



Llywodraeth Cymru  
Welsh Government

GUIDANCE, DOCUMENT

# WPPN 03/20 Post EU Transition Public Procurement including Find a Tender Service (FTS)

WPPN 03/20 provides the Welsh public sector contracting authorities an update on public procurement, and on the use of Sell2Wales and the new UK e-notification service Find a Tender after the end of the EU Transition Period.

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# Contents

**Well-being goals**

**Points to note**

**Purpose**

**Dissemination and scope**

**Background**

**Actions required by WPS bodies**

**Legislation**

**Timing**

**Additional information**

**Contact details**

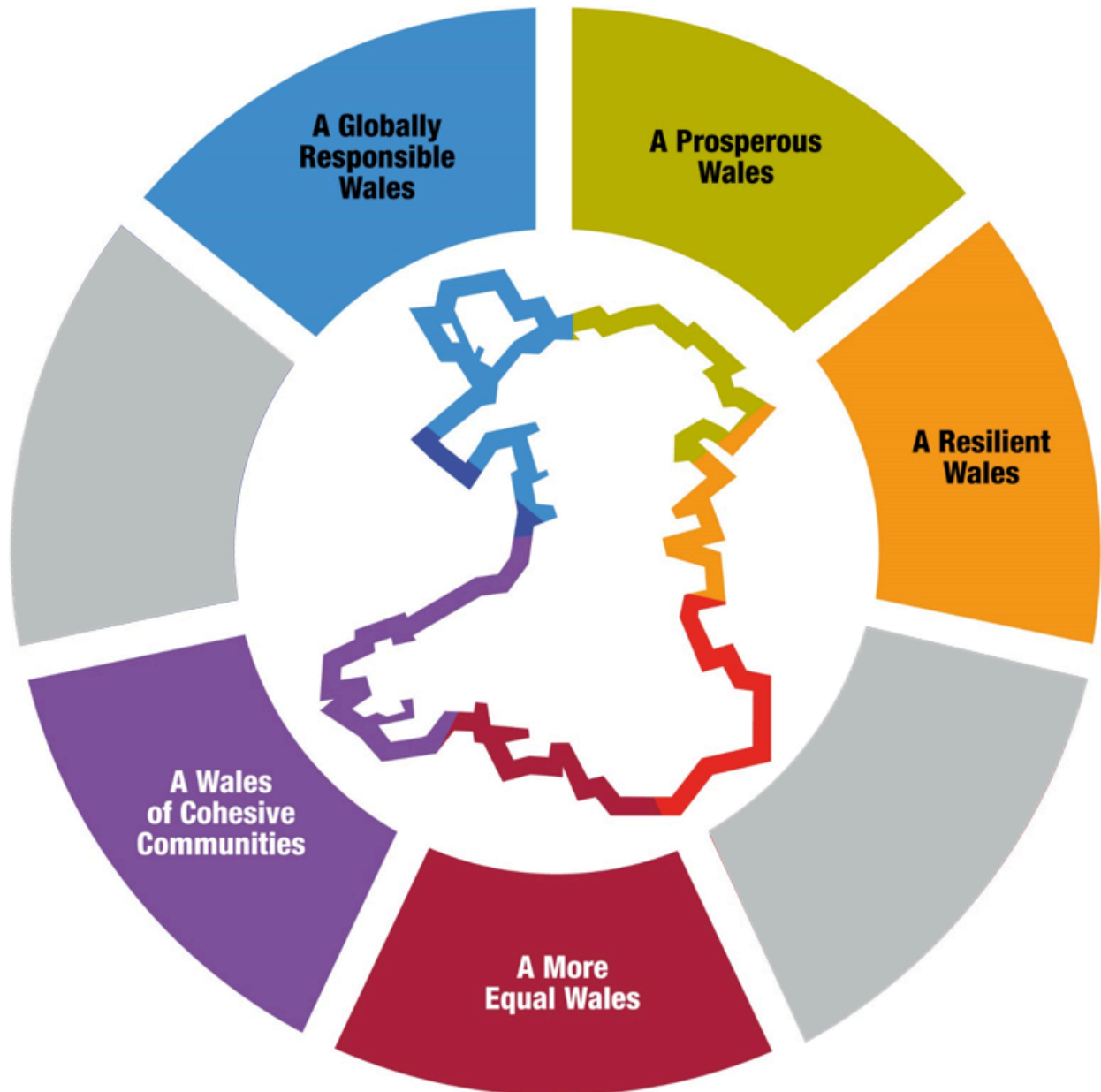
**Acknowledgements**

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# Well-being of Future Generations Act's well-being goals supported by this WPPN



- A prosperous Wales

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- A resilient Wales
- A more equal Wales
- A Wales of more cohesive communities
- A globally responsible Wales

## Points to note

- The information set out in this Welsh Procurement Policy Note (WPPN) is not legal advice and is not intended to be exhaustive – WPS bodies should seek their own independent advice as appropriate. Please also note that the law is subject to constant change and advice should be sought in individual cases. This document reflects the position as at December 2020.
- This WPPN is drafted primarily for Welsh public sector officials in procurement, commercial and finance roles and therefore assumes a certain level of knowledge of public procurement.
- Any queries should be directed to [CommercialPolicy@gov.wales](mailto:CommercialPolicy@gov.wales) or via the Welsh Government's customer services first point of contact.

## 1. Purpose

1. WPPN 03/20 supports and builds on the recently published Procurement Policy Notes on [FTS PPN 08/20](#) and [Public Procurement after the Transition Period PPN 10/20](#) by the Cabinet Office.
2. PPN 08/20 and PPN 10/20 provide information on how the public procurement regulations, will be affected after the end of the Transition Period (23:00 on 31st December 2020).

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3. This WPPN provides further information and clarification specifically in relation to WPS bodies who use Sell2Wales as their local eSender notification service. This WPPN also provides an update on public procurement after the end of the Transition Period.

## 2. Dissemination and scope

1. This WPPN is for the attention of all WPS bodies in Wales, including Welsh Government departments, NHS Wales bodies, Welsh Government Sponsored Bodies, local authorities and the wider public sector. Together, these are referred to in this WPPN as 'WPS bodies'. This WPPN covers goods, services and works contracts being delivered in Wales.
2. Please circulate this WPPN across your organisation and to other relevant organisations that you are responsible for, drawing it to the specific attention of those in procurement, commercial and finance roles.

## 3. Background

1. The UK officially left the EU on the 31st January 2020 and entered into a Transition Period which will end on the 31st December 2020 at 23:00.
2. A Statutory Instrument (SI), The Public Procurement (Amendment etc.)(EU Exit) Regulations 2020, have been made to ensure that procurement legislation continues to operate effectively after the end of the Transition Period.
3. This SI makes amendments to the Regulations to address deficiencies arising from the withdrawal of the UK from the EU (such as advertising in the Official Journal) and to give effect to the public procurement chapter of the Withdrawal Agreement agreed between the UK and the EU. It also replaces the no-deal Statutory Instrument laid previously and amended. The new SI

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can be viewed on the [Statutory Instrument pages on gov.uk](#).

4. This means that operationally the framework and principles underlying the Regulations (e.g. procedures, financial thresholds, etc.) will not substantially change.
5. However, after the end of the Transition Period, a UK-wide service is being introduced to replace OJEU in the UK. This means that from 23:00 on 31st December 2020, new UK public procurement opportunities will need to be published on the new UK e-notification service called Find a Tender Service (FTS). Further details on the introduction of the FTS may be found in PPN 08/20

## 4. Actions required by Welsh public sector bodies

### 1. FTS and Sell2wales

1. When FTS goes live, Sell2Wales will continue to operate in a similar way as it does now and public sector buyers will continue to use Sell2Wales. All procurement notices will need to be published on FTS through Sell2Wales, much the same as if it was an OJEU notice currently. Sell2Wales remains free for users (buyers and sellers).
2. Welsh Government has been working with the UK government to ensure Sell2Wales can link to the new FTS in English or Welsh.
3. It is anticipated that the Sell2Wales functional changes outlined in this WPPN will come into effect from the week commencing 4th January 2021. Therefore, any notices submitted after 23:00 on the 31st December 2020 will not be published to FTS until 4th January 2021. Buyers will need to factor this requirement into the advertising timescales.

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## 2. Will there be any changes to Sell2Wales?

As mentioned above at 4.1.1, Sell2Wales will continue to function in a similar way as it does now. However, there will be some terminology changes on the portal to reflect changes to public procurement after the end of the Transition Period.

Another change will be in the '**Search Contracts**' page, Sell2Wales will be introducing a Welsh flag icon which will appear for contracts published on Sell2Wales below the procurement threshold, replacing the current UK flag icon. The UK flag icon will now be used for contracts representing an above procurement threshold notice published to FTS. For notices published to OjeuOJEU / Tenders Electronic Daily (TED) they will retain the EU flag icon.

The changes outlined above will gradually be introduced in January 2021, we anticipate the changes will start to be visible from week beginning 4 January with the flag icon change being incorporated by the end of January. Until the flag icon change is implemented, all above threshold Notices will retain the EU flag icon.

## 3. Notifications to OJEU / TED after 26 October 2023

From 1 January 2021, (the end of the transition period after EU Exit) notices for higher value contracts have been published on the UK e-notification service Find a Tender Service (FTS) as well as appearing on Sell2Wales. This replaced the requirement for them to be published on the Official Journal of the European Union (via their TED) system, with 2 exceptions:

1. Transitional procurements (public sector contract opportunities that were launched but not concluded before 11pm on 31 December 2020), and
2. All notices relating to EU funded procurement exercises.

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These have continued to be published on TED, as well as FTS and Sell2Wales. This has been managed automatically by Sell2Wales.

From 26 October 2023, OJEU are making changes to the TED portal which means that notifications from Sell2Wales will no longer be compatible. Therefore from that date, notifications relating to transitional and EU funded procurements will no longer be sent to TED automatically by the Sell2Wales system. Organisations still wishing to notify TED of their procurement activity are able to do so themselves. Notices can now be sent to TED via the new EU tool, eNotices2.

The Sell2Wales system will be updated to reflect these changes after 26 October 2023.

#### **4. What happens if a process started before the end of Transition Period?**

If a procurement procedure has been launched before the end of the Transition Period but it has not been finalised (i.e. not awarded), the requirement to publish notices to the OJEU will continue to apply after the end of the Transition Period. However, any notices for these procurements that are published after the end of the Transition Period will be placed in both the OJEU and FTS and will be done automatically by Sell2Wales.

The Regulations as they apply before the end of the Transition Period, in relation to notices, will continue to apply to live contracts, framework agreements and dynamic purchasing systems concluded before the end of the Transition Period, including the award of contracts based on such agreements.

In summary, WPS bodies will continue to be required to publish any notices for the above procurements in the OJEU. However, any notices published after the end of the Transition Period will also need to be published on the FTS.

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Sell2Wales will no longer automatically publish these to OJEU.

## **5. What will happen to notices for new procurements which have been sent but have not been published before the end of the Transition Period?**

1. It can take up to 48 hours (or longer in exceptional circumstances) for all OJEU notice submissions to be published. Please note that a procurement is launched when a contract has been advertised, including for example by way of publication of a prior information notice as a call for competition or a contract notice, or notified to those involved where an advertisement is not required. Therefore, if the notice is not published before the end of the Transition Period, the requirement to publish the notice in the OJEU (as detailed in section 4.2.1 above) will not apply and will be published to FTS only, with the exception of the circumstances set out in section 4.6 below. Due to Sell2Wales functional changes mentioned in this WPPN, these will not be published on FTS until 4th January 2021. Buyers will need to factor this requirement into the advertising timescales.

## **6. How will exiting the EU affect the publishing of PIN notices?**

PIN notices will still be required in line with the Regulations. After the end of the transition period, the FTS will be used to publish new notices.

1. Sell2Wales will automatically transfer relevant details to FTS after the end of the transition period. If you have issued a PIN prior to the end of the transition period (unless you have used it as a call for competition itself) any subsequent contract notice will be deemed as the commencement of the procurement process and therefore it will be subject to the new requirements

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and will be published to FTS and not OJEU/TED by Sell2wales (except in the circumstances explained in section 4.6 below).

## **7. What happens with procurements which are WEFO funded?**

1. Any new procurements for WEFO funded programmes after the end of the transition period must continue to be advertised on OJEU / TED. To do this, you will need to use the new EU tool, eNotices2.

## **8. What is the process for advertising on FTS in Welsh?**

1. FTS service will be available in English and Welsh. As a result Sell2Wales buyers will be able to create FTS Notices on the Welsh version of the Sell2Wales Portal, with all the menus and other static content of the site will be available in Welsh when using the FTS Notice creation element.
2. When using the Welsh version of the Portal to complete this process, buyers will have to include the English text alongside the Welsh text (in the same box) and vice versa if they choose to use the English version of the Portal and wish to include Welsh content. The notices will then be sent to the FTS for submission following the same process as is used now for OJEU submissions. When the Notice has been published on FTS, the buyer will get an email notification.
3. As mentioned in section 4.1.3 it is anticipated that the Sell2Wales functional changes outlined in this WPPN will come into effect from the week commencing 4th January 2021. Therefore, any notices submitted after 23:00 on the 31st December 2020 will not be published to FTS until 4th January 2021. Buyers will need to factor this requirement into the advertising timescales.

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## 9. Please note

Sell2Wales will have a process for checking all notices to be published after the end of the Transition Period to determine whether the Notice needs to be sent to OJEU and/or FTS. Buyers will only be contacted if OJEU has rejected a notice as is currently the case. If the correction takes the publication after the end of the Transition Period, it will only be issued to FTS. Please note, if there is a requirement to resend the notice to FTS, you may need to review the timescales included to ensure they remain compliant with the Regulations.

## 5. Legislation

1. The legislation relevant to this WPPN 03/20 are:
  - [The Public Contracts Regulations 2015](#)
  - [The Public Procurement \(Amendment etc.\) \(EU Exit\) Regulations 2020](#)
  - [The Utilities Contracts Regulations 2016](#)
  - [The Concession Contracts Regulations 2016](#)

## 6. Timing

1. WPS bodies should be aware that the procedures detailed in this WPPN will apply from 23:00 on 31st December 2020 until it is superseded or cancelled.

## 7. Additional information

1. The UK will become an independent member of the Government Procurement Agreement following the end of the Transition Period on 1st January 2021. This will ensure UK suppliers can continue to bid for government contracts overseas on substantially the same terms as currently provided to the UK.
2. Welsh Government is considering potential reform of the procurement regulations and is liaising with UKG and other devolved administrations. We will provide more information shortly.

## 8. Contact details

If you have any questions about this WPPN, please contact;

- Commercial Policy – Polisi Masnachol : [CommercialPolicy@gov.wales](mailto:CommercialPolicy@gov.wales)
- Caffael.Trefniadau Pontio'r UE – Procurement.EU Transition: [Procurement.EUTransition@gov.wales](mailto:Procurement.EUTransition@gov.wales)
- Sell2wales Technical enquiries – contact the sell2wales technical support helpline on 0800 222 9004.

## 9. Acknowledgements

The following publications were utilised in the preparation of this WPPN:

- [PPN 08/20 Procurement Policy Note on publishing using FTS](#) (Crown Commercial Services November 2020)
- [PPN 10/20 Public Procurement after the Transition Period ends on 31](#)

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**December 2020** (Crown Commercial Services – dated December 2020)

- Post EU Transition Period changes on Sell2Wales (Sell2Wales – dated December 2020)

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