



APSE Sports and Leisure Seminar 2016

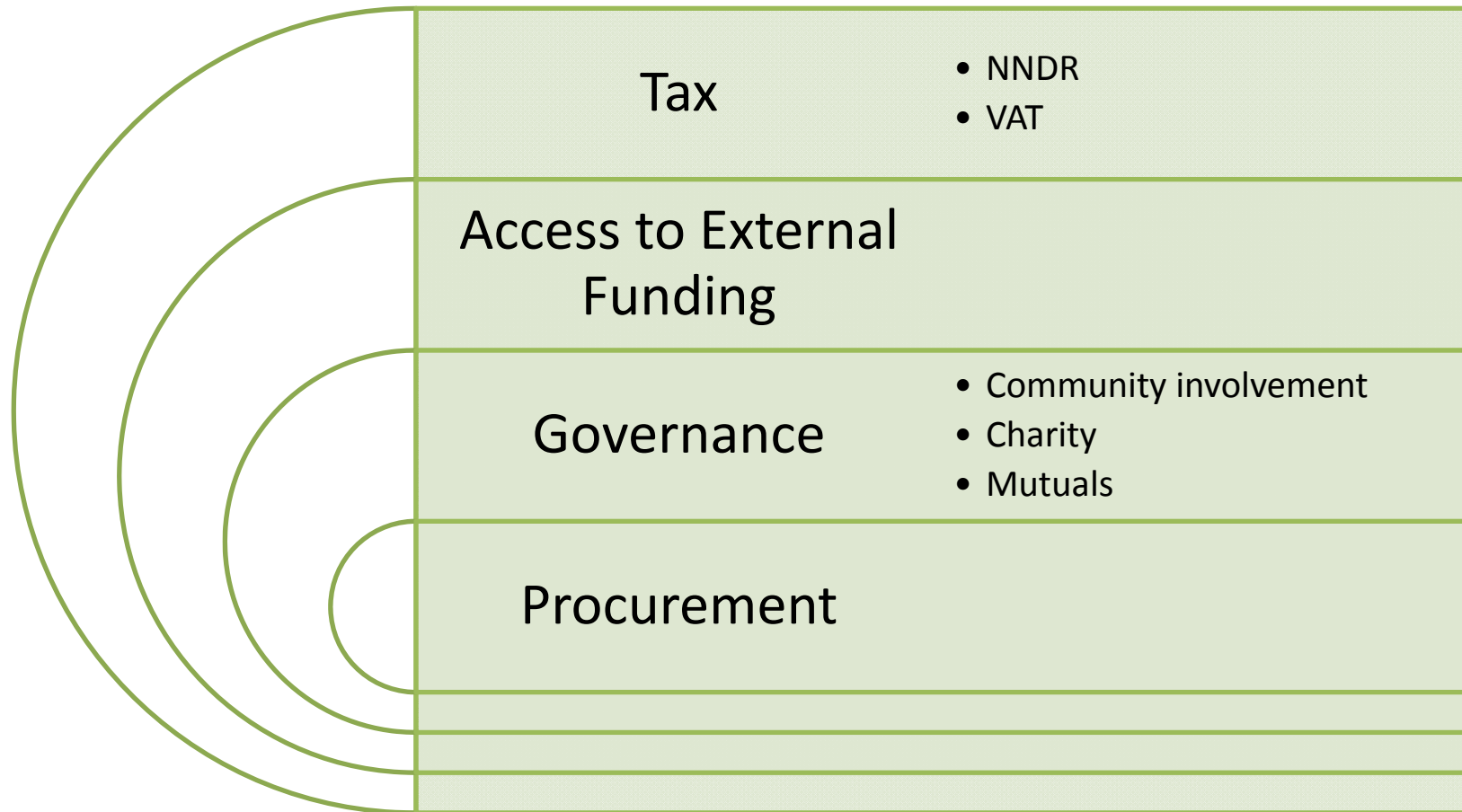
# Leisure Law Update

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# Where now for leisure trusts and contracts?



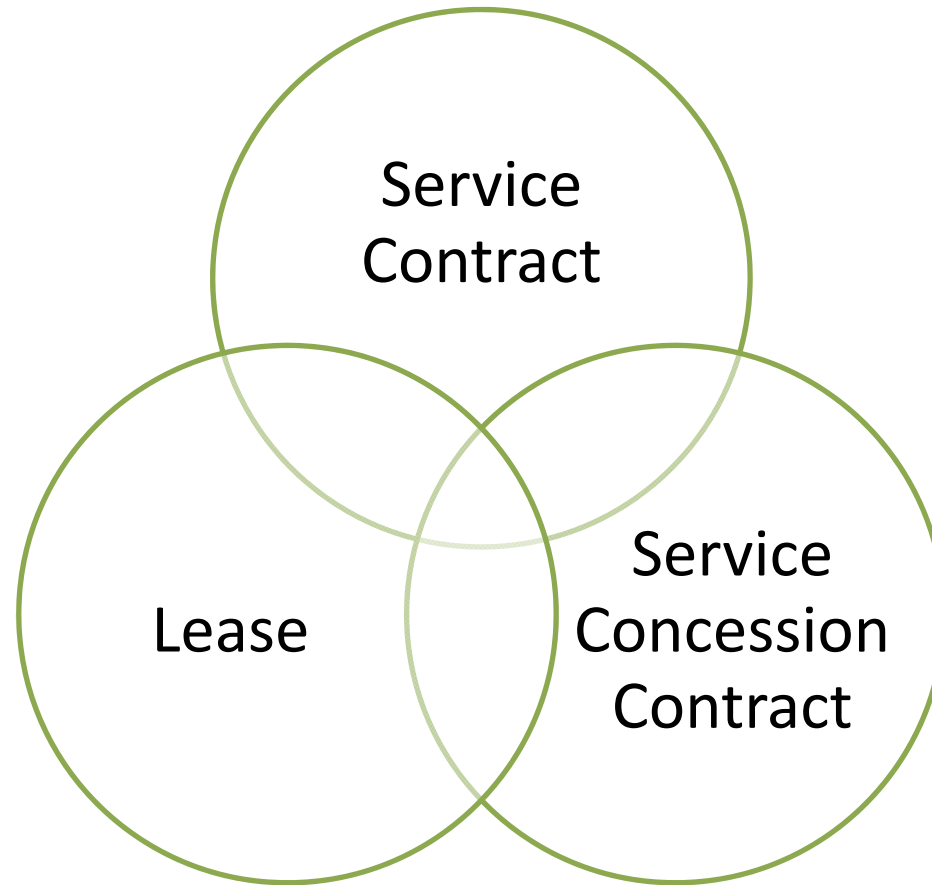


# CHANGES TO PROCUREMENT LAW

# New Thresholds

	To 31 December 2015	From 1 January 2016
Public Contracts		
Public works contracts;	£4,322,012	£4,104,394
Supply and service contracts awarded by central government authorities	£111,676	£106,047
Supply and service contracts awarded by sub-central contracting authorities	£172,514	£164,176
Concessions		
Concessions	£4,322,012	£4,104,394
Utilities Contracts		
Supply and service contracts	£345,028	£328,352
Works contracts	£4,322,012	£4,104,394

# Can you get away with not procuring Leisure Contracts?



# Service Contract

- Pay someone to deliver a service under a contract
- New Regulations abolished Part B exemption
  - All services will require procurement under the Regulations if above threshold
    - £164,176
  - New rules for sub-threshold
  - Social and other Specific Services

# Social and Other Specific Services

## Includes

- Administrative, social, educational, healthcare and cultural services

from 92000000-1 to 92342200-2;

- 92320000-0 Arts-facility operation services
- 92330000-3 Recreational-area services

from 92360000-2 to 92700000-8;

- 92600000-7 Sporting services
- 92610000-0 Sports facilities operation services
- 92620000-3 Sport-related services
- 92621000-0 Sports-event promotion services
- 92622000-7 Sports-event organisation services

# Special procedure

Threshold of €750,000

Contract Notice or continuous PIN

Contract Award Notice

- May group quarterly



# Light Touch Regime

- Authority to determine the procedure to be applied
  - may take into account the specificities of the services in question
  - at least sufficient to ensure compliance with the principles of transparency and equal treatment
- Time limits to be reasonable and proportionate
- May use standard procedures or others
- Conduct and award in conformity with the information contained in the notice about—
  - conditions for participation,
  - time limits for contacting the contracting authority, and
  - the award procedure to be applied.

# Conduct of procurement

- Conduct and award in conformity with the information contained in the notice about—
  - conditions for participation,
  - time limits for contacting the contracting authority, and
  - the award procedure to be applied.
- May conduct other than in conformity with that information, if
  - the failure amount to a breach of transparency and equal treatment
- And authority has after due consideration concluded that is the case and documented the conclusion

# Award

- Award of contracts to take into account:
  - the need to ensure quality, continuity, accessibility, affordability, availability and comprehensiveness of the services;
  - the specific needs of different categories of users, including disadvantaged and vulnerable groups;
  - the involvement and empowerment of users;
  - innovation; and
  - any other relevant consideration.

# Service Concession

- Services the consideration for which consists either in
  - The right to exploit the services that are the subject of the contract
  - Or that right together with payment
    - transfer to the concessionaire of an operating risk
    - real exposure to the vagaries of the market

# Concession Contract Regulations 2016

- In force 18th April 2016
- Service Concession no longer exempt
  - Requires procurement under 2016 Regulations
- Threshold of £4,104,394
- “The duration of concession contracts shall be limited.”
- Maximum duration
  - 5 years or
  - the time that a concessionaire could reasonably be expected to take to recoup the investments made

# Concession Procedure



# Lease

- Property disposals are not within procurement rules
- Substance over form
  - consideration
  - control over what is provided
  - risk
  - funding

# Employment legislation in leisure overview

TUPE

Disclosure and Barring

Zero Hours Contracts

- No exclusivity



# Contact

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