

COVID-19 Relief for UK Government Suppliers

26 March 2020

On 20 March, the Cabinet Office in the UK issued a new [Procurement Policy Note: Supplier relief due to COVID-19](#). The policy's stated aim is to support government suppliers through the COVID-19 outbreak, so as to protect their business viability, employees and supply chains and to enable them to resume normal service delivery once the outbreak is over. The note applies to all contracting authorities, including central government departments, local authorities, NHS bodies and the wider public sector and covers goods, services and works contracts.

Here are some of the key points:

- Contracting authorities are to review their contract portfolio and inform suppliers who they believe are 'at risk' that they will continue to be paid as normal until at least the end of June, even where goods and services are reduced or suspended temporarily.
- A range of payment measures may be considered to support cashflow.
- Where contracts operate 'payment by result' or are 'output / outcome' based, payments to suppliers should be made on the basis of a calculation of the average of the last three months' invoices.
- Suppliers should not expect to make profits on elements of a contract that are undelivered during this period and payments should be adjusted to ensure profit margin is not payable on undelivered aspects of the contract.
- Suppliers should continue to pay employees and flow down funding to their subcontractors.
- To qualify for relief, suppliers should agree to act on an open book basis, making available to the contracting authority any data as required and requested to demonstrate the payments have been used in the manner intended.
- Contracting authorities should ensure that invoices submitted by suppliers are paid as quickly as possible (with reconciliation taking place in slower time if necessary).
- Payments should not be made to suppliers where there is no contractual volume commitment to supply and contracting authorities should carefully consider payments to be made to suppliers who are underperforming and subject to an existing improvement plan.

- Contracting authorities should aim to work with suppliers and, if appropriate, provide relief against their current contractual terms rather than accept claims for other forms of contractual relief, such as force majeure.
- Changes to contracts should be captured in contract variations or change notes, which should make it clear that the changes relate only to the COVID-19 situation, include a review provision or time limit, and ensure that it is the authority's decision when things should return to normal.
- Many suppliers will not be able to fulfil their contracts due to action taken elsewhere in the public sector. Wherever possible, contracting authorities should seek to re-deploy the capacity of those suppliers to other areas of need.

If you would like to talk about the consequences of this policy and its impact on your existing contracts, please let us know.

Contacts



Scott Tindall
Partner, London
T +44 20 7296 5647
scott.tindall@hoganlovells.com



Charles Ford
Counsel, London
T +44 20 7296 2178
charles.ford@hoganlovells.com

www.hoganlovells.com

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