



Lord True CBE
Minister of State
Cabinet Office 70 Whitehall London SW1A 2AS

Baroness Neville-Rolfe
House of Lords
London
SW1A 0PW

Our reference: MC2022/12494

4th August 2022

Dear Baroness Neville-Rolfe,

PROCUREMENT BILL: DEBARMENT LIST

Thank you for your constructive contribution to last week's Committee debate on the Procurement Bill. Your experience in business added valuable perspective to what was an exceptionally wide-ranging debate, and I listened with interest to your points about avoiding perverse impacts on the supplier base.

I'm writing to respond to your specific question regarding the provision for a debarment list. You were interested in particular in how the debarment process would work in relation to tax and competition misconduct. I should start by explaining that the debarment list is intended to focus on the most serious cases of supplier misconduct, where suppliers may pose a significant risk to contracting authorities or the public. It is not the case that every supplier which meets a ground for exclusion will be considered for inclusion on the debarment list. Rather, there will be a prioritisation policy which governs how cases are selected for investigation. It is likely that only a small number of cases will be considered each year.

It is also important to clarify that meeting a ground for exclusion is not sufficient on its own to justify the addition of a supplier to the debarment list. In addition to considering whether an exclusion ground applies, the Minister must also consider whether the circumstances that led to the application of the exclusion ground are likely to occur again. Only if the circumstances are considered likely to occur again may the supplier be added to the debarment list. This ensures that exclusion is not a

punishment for past behaviour but a forward-looking measure based on the risk posed by the supplier.

A list of relevant factors in this consideration is provided in Clause 55. In the example you mentioned, it is likely that a settlement with the tax authorities in relation to tax misconduct would be considered as relevant evidence in the supplier's favour. Whether it would be sufficient to make the issues in question unlikely to reoccur would depend on the specific circumstances.

Suppliers which meet grounds for exclusion and where the issues are likely to reoccur are still liable to be excluded by individual contracting authorities on particular procurements, even if the supplier is not on the debarment list. However, all mandatory exclusion grounds, including the tax and competition-related grounds, have been designed to focus on serious misconduct. Only convictions or rulings against the supplier or a connected individual or entity within the last five years, where the circumstances are likely to occur again, may lead to exclusion under the mandatory grounds.

I am confident these provisions will avoid any disproportionate impact on suppliers or contracting authorities.

I remain grateful for your continued interest in these important issues.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'True', written in a cursive style.

Lord True CBE