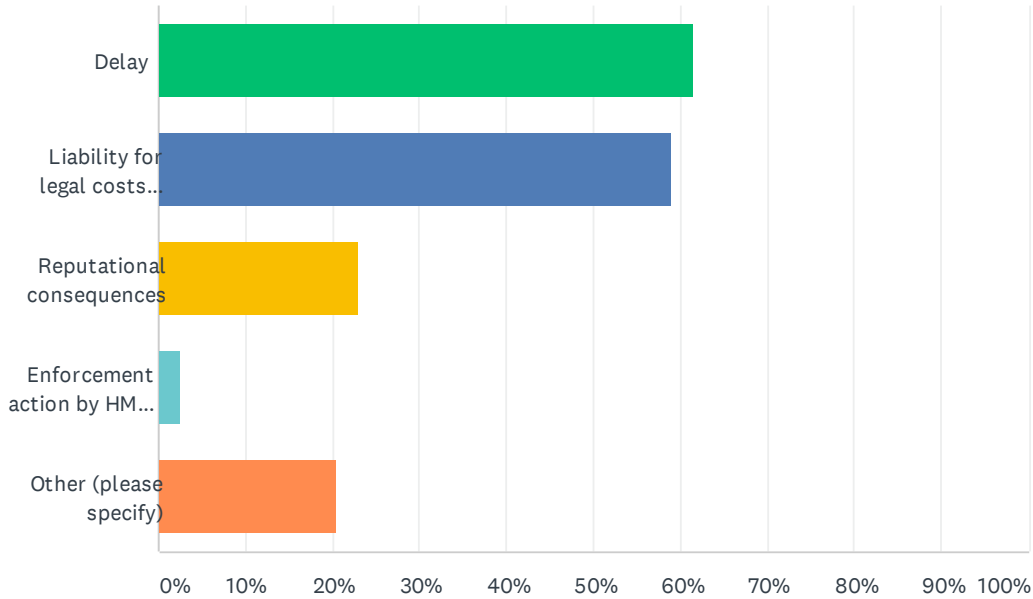


Q1 What is your biggest concern(s) with regards to possible challenges to procurement processes?

Answered: 39 Skipped: 0

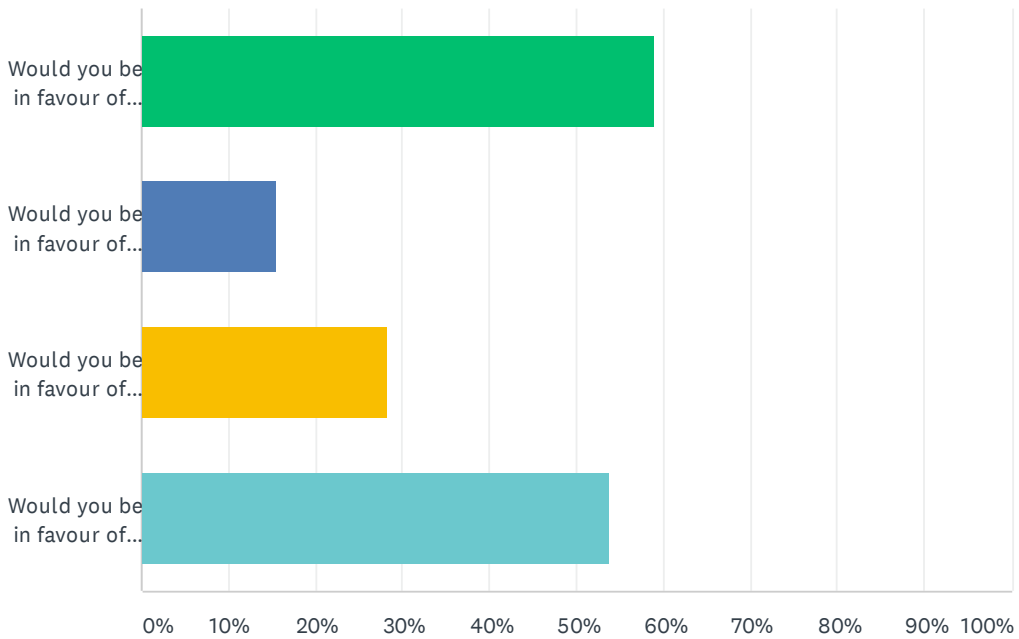


ANSWER CHOICES	RESPONSES
Delay	61.54% 24
Liability for legal costs and/or damages	58.97% 23
Reputational consequences	23.08% 9
Enforcement action by HMG/ European Court of Auditors/ regulators?	2.56% 1
Other (please specify)	20.51% 8
Total Respondents: 39	

#	OTHER (PLEASE SPECIFY)	DATE
1	The right remedies are not generally available	8/26/2020 9:59 AM
2	The ease of consequence-free speculative challenges	8/23/2020 1:39 PM
3	A restriction to the grounds of challenge to a procurement.	8/13/2020 5:34 PM
4	Strategic use of challenges	8/12/2020 11:03 AM
5	Ensuring there is a level playing field	8/11/2020 9:34 AM
6	certainty on the rules particualry the postion on EU precdent moving forward	8/10/2020 11:25 AM
7	Excess process missing purpose focus	8/7/2020 6:09 PM
8	Restriction of access to the right to challenge procurement process	8/7/2020 11:32 AM

Q2 In relation to litigation and challenges to procurement processes: [Tick those to which you'd answer 'yes']

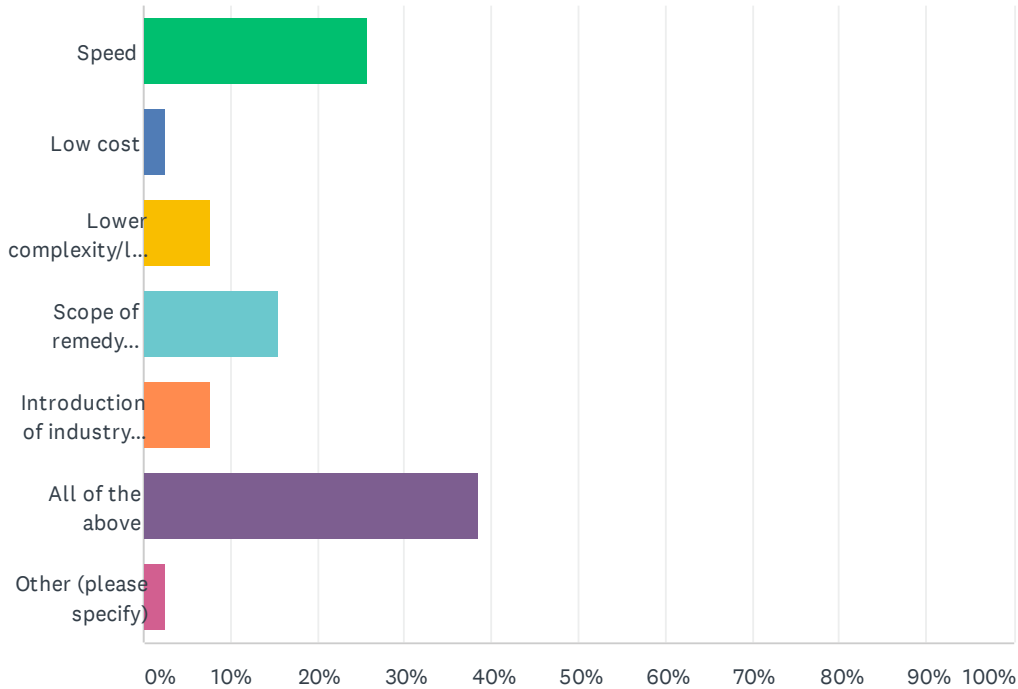
Answered: 39 Skipped: 0



ANSWER CHOICES	RESPONSES	
Would you be in favour of the introduction of a cheaper and quicker alternative in place of High Court litigation?	58.97%	23
Would you be in favour of maintaining the existing High Court litigation forum "as is"?	15.38%	6
Would you be in favour of reforming the existing High Court litigation forum?	28.21%	11
Would you be in favour of the introduction of an alternative system alongside High Court litigation?	53.85%	21
Total Respondents: 39		

Q3 In designing any reforms, what are your key driving factors?

Answered: 39 Skipped: 0

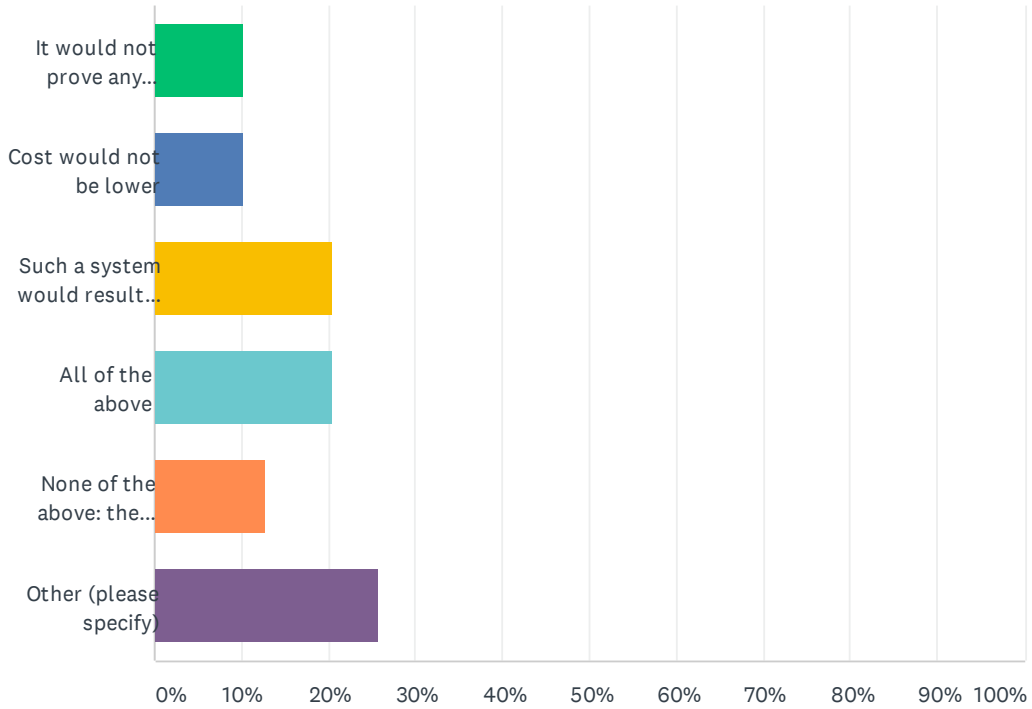


ANSWER CHOICES	RESPONSES	
Speed	25.64%	10
Low cost	2.56%	1
Lower complexity/less management time expended	7.69%	3
Scope of remedy available	15.38%	6
Introduction of industry expertise into decision making process	7.69%	3
All of the above	38.46%	15
Other (please specify)	2.56%	1
TOTAL		39

#	OTHER (PLEASE SPECIFY)	DATE
1	Speed and cost equally important	8/15/2020 5:47 PM

Q4 What would be your principal concern with an alternative to High Court Litigation?

Answered: 39 Skipped: 0



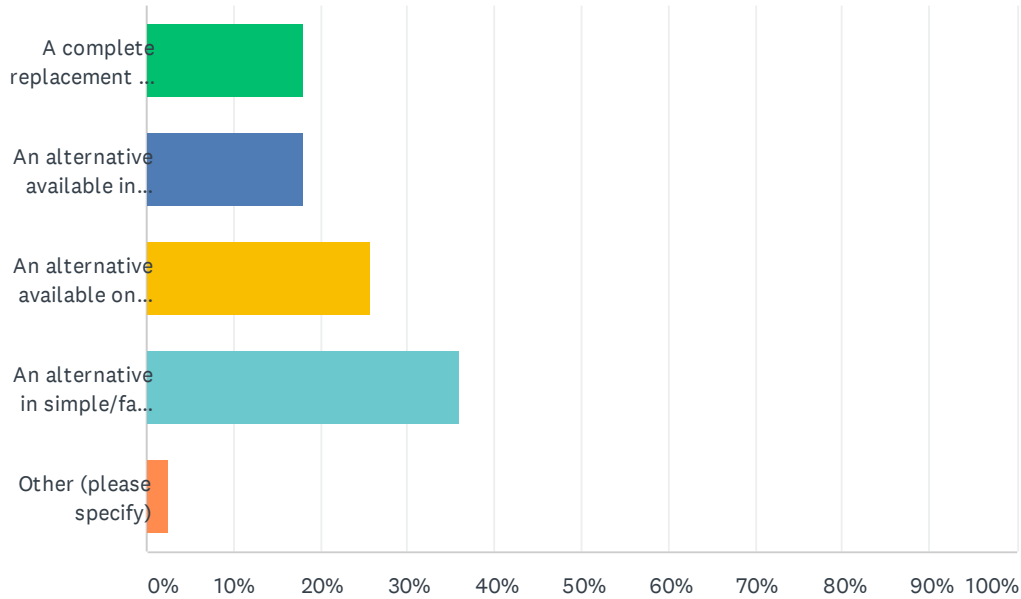
ANSWER CHOICES	RESPONSES	
It would not prove any quicker than current litigation	10.26%	4
Cost would not be lower	10.26%	4
Such a system would result in more litigation	20.51%	8
All of the above	20.51%	8
None of the above: the current system secures the best resolution to the issues	12.82%	5
Other (please specify)	25.64%	10
TOTAL		39

Procurement Law Remedies Reforms

#	OTHER (PLEASE SPECIFY)	DATE
1	Less informed decision making leading to poorer outcomes and less confidence in the system	8/24/2020 7:51 PM
2	Accessibility - if operating properly it should result in more challenges but with much quicker and cheaper resolution. This will require regional centres with sufficient staff and expertise in order to ensure user confidence in the system.	8/24/2020 11:52 AM
3	Would need to be exhaustive save for manifest error etc.	8/23/2020 1:39 PM
4	It would become "over lawyered" not really fast track	8/15/2020 5:47 PM
5	None	8/13/2020 9:40 AM
6	More cases going through quicker alternative method	8/12/2020 11:03 AM
7	Potential to lower the barriers to challenge and increase speculative challenges; resulting in regular delays.	8/7/2020 2:02 PM
8	All of the above but using the word "may" rather than would. Any alternative would need to improve all the above or would be pointless.	8/7/2020 1:28 PM
9	Protection of rights of defendants	8/7/2020 11:36 AM
10	I don't have any concerns with an alternative	8/7/2020 11:32 AM

Q5 If an alternative to high Court litigation was to be considered/introduced, would you favour:

Answered: 39 Skipped: 0

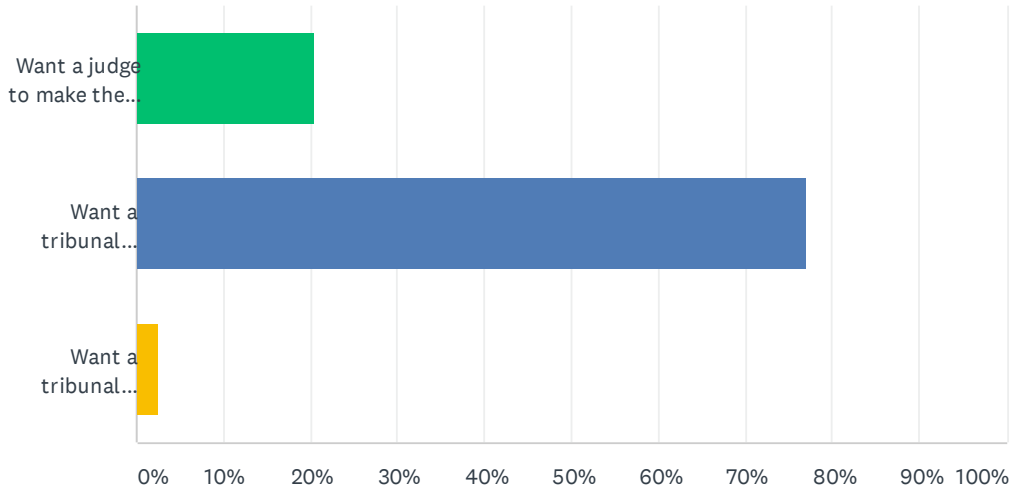


ANSWER CHOICES	RESPONSES	
A complete replacement for High Court litigation	17.95%	7
An alternative available in all cases at the choice of the claimant	17.95%	7
An alternative available only if both parties agree	25.64%	10
An alternative in simple/fact based cases (e.g., SQ issues or conflict of interest) or during the process, as opposed to post-award claims	35.90%	14
Other (please specify)	2.56%	1
TOTAL		39

#	OTHER (PLEASE SPECIFY)	DATE
1	An alternative for all disputes other than claims for damages which should be for lost profit only (not bid costs) and which should continue to be pursued as Part 7 claims in the High Court.	8/24/2020 11:52 AM

Q6 If reforms were to be introduced, would you:

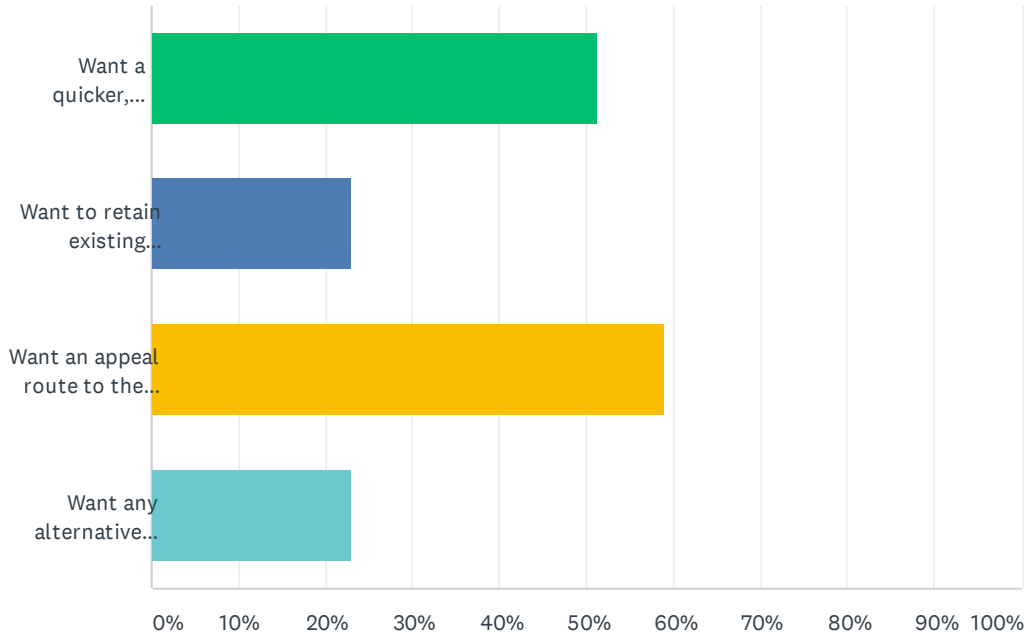
Answered: 39 Skipped: 0



ANSWER CHOICES	RESPONSES	
Want a judge to make the decision (as in the current system)	20.51%	8
Want a tribunal including experienced procurement professionals as well as a lawyer to make the decision	76.92%	30
Want a tribunal composed solely of experienced procurement professionals without a lawyer to make the decision	2.56%	1
TOTAL		39

Q7 If reforms were to be introduced, would you:

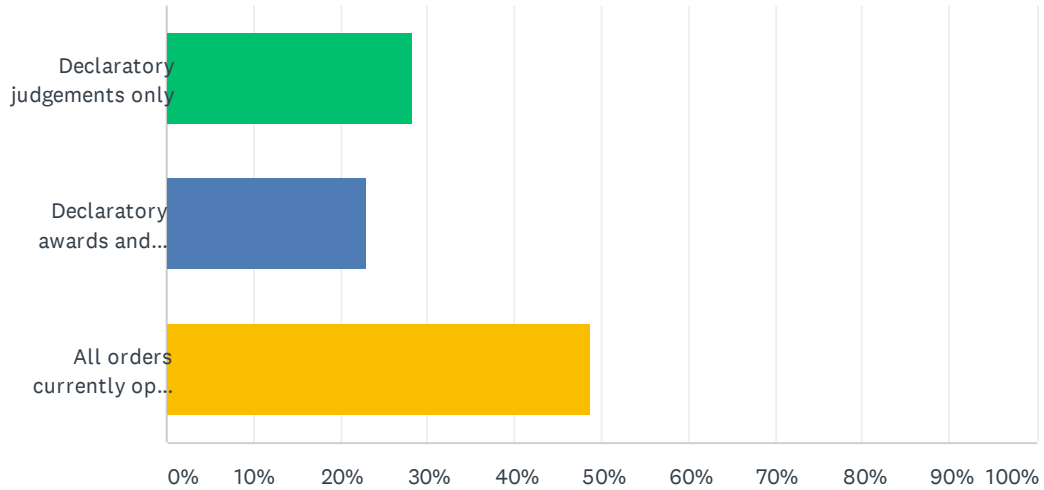
Answered: 39 Skipped: 0



ANSWER CHOICES	RESPONSES	
Want a quicker, cheaper process, accepting that this might mean foregoing steps such as disclosure, extensive pleadings and cross examination	51.28%	20
Want to retain existing processes and safeguards	23.08%	9
Want an appeal route to the High Court if an alternative body is introduced	58.97%	23
Want any alternative body to function as a two tier system, as for employment	23.08%	9
Total Respondents: 39		

Q8 If an alternative to High Court litigation were to be introduced, would you be comfortable for it to have the power to make:

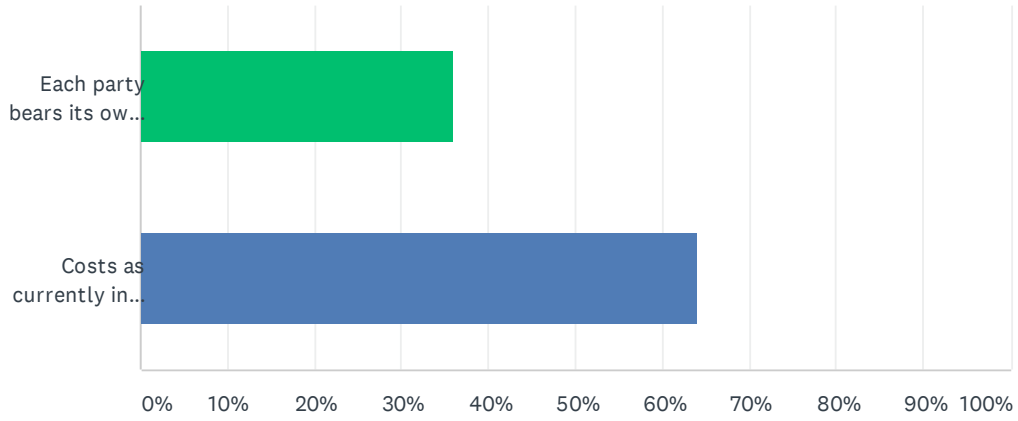
Answered: 39 Skipped: 0



ANSWER CHOICES	RESPONSES	
Declaratory judgements only	28.21%	11
Declaratory awards and financial awards but not declarations of ineffectiveness	23.08%	9
All orders currently open to the High Court	48.72%	19
TOTAL		39

Q9 If reforms were to be introduced, what do you think should be the position with regards to costs?

Answered: 39 Skipped: 0



ANSWER CHOICES	RESPONSES	
Each party bears its own costs	35.90%	14
Costs as currently in High Court litigation	64.10%	25
TOTAL		39

Q10 Do you have any other comments or thoughts in relation to the settling of procurement challenges?

Answered: 9 Skipped: 30

#	RESPONSES	DATE
1	There is a legitimate question as to whether it should be permissible to make confidential settlements of procurement claims; this is public money.	8/26/2020 9:59 AM
2	To clarify re Q8 and 9: The alternative (Tribunal) should be able to make orders including, for example, amending documents and setting aside a decision (as well as ineffectiveness). It should also be able to order payment of bid costs. Damages for lost profit should be pursued in the High Court in order to prevent those cases clogging up what should be a swift Tribunal service. On costs, the Tribunal should have the power to order costs but the rules should make clear (as in the EA) that this should be the exception. Costs should be capped. The caps could be set by reference to the category of application/dispute or (where appropriate) to the value of the procurement. This should be set out in the Tribunal rules.	8/24/2020 11:52 AM
3	We shouldn't forget Scotland and its systems.	8/23/2020 1:39 PM
4	There should be an automatic right to inspect certain documents (as in Germany) to avoid expensive early disclosure applications; there needs to be a better system of dealing with confidentiality issues to avoid many thousands being spent on agreeing confi rings and arguments as to membership; there should be an automatic role for interested parties (e.g. successful bidders) with clear rules on costs in relation to their participation	8/12/2020 11:03 AM
5	Although the time frames currently imposed for procurement challenges seek to curtail prolonged delays and waste of public resources, the High Court system in the UK is not generally fir for purpose in this regard as it is primarily set up for adversarial, prolonged processes.	8/11/2020 3:29 PM
6	We should look to learn lessons from across the world, noting the existing regime and learning from our experiences in the EU	8/11/2020 9:34 AM
7	I do't think stages such as disclosure should be removed. However, it would be possible to establish a specialist Procurement Tribunal that would actively case manage litigation by: (a) holding a hearing within a few days of a claim being issued; (b) deciding what early disclosure should be given; (c) dealing with confidentiality issues; and (d) take a more proportionate approach to disclosure, whereby the key documents are disclosed at the outset, but the proceedings are not then bogged down with a subsequent massive disclosure exercise. where a huge number of 'manifest errors' are alleged, it may be appropriate to try, say, 10 sample alleged errors first.	8/7/2020 2:08 PM
8	Consideration of a process of Attestation	8/7/2020 11:55 AM
9	no	8/7/2020 11:36 AM