



APSE Sports & Leisure Seminar 2015

Leisure Law Update

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Scope of the presentation



- Procurement law changes
- Leisure Trusts and contracts
- What to expect in Employment law in 2015



Procurement law changes

The Public Contracts Regulations 2015



- Implements the EU Public Procurement Directive 2014/24
- UK wide applicability (except Scotland)
- In force since 26th February 2015
- Applies to all new procurements from that date

The Public Contracts Regulations 2015



- Which services are covered?
 - Parts A and B abolished
 - All services are subject to the regime unless expressly excluded in Schedule 3
 - Schedule 3 services are subject to a ‘light touch regime’
 - Reserving certain contracts to staff mutuals

The Public Contracts Regulations 2015



- Thresholds for applicability
 - £172,514 for all sub central contracting authorities unless services are in Schedule 3
 - £625,050 for Schedule 3 services
- Contract Award criteria
 - Lowest Price abandoned
 - MEAT only applies

The Public Contracts Regulations 2015



- Toolbox approach to procedures
 - Open Procedure
 - Restricted Procedure
 - Competitive Procedure with Negotiation
 - Competitive Dialogue
 - the Innovation Partnership

The Public Contracts Regulations 2015



- Better access to market for SMEs and Start-ups
 - Simplification of information obligations
 - Division into lots
 - Limitations on participation

The Public Contracts Regulations 2015



- Help for SMEs Lord Young's reforms
 - Below threshold PQQs abolished
 - Above threshold PQQs standardised
 - All public sector contracts to be advertised on Contracts Finder
 - 30 day payment terms in all public contracts and sub contracts



Leisure Trusts and contracts

Where now for Leisure Trusts and contracts?



- Growing Challenges
 - Austerity
 - Procurement regime changes
 - PCR 2015
 - Concessions Contracts Directive
 - Remedies regime
 - Sector consolidation

Making changes in Leisure Trust contracts



How far can you go?

- What does the contract say
- Silence is deadly
- Ensure variation is possible
- Changes in Law
- Restrictions

Making changes in Leisure Trust contracts



Limitations on change (Pressetext)

- Introduce conditions that, had they been part of the initial award procedure, would have allowed for the:
 - admission of tenderers other than those initially admitted; or
 - acceptance of a tender other than the one initially accepted.
- Extends the scope of the contract considerably to encompass services not initially covered.
- Changes the economic balance in favour of the contractor in a manner that was not provided for in the terms of the initial contract.

Making changes in Leisure Trust contracts



Future contracts modifications during the contract term

- Regulation 72 of the Public Contracts Regulations 2015



What to expect in Employment law in 2015

Nine things to look out for in 2015



- Shared parental leave and pay begins
- Changes to statutory adoption leave and pay
- New right to take time off to attend adoption appointments
- Child's age limit for parental leave raises to 18
- Cap on holiday pay calculation
- Removal of defined-contribution pension schemes restrictions
- Statutory maternity, ordinary paternity and adoption pay rises
- Statutory sick pay increases
- General Election Political Parties Manifestos



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