



Person Profile: Kris Kelliher, Partner

I am [Kris Kelliher](#), a Partner in the Commercial Contracts, Technology and Procurement Team. I have been working at Devonshires for over 20 years, joining as a trainee in 2002 and qualifying in 2004.

I have experience of advising on a wide range of commercial contracts including maintenance and facilities management contracts, supply and distribution contracts, consultancy services contracts and framework agreements for various works and services.

I also advise on all aspects of public procurement law and practice, and this issue of our Quarterly Brief looks at the key aspects of the new Procurement Bill which is currently making its way through Parliament. The Bill is expected to come into force in the UK sometime in Spring 2024, and we will be running training sessions and webinars for clients on the new legislation in the lead up to implementation.

Please do get in touch if there is anything I can help you with, or if you would be interested in attending one of our webinars or training sessions.

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The New Procurement Bill

The much-anticipated Procurement Bill, designed to reform the UK's public procurement regime post-Brexit, has been continuing its journey through the parliamentary stages.

Following completion of the committee stage a new version of the Procurement Bill was published on 24 February 2023. You can find a copy of the latest draft of the Procurement Bill and track its progress on Parliament's website [here](#).



So what are some of the key changes that will be brought in by the new Bill?

Overhauling and simplifying the current procurement procedures: There will be a choice of 3 procurement procedures – the “open” procedure for straightforward procurements, the “limited tendering procedure” for urgent procurements and the “flexible competitive procedure” for all other procurements. Under the latter, contracting authorities will be free to design the structure of the procedure provided it complies with the key principles of transparency, fairness and integrity.

Changes to the rules on framework agreements and dynamic purchasing system: There will be a new “open framework” that can last for up to 8 years with the option for new suppliers to join at various points during the term. It is also proposed that DPSs will be capable of being used for a wider range of services than currently. We anticipate that these new arrangements will be very popular with our contracting authority clients (including Registered Providers and Local Authorities).

Increased transparency requirements: Contracting authorities will be obliged to share the winning bidder's evaluation documents with the unsuccessful bidders, which is a far greater level of disclosure than applies currently. Contracting authorities will need to navigate these new requirements carefully to strike the right balance between compliance with them and avoiding claims for breach of confidentiality/disclosure of commercially sensitive information.

Supplier exclusion: The Bill will put in place a new exclusions framework that will make it easier to exclude suppliers who have underperformed on other contracts. It will also create a new ‘debarment register’, accessible to all public sector organisations, which will list suppliers who must or may be excluded from contracts. The Bill toughens the rules to combat modern slavery by allowing suppliers to be excluded where there is evidence of modern slavery, accepting that in some jurisdictions it is unlikely that a supplier would ever face conviction.

The Bill is expected to receive Royal Assent some time in Spring 2023. Once Royal Assent has been given, there will then need to be a raft of secondary legislation (regulations) to support the new regime and to bring it into effect in its entirety. The Government has indicated that there will still be a minimum of 6 months' notice before the new regime “goes live”, which is expected sometime in Spring 2024.

Upcoming Webinar: Managing your commercial contracts in a time of rising costs

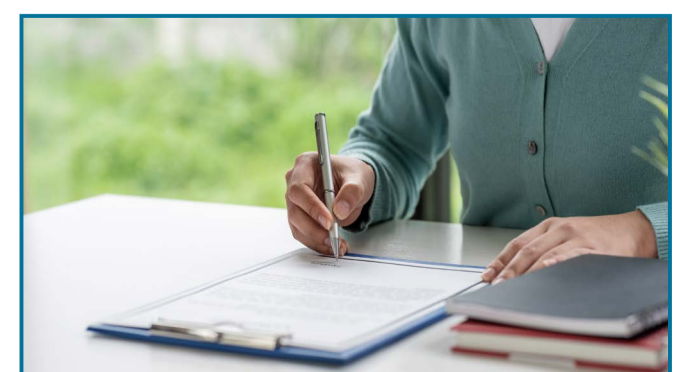
Thursday 20 April 2023 11:00 – 12:00

In this webinar, we will explore the impact of rising costs on your supply chain / commercial contracts, with reference to real life examples throughout.

Speakers:

Kris Kelliher, Partner, Devonshires
Joanna Bouloux, Solicitor, Devonshires
Pauline Lépissier, Solicitor, Devonshires

[Click here](#) to register.



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