

A&L Goodbody

How is Material-Price Inflation Playing Out?

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27 September 2022



Context



scsi.ie

Surge in building costs to keep house prices at boom levels

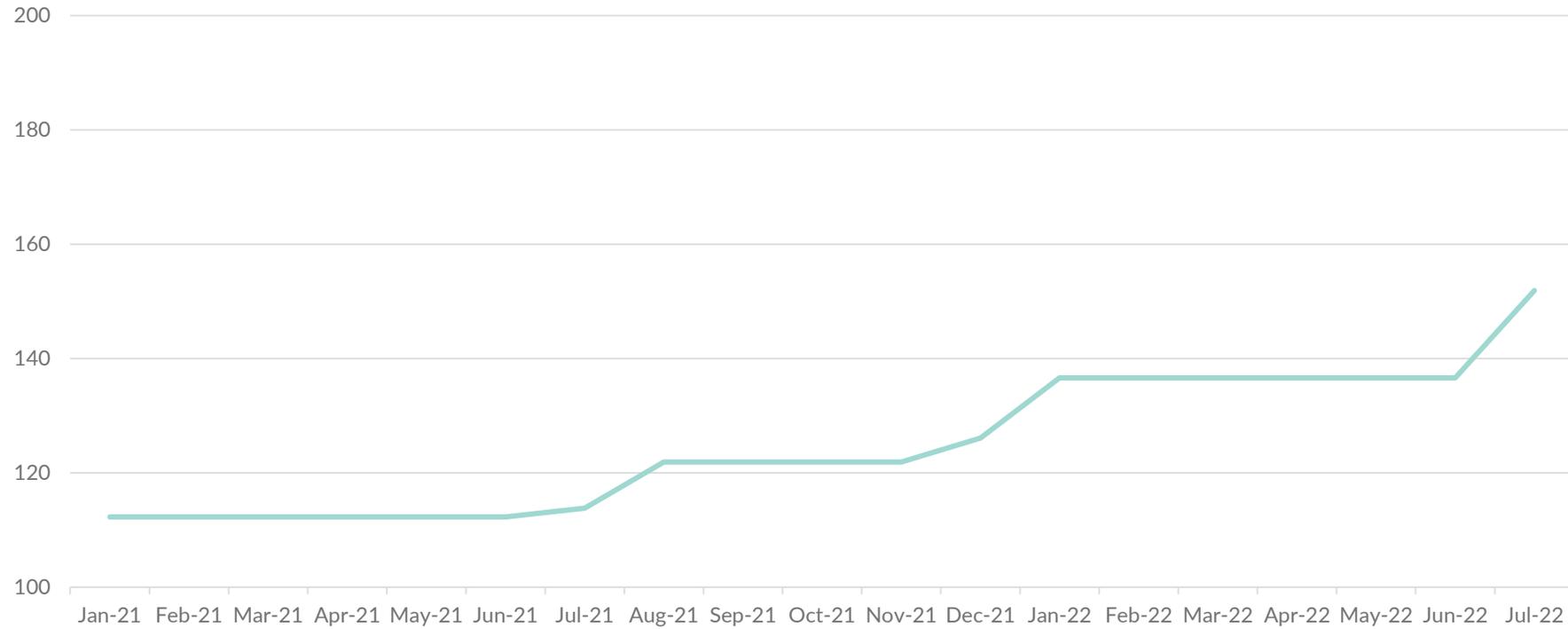
- Inflation is likely to dash any immediate hopes that potential first-time buyers have of getting onto the property ladder
- Increased housing supply in danger of being offset by spiking material costs

Independent.ie 

7 June 2022

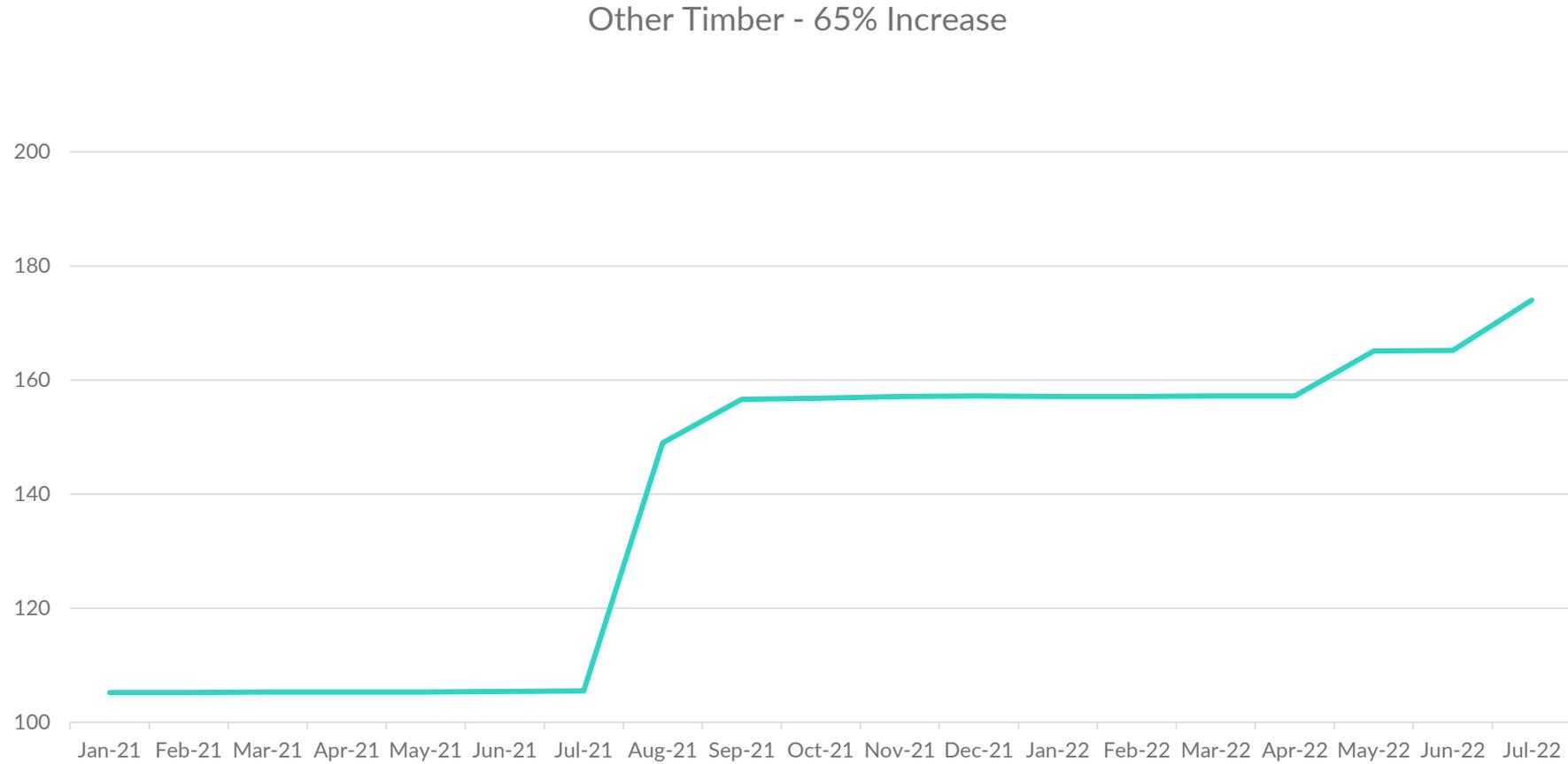
Context

Precast Concrete - 35% Increase



Source: CSO Wholesale Price Index

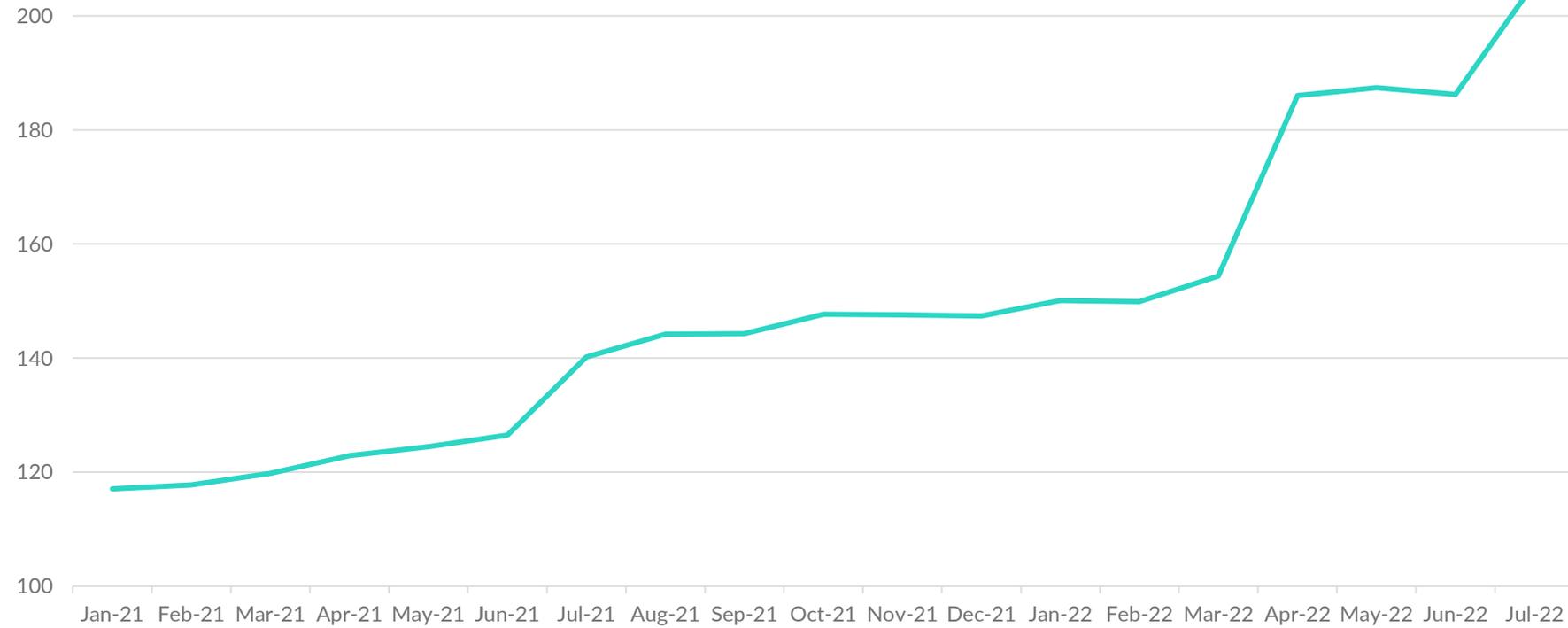
Context



Source: CSO Wholesale Price Index

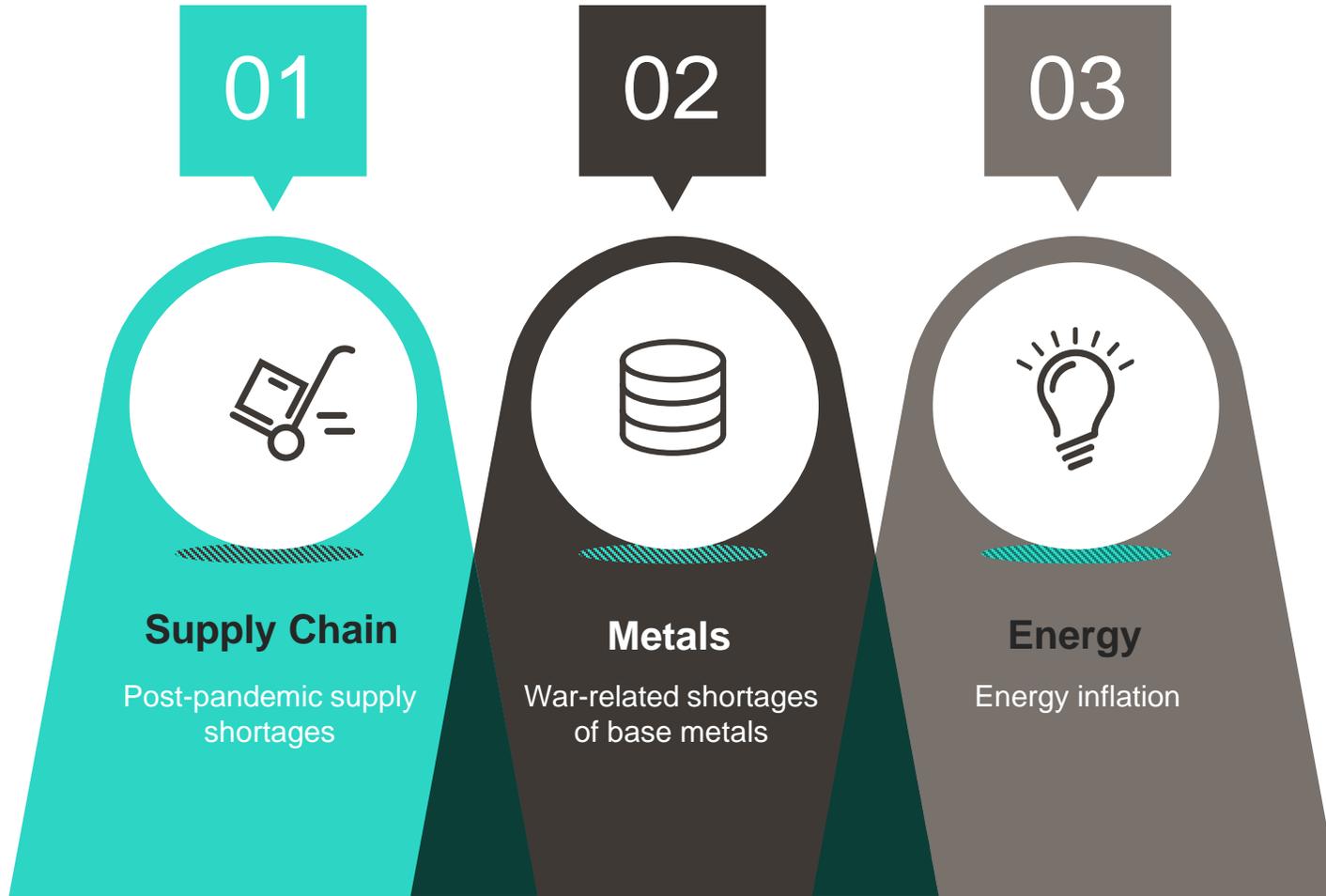
Context

Structural Steel and Reinforcing Metal - 76% Increase

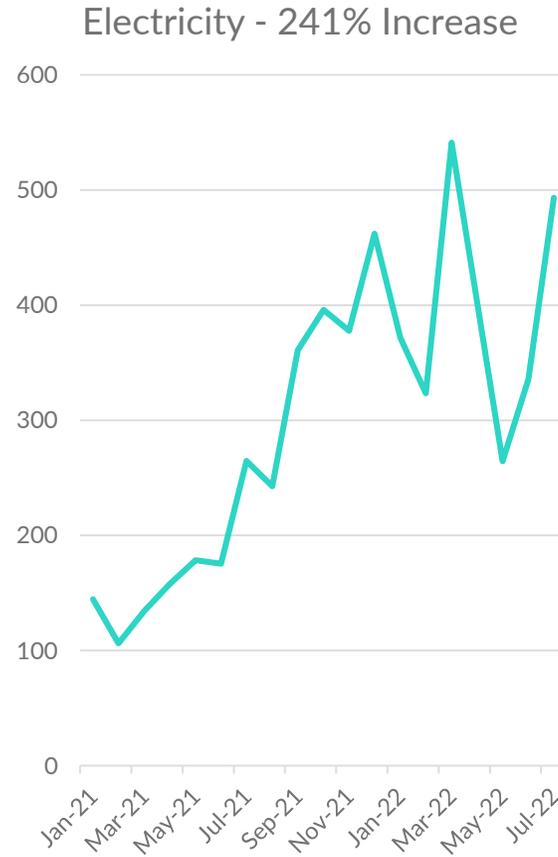


Source: CSO Wholesale Price Index

Causes



Causes



Source: CSO Wholesale Price Index

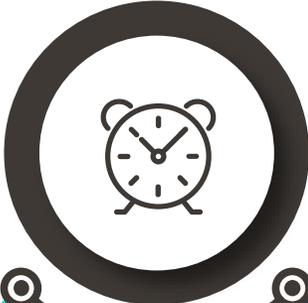
Related Issues

- Unavailability of skilled personnel
- Sectoral Employment Orders
- Tightening insurance market
- Opportunistic price increases

Effects

Delay

Procurement and completion delays



Postponements

Paused public and private developments



Tenders

Reduced contractor interest in tender competitions



Funding

Tightening funding conditions



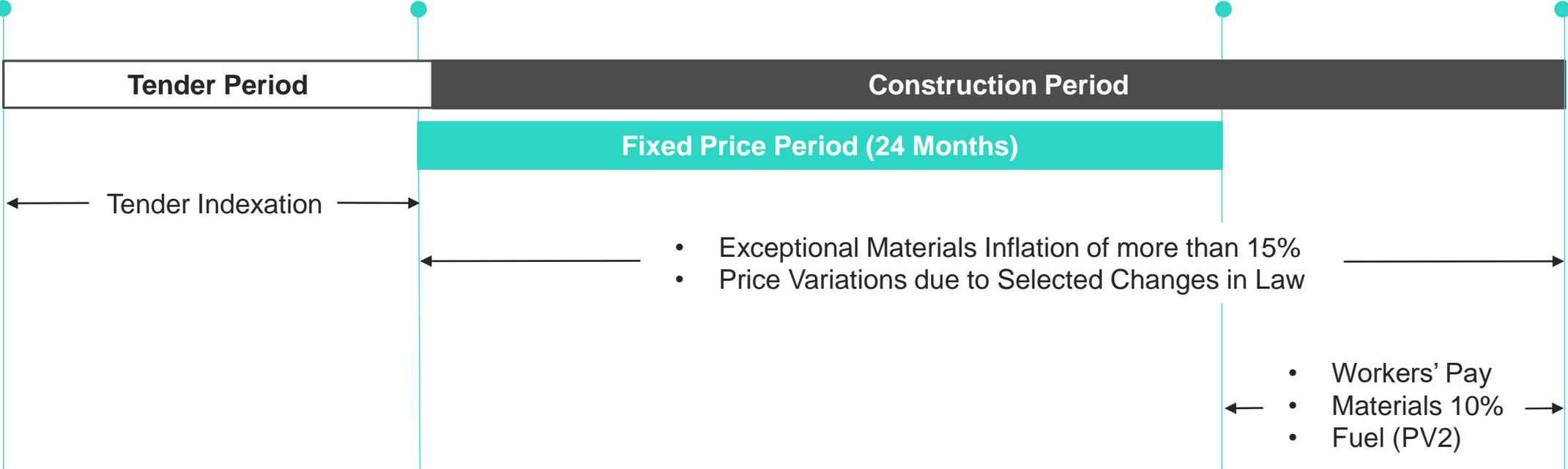
Losses

Contractor and subcontractor losses

Mitigation Attempts

- Public:
 - > Changes to the public works contracts
 - > Inflation/Supply-Chain Delay Cooperation Framework
 - > Creative procurement solutions
- Private:
 - > Ad-hoc, project-by-project, solutions
 - > Softening approach to risk

Public Works Contracts – January 2022



This slide is indicative only – refer to GN 1.5.2 for full information

The Framework – May 2022

- Recommended by the OGP, but not compulsory
- Ex-gratia payments and EOTs
- Maximum 70/30 share of inflation
- Some provisions do not apply to contracts dated 7 January 2022 or later
- Only applies to inflation and supply-chain delay experienced after 1 January 2022

Public Sector Mitigation Measures



Broadly Positive

Is assisting and has assisted contractors to manage inflation.



Overly Prescriptive?

Very rule-heavy, and addresses only elements of inflation.



Administratively-Burdensome

Detailed workbooks / schedules.

Large volumes of receipts and vouching documentation.

Private Projects

- Bespoke risk-sharing provisions
- Open-book supply-chain procurement
- Reinsertion of standard-form provisions
- Price increases
- LAD holidays, and new (old) grounds for EOT
- Remeasurable projects

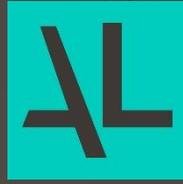
Current Disputes

- Surprisingly few
- Largely a binary issue; the contract provides for relief or it doesn't
- Frequently a commercial, rather than a legal, issue
- Pragmatic approach by employers

Potential Future Disputes

- The functioning of quickly-drafted inflation provisions
- Whether inflation provisions cut both ways
- Discontinuation of niche indices

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Thank you

