to the World Trade Organisation Government Procurement Agreement, the UK Government is currently a signatory to The Government Procurement Agreement (GPA) by virtue of its EU membership, this allows UK businesses to bid for government contracts outside of the UK. The Government has stated that if there is a no deal exit then the UK will seek to join the GPA on substantially the same terms. The GPA largely follows the same EU treaty principles.

If the UK now leaves the EU it will be by one of two ways:

- 1) With a ratified Withdrawal agreement, if this is the case it is likely that procurement rules will continue to apply, unamended, during the implementation period.
- 2) With “no deal” if this is the case we will continue to comply with the our own legislation which is largely aligned to the EU Directives.

The Government has created The Public Procurement (Amendment etc.) (EU Exit) Regulations 2019 which will come into effect on “exit day” which amend all procurement legislation (The Public Contracts Regulations 2015, The Concession Contracts Regulations 2016, The Utilities Contracts Regulations 2016) which will amend redundant terminology, this is largely where reference to the EU are made. Following an exit from the EU the councils CPRs will similarly need to be updated to remove redundant reference, in particular references to OJEU (Official Journal of the European Union).