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# About time: Two rulings on time limits in procurement challenges

Published 27 May 2014

For an aggrieved unsuccessful bidder, bringing a procurement challenge requires fast action in circumstances where the bidder may not be able to point to each and every breach of the Public Contracts Regulations 2006, and is often acting with little more than a feeling that something was not quite right with the process.

On 15 May 2014 the court in *Travis Perkins Trading Company Ltd v Caerphilly County Borough Council* considered whether very broad references to breaches of the Regulations and EU Treaty principles in the claim form were sufficient to cover what was subsequently pleaded in more detail with reference to specific Regulations in the Particulars of Claim.

This was important because, if new issues were pleaded in the Particulars of Claim, they would have been time-barred by the limitation period under the Regulations.

It was the court's view that the broadly drafted claim form was sufficient - the later Particulars provided more detail on these alleged breaches, but raised no new claims which would have been time barred.

## What are the time limits?

Generally bidders have 30 days to bring proceedings from first becoming aware that grounds for challenge under the Regulations have arisen. Bringing proceedings requires a claim form to be issued in the High Court, and that claim form must include "Brief Details of Claim". More detailed Particulars of Claim must be served later, generally within 7 days, but in this instance the parties had agreed an extension of time for the Particulars to be served so that they could be drafted once more detail was available to the claimant.

## When does time start to run?

Often the date of the standstill letter at the end of a process is considered to be the last "date of knowledge" from which an aggrieved bidder has 30 days to bring a claim. However this is not always the case and adopting this position can lure contracting authorities into a false sense of security.

This was considered in a European case earlier this month, in which the court re-confirmed that the time period for bringing a challenge runs from the date of knowledge of the breach, or the date on which the claimant should have known about the breach "on the basis of the information it could have obtained through the exercise of ordinary diligence", even if this is more than 30 days after issue of the standstill letter.

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