

Scheme Of Governance

PART 5

Procurement Standing Orders



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Supporting Documents

Schedule 2 of Public Contract (Scotland) Regulations 2015 –
Activities Constituting Works

Schedule 3 of Public Contract (Scotland) Regulations 2015 –
Light Touch / Social Care



Schedule 2 -
Works.pdf



Schedule 3 - Light
Touch_Social Care.d

VERSION CONTROL

Version	Date	Amendments
1.1	29.11.2023	-

1. OVERVIEW

- 1.1 The purpose of these Procurement Standing Orders is to:
- (i) Ensure that uniform contracting procedures of the highest standard are laid down for use throughout the Council;
 - (ii) Secure compliance with the law;
 - (iii) Ensure that the Council obtains best value in its procurement activity and all resultant contracts;
 - (iv) Provide a framework for a more detailed Procurement Manual comprising a set of Procurement Guidance Notes; and
 - (v) Protect the Council and its staff.
- 1.2 This shall ensure the Council consistently acts in a transparent and proportionate manner and in a way that is equal and without discrimination. In turn this shall lead to value for money, and more sustainable outcomes.

2. AUTHORITY TO INCUR EXPENDITURE

- 2.1 Each Director shall have authority to incur expenditure included in the approved Revenue or Capital Budget for the services for which they are responsible up to the level of the Budget provision subject to Clauses 2.2 to 2.5 below and the authorisation limits set out in the Scheme of Governance to officers.
- 2.2 Each Director shall be responsible for reporting to the Policy & Resources Committee prior to the beginning of each financial year with a Procurement Plan listing all the proposed procurements falling within the remit of the Committee with an individual or aggregated Contract Value of £50,000 or more (Goods & Services), £1m (Works*) and updating the Committee from time to time in the event of any new procurements within the same value bandings requiring to be added to the Procurement Plan.

Provided that:

- (i) Where the Council is legally obliged to enter into a self-directed support care contract, contract for examination fees or contract to pay disclosure fees, licence fees and copyright fees the expenditure does not have to be approved in a Procurement Plan and can be

approved by the relevant Chief Officer / Director in the form of an award of contract.

- (ii) Where a procurement is funded by only Pupil Equity Funding, the relevant Chief Officer / Director has the delegated authority, in place of the relevant committee, to approve the addition of new procurements with a Contract Value of £50,000 or more to the Procurement Plan.
- 2.3 Expenditure on the alteration, maintenance or repair of buildings may not be incurred until appropriate technical or professional advice has been taken from the Director, or an officer nominated by the Director, of Infrastructure & Environment, except in relation to routine maintenance of houses provided under the Housing Acts and included in the Housing Revenue Account.
 - 2.4 Expenditure on I.T. software and hardware may not be incurred until appropriate technical or professional advice has been taken from the Service Leader of Digital Enablement and IT.
 - 2.5 Expenditure on Consultants that is estimated to be £50,000 or more may not be incurred until after consultation with the Director of Finance.
 - 2.6 Single items of expenditure on goods, services or works shall require competitive quotations in accordance with tendering arrangements set out in Procurement Standing Order 3.
 - 2.7 For a contract of £50,000 or more that relates to the provision of utilities for any of the Council's operational properties, including but not limited to, electricity, gas, oil, liquid petroleum gas, biomass, energy supply metering and water, the policy committee with responsibility for Property and Facilities Management has the delegated power to approve all of the expenditure on that contract, regardless of budget responsibility.

* For the purposes of these Standing Orders, activities constituting Works shall mean contracts for the provision of activities as permitted by the Common Procurement Vocabulary (CPV) Codes for such services in Schedule 2 of the Public Contract (Scotland) Regulations 2015.

3. PROCUREMENT OF GOODS, SERVICES & WORKS

- 3.1 Public money should be spent with demonstrable probity and in accordance with the Council's policies. The Council has a responsibility to achieve best value through economy and efficiency whilst following the key principles of equal treatment, non-discrimination, transparency and proportionality.

The Council's procedures should help to ensure that Services obtain value for money from their purchasing arrangements whilst complying with legal obligations and procurement principles.

Officers should seek assistance from the Procurement & Commissioning Service and refer to the Procurement Guidance Notes available on the Intranet.

3.2 Definitions

The following definitions will apply to these Procurement Standing Orders:

Award Report means a formal report for approval by a Chief Officer / Director or Committee, as the case may be, (conforming to a template approved by the Procurement & Commissioning Service) seeking authority to award a contract for the purchase of goods, services or works.

Chief Officer / Director means a Chief Officer / Director of the Council having delegated authority to conduct a procurement process and award contracts in accordance with the Scheme of Governance and includes an officer that the Chief Officer / Director has subdelegated to, such sub-delegation being recorded and has taken account of the requirements of the Council's Financial Regulations.

Committee means Policy & Resource Committee as the relevant committee of the Council having delegated authority to conduct a procurement and award a contract in terms of the Scheme of Governance.

Committee Threshold means a Contract Value of over £50,000 (Goods & Services); £1,000,000 (Works).

Common Procurement Vocabulary (CPV) codes are the means of classification used within public procurement to standardise the references used by contracting entities to describe procurement contracts.

Contract means a contract entered into or to be entered into by the Council and a supplier for goods, services or works, and includes a framework agreement or a call-off contract under a framework agreement unless the context requires otherwise and also includes income or savings generating arrangements as described in Procurement Standing Order 22 and contract extensions or variations that do not have committee approval.

Contract Value means, subject to Procurement Standing Order 6 (Aggregation), the total value of a contract (exclusive of VAT) payable by the Council under the contract over the whole life of the contract (including any optional extension periods or any value transferred to the supplier by way of a concession or rights or some other asset/non-cash transfer). Unless known to be specifically different, this is taken to be a 4-year term.

Direct Award means the award of a Contract without the Council having sought competitive quotes or tenders.

Light Touch Regime (LTR) means a specific set of rules for certain contracts that tend to be of lower interest to cross-border competition. Those service contracts include certain social, health & education services, defined by Common Procurement Vocabulary (CPV) codes.

Procurement Approval Form means a formal report for the approval of a Chief Officer / Director or Committee, as the case may be, (conforming to a template approved by the Procurement & Commissioning Service) seeking authority to conduct a procurement for the purchase of goods, services or works.

Procurement Guidance Notes means the procurement guidance notes published by the Council's Procurement & Commissioning Service and as amended from time to time.

Procurement Legislation means the Procurement Reform (Scotland) Act 2014, the Public Contracts (Scotland) Regulations 2015, the Procurement (Scotland) Regulations 2016 and any other legislation which amends this legislation or governs public procurement in Scotland.

Procurement Plan means an annual schedule, presented to P&R Committee for approval, of all planned procurements in excess of the Committee Threshold from each Service for the forthcoming Financial Year.

Procuring Officer means an officer of the Council responsible for administering a procurement process having been approved by the Manager of the Procurement & Commissioning Service for such purpose in accordance with clause 3.1(iii) (and which officer may be referred to as a "Delegated Procurer" in the Procurement Guidance Notes").

Procurement Plan means a formal report for the approval of a Committee (conforming to a template approved by the Manager of the Procurement & Commissioning Service) with a list of proposed procurements.

Scheme of Governance means the Council's Scheme of Governance authorising Committees and Officers, as the case may be, to exercise powers on behalf of the Council.

3.3 In the event of conflicting terms the following order of priority will apply:

- (i) Procurement Legislation;
- (ii) The Council's Scheme of Governance: - "The Scheme of Delegation to Officers";
- (iii) The Council's Financial Regulations;

- (iv) The Council's Procurement Standing Orders
- (v) Procurement Guidance Notes.

4. MANAGER OF THE PROCUREMENT & COMMISSIONING SERVICE

The Manager of the Procurement & Commissioning Service shall be responsible for:

- (i) Overall management of the procurement function of the Council;
- (ii) Maintaining an up-to-date Contracts Register in accordance with the requirements of the Procurement Legislation for the monitoring of all contracts and framework agreements developed or in use across the Council, which shall include the value and amount of each contract (where able to be so identified);
- (iii) Designating suitable officers as Procuring Officers and maintaining a register of Procuring Officers;
- (iv) Organising appropriate training for Procuring Officers;
- (v) Publishing the Procurement Guidance Notes and ensuring that a monitoring process is in place to ensure that these are reviewed and updated.

5. PROCURING OFFICERS AND GUIDANCE

- 5.1 No officer shall be permitted to undertake a procurement process unless that officer has undertaken mandatory training and been designated a Procuring Officer by the Manager of the Procurement & Commissioning Service.
- 5.2 In response to repeat instances of procurement activity not undertaken in accordance with these Procurement Standing Orders, the Manager of the Procurement & Commissioning Service, in consultation with HR and the relevant Director, may withdraw an officer's authority to administer procurements and remove that officer from the register of approved Procuring Officers.
- 5.3 Procuring Officers shall observe all Procurement Legislation, the Council's Scheme of Governance, (including the Financial Regulations and these Procurement Standing Orders) and the terms of the Procurement Guidance Notes, along with any accompanying templates, when administering procurements.
- 5.4 Procuring Officers shall notify the Manager of the Procurement & Commissioning Service of details of all Contracts with a Contract Value of £10,000 or more for which they are responsible: -

- (i) which have been entered into by the Council during the current financial year (with sufficient information to enable the Manager of the Procurement & Commissioning Service to maintain an accurate and up to date Contracts Register); and
- (ii) prior to 31 March, details of all proposed Contracts with an aggregate value of £50,000 or more (Goods & Services) / £1,000,000 (Works), for which they will be responsible during the next financial year. All information to be provided in a format approved by the Manager of the Procurement & Commissioning Service.

6. AGGREGATION OF CONTRACTS

- 6.1 Where a Contract is one of a series of similar Contracts, across the Council for the same category of goods, or specific requirements needed to complete a project, the value of each must be aggregated to determine the relevant Contract Value. In the foregoing circumstances the Procuring Officer should seek guidance from the Manager of the Procurement & Commissioning Service before proceeding. The splitting of requirements into smaller lots or orders or shorter contract periods in an attempt to avoid the Contract Value limits in these Procurement Standing Orders is expressly prohibited.
- 6.2 For expenditure on capital projects, the total estimated capital cost of the project(s) including fees, furniture and equipment and other ancillary costs shall equate to the relevant Contract Value.

7. CONTRACT TERM

- 7.1 All contracts should have a defined duration or be capable of being terminated on a fixed period of notice by the Council.
- 7.2 Contracts that are awarded in accordance with Procurement Standing Orders 17.3 can be of an indeterminate period. In these circumstances the Contract Value shall be calculated based on the known or estimated value of the contract over a period of four years. Any such contracts will be subject to review by the relevant Chief Officer / Director at least every four years. Any such contracts may only be continued beyond four years if they continue to represent best value and provided the relevant Chief Officer / Director is satisfied the relevant justification in Procurement Standing Order 17.2 continue to apply.
- 7.3 Non-Social Care Contracts will be subject to review by the relevant Chief Officer / Director at least every four years. A Contract may only be continued beyond the initial period if it continues to represent best value and provided the appropriate approval is obtained in accordance with these Procurement Standing Orders.

8. INTERNAL SUPPLIERS AND CROSS AUTHORITY ARRANGEMENTS

Where goods, services or works can be provided by another Service of the Council (including Tayside Contracts), orders should be placed with that Council Service, unless best value will be achieved by external provision. If it is believed that best value can be achieved by external provision then, advice on the way to proceed shall be sought from the Manager of the Procurement & Commissioning Service by the purchasing Service following consultation with the in-house provider. It is the responsibility of the manager of the in-house provider to ensure that best value is achieved by either (a) providing such goods or carrying out such works or services or (b) assisting in contracting with an external provider.

9. AUTHORITY TO CONDUCT A PROCUREMENT

Except when applying to Procurement Standing Orders 16 (special urgency); 17 (Contracts for Health, Social and Related Services) and 18 (Contract Extensions), no tender shall be invited or contract entered into (except where the Contract Value is below £10,000) unless a Procurement Approval Form has been approved by the Chief Officer / Director or Committee, as the case may be, and the Manager of the Procurement & Commissioning Service has been notified. The allocation of a budget as part of the Council's budget setting process is insufficient. The method of authorising the initiation of a procurement process is dependent on the estimated Contract Value as follows:

- (i) Where the estimated Contract Value is below the Committee Threshold – either - the Chief Officer / Director (subject to sub-paragraph (iii) below), or the relevant Committee where the Committee has reserved the right to approve the Procurement Approval Form following notification of the Procurement Plan.
- (ii) Where the estimated Contract Value is equal to or more than the Committee Threshold –the relevant Committee.
- (iii) Before a Chief Officer / Director can authorise the initiation of a procurement process for a matter with a Contract Value of £10,000 or more in accordance with sub-paragraph (i) above, the Procurement Approval Form must have been considered by the relevant service management team.

10. PROCUREMENT PROCEDURES: THRESHOLDS

Please note that the value of a contact is taken to be that of its whole term (including any potential extensions. Where this is undetermined, a period of 4 years is to be used.

10.1 Goods & Services

(i) Contracts less than £10,000

Where the Contract Value is estimated to be less than £10,000 the Procuring Officer must obtain a minimum of one written quote and be able to demonstrate that best value has been achieved.

(ii) Contracts equal to or over £10,000, but less than £50,000

Subject to Procurement Standing Order 16, where the Contract Value is estimated to be £10,000 or more but less than £50,000, competitive quotations must be sought and obtained in writing from at least four suppliers, including, where appropriate, internal service providers and local providers. The Public Contracts Scotland website (www.publiccontractsscotland.gov.uk – The PCS Portal) must be used for the advertisement of such Contracts unless the Manager of the Procurement & Commissioning Service has given express permission otherwise.

Should the Procuring Officer be unable to obtain four written quotes, a request should be submitted to the Manager of the Procurement & Commissioning Service (using the form approved by the Manager of the Procurement & Commissioning Service for such purpose) to obtain their prior consent to proceed with fewer than four quotations.

Where there is no alternative supplier, and the Council is legally obliged to make the payment (e.g., including but not limited to, self-directed support care contracts, exam fees, licences/copyright, disclosure fees), there is no requirement to obtain the approval of the Manager of the Procurement & Commissioning Service.

(iii) Contracts £50,000 and above

Subject to Procurement Standing Order 16 if the Contract Value is estimated to be £50,000 or more a formal competitive tendering process shall be undertaken in accordance with the Procurement Legislation and the Procurement Guidance Notes. The Public Contracts Scotland website must be used for the advertisement of such Contracts unless the Manager of the Procurement & Commissioning Service has given express permission otherwise.

(iv) Higher Value Contracts (WTO GPA threshold)

Where the value of the contract is estimated to exceed the relevant WTO GPA threshold, or it is anticipated that there might be cross border interest in the procurement the advice of the Manager of the Procurement & Commissioning Service must be sought.

10.2 Works

(i) Contracts less than £10,000

Where the Contract Value is estimated to be less than £10,000 the Procuring Officer must obtain a minimum of one written quote and be able to demonstrate that best value has been achieved.

(ii) Contracts equal to or over £10,000, but less than £1,000,000

Subject to Procurement Standing Order 16, where the Contract Value is estimated to be £10,000 or more but less than £1,000,000, competitive quotations must be sought and obtained in writing from at least four suppliers, including, where appropriate, internal service providers and local providers. The Public Contracts Scotland website must be used for the advertisement of such Contracts, unless the Manager of the Procurement & Commissioning Service has given express permission otherwise.

Should the Procuring Officer be unable to obtain four written quotes, a request should be submitted to the Manager of the Procurement & Commissioning Service (using the form approved by the Manager of the Procurement & Commissioning Service for such purpose) to obtain their prior consent to proceed with fewer than four quotations.

Where there is no alternative supplier, and the Council is legally obliged to make the payment (e.g., including but not limited to, self-directed support care contracts, exam fees, licences/copyright, disclosure fees), there is no requirement to obtain the approval of the Manager of the Procurement & Commissioning Service.

(iii) Contracts £1,000,000 and above

Subject to Procurement Standing Order 16, if the Contract Value is estimated to be £1,000,000 or more a formal competitive tendering process shall be undertaken in accordance with the Procurement Legislation and the Procurement Guidance Notes. The Public Contracts Scotland website must be used for the advertisement of such Contracts, unless the Manager of the Procurement & Commissioning Service has given express permission otherwise.

(iv) Higher Value Contracts (WTO GPA threshold)

Where the value of the contract is estimated to exceed the WTO GPA threshold or it is anticipated that there might be cross border interest in the procurement the advice of the Manager of the Procurement & Commissioning Service must be sought.

11. TENDER OPENING

Tenders must be submitted via the PCS portal unless the Manager of the Procurement & Commissioning Service agrees otherwise. Where it is agreed, by exception, that tenders are to be submitted via any other method, the Manager of the Procurement & Commissioning Service must be consulted on the method for receipting and recording of tenders. In the case of hard copy tender submission tenders shall be opened by an officer in the presence of two other officers who shall be Directors, Chief Officers or Service Leaders whose service is not connected to the contract being let.

12. SELECTION AND DOWN SELECTION

Where the shortlisting of interested parties or down selection of tenderers is permitted as part of a procurement process the Chief Officer / Director shall have authority to select the parties to be invited to tender or to be allowed to continue in the tendering process, as the case may be.

13. TENDER EVALUATION

- 13.1 Tenders shall be evaluated by an evaluation panel in accordance with the procedures set out in the Procurement Guidance Notes.
- 13.2 Tenders shall be evaluated in accordance with the quotation or tender award criteria set out in the published invitation to quote or tender documents, and on the basis of establishing which offer is the most economically advantageous. No other criteria shall be applied.
- 13.3 A written record shall be maintained outlining the evaluation process, recording the process followed, the criteria applied, and detailing the reasons for the decision and incorporated into the Award Report. This record shall be retained as per the Council's Retention Policy and is further detailed within Procurement Guidance Notes.

14. POST TENDER NEGOTIATION

Post tender negotiations may only be considered where permitted by the Procurement Legislation and then only with the written approval of the Manager of the Procurement & Commissioning Service of the approach to be adopted.

15. AUTHORITY TO AWARD TENDERED CONTRACTS

Subject to the submission of a satisfactory Award Report by the Procuring Officer to the Procurement & Commissioning Team, authority to award contracts following a tendering procedure is delegated to the Chief Officer / Director except in the following cases where authority to award remains with the relevant Committee:

- (i) Where the Contract Value exceeds the committee approved estimated Contract Value by more than 25%; or
- (ii) Where the authority to conduct the procurement has been approved by a Chief Officer / Director and the Contract Value is equal to or exceeds the Committee Threshold; or
- (iii) Where the relevant Committee has reserved the right to award the contract.

16. AUTHORITY TO MAKE A DIRECT AWARD (INCLUDING SPECIAL URGENCY)

16.1 Notwithstanding Procurement Standing Order 15, a Chief Officer / Director may authorise a Direct Award but only in the following circumstances:

- (i) Where the Contract Value is below £10,000 and the Chief Officer / Director is satisfied it represents best value;
- (ii) Where the Contract Value is £10,000 or more but less than £50,000 (goods / services) or Committee Threshold (works), the Procuring Officer has presented a satisfactory Award Report demonstrating best value and the Manager of the Procurement & Commissioning Service consents in accordance with Procurement Standing Orders 10.1(ii) and 10.2(ii) or is satisfied that there is no practical or economically sensible alternative;
- (iii) Where a contract for goods / services has a Value of £50,000 or more but does not exceed Committee Threshold, it has been approved by the relevant Committee on a Procurement Plan, and the Procurement Approval Form has been approved by Committee or Chief Officer / Director, the Procuring Officer can submit an Award Report and must confirm that the Manager of the Procurement & Commissioning Service is satisfied that there are grounds for permitting a Direct Award in accordance with the Procurement Legislation (which grounds may include awarding a call-off contract to a supplier under a framework agreement without re-opening competition);
- (iv) For the purchase of second-hand goods in accordance with Procurement Standing Order 20;
- (v) In the case of special urgency as set out in Procurement Standing Orders 16.3 – 16.4; and

- (vi) Where the exceptional procedure (social work) applies in accordance with Procurement Standing Order 16.5.

- 16.2 Where the Contract Value exceeds the Committee Threshold and the expenditure has been approved by the relevant Committee on a Procurement Plan, and the Procurement Approval Form has been approved by Committee, the Committee may authorise a Direct Award provided the Manager of the Procurement & Commissioning Service is satisfied that there are grounds for permitting a Direct Award in accordance with the Procurement Legislation (which grounds may include awarding a call-off contract to a supplier under a framework agreement without re-opening competition) and the Committee is permitted to delegate the authorisation of a Direct Award to a Chief Officer / Director.
- 16.3 In the event of special urgency brought about by circumstances unforeseeable by, and not attributable to the Council, a Chief Officer / Director may authorise a Direct Award provided the Manager of the Procurement & Commissioning Service is satisfied and provides written confirmation that there are grounds for permitting a Direct Award in accordance with the Procurement Legislation. For the avoidance of doubt, there is no requirement for the contract to have been approved on a Procurement Plan or for a Procurement Approval Form to have been approved.
- 16.4 If there is any doubt about whether there are grounds for permitting a Direct Award in accordance with the Procurement Legislation the Manager of the Procurement & Commissioning Service shall consult with the Service Leader - Legal and Procurement before agreeing that the action is justified in the circumstances.

16.5 Exceptional Procedure for Social Work Contracts

- 16.5.1 Where the Chief Integration Officer (for Adult Social Work Contracts within their remit) or the Director of Children, Families & Justice (for Social Work Contracts within their remit) is satisfied that the following conditions apply, they each have delegated authority to enter into a Contract with one provider where the requirement falls within the Health and Social Services classification designated within Schedule 3 in the Public Contracts (Scotland) Regulations 2015 and the Contract Value does not exceed the Light Touch Regime threshold:
- (i) Where the Chief Integration Officer or the Director of Children, Families & Justice is satisfied that the requirement of the contract is unique and, after research, only one suitable source of supply can be identified,
 - (ii) When, for reasons of extreme urgency or risk to life or health and wellbeing, brought about by events unforeseen by the Council, the other procurement procedures cannot be complied with,

- (iii) Where, for example in the case of certain residential or supported living services, there are only limited spaces available for a specific type of care and those spaces only become available occasionally and at short notice, or
- (iv) Where the Council is instructed by a Children's Hearing or Educational Tribunal to place a child in a particular setting.

16.5.2 Under the exceptional procedure referred to in Procurement Standing Order 16.5.1 contracts can be of an indeterminate period. In these circumstances the Contract Value shall be calculated based on the known or estimated value of the contract over a period of four years. Any such contracts will be subject to review by the Chief Integration Officer or the Director of Children, Families & Justice at least every four years. Any such contracts may only be continued beyond four years if they continue to represent best value and provided the Chief Integration Officer or the Director of Children, Families & Justice is satisfied the relevant conditions in Procurement Standing Order 16.5.1 continue to apply.

16.5.3 Where this exceptional procedure described in Procurement Standing Order 16.5.1 has been used, the Chief Integration Officer or the Director of Children, Families & Justice must report to the Manager of Procurement & Commissioning the contract values, names of provider and types of service commissioned/procured by this means and, if the Contract Value meets or exceeds the Committee Threshold, must report to the relevant Committee.

17. CONTRACTS FOR HEALTH, SOCIAL AND RELATED SERVICES

17.1 For the purposes of Procurement Standing Orders 17.1 – 17.5 Contracts for Health, Social and Related Services shall mean contracts for the provision of services as permitted by the Common Procurement Vocabulary Codes for such services in Schedule 3 of the Public Contract (Scotland) Regulations 2015. This is referred to in the 2015 Regulations as the "Light Touch Regime".

17.2 The following thresholds will apply to the degree, method of competition required and the authority to award a Health, Social and Related Services Contract:

Appendix 1: Procurement Standing Orders

Contract Value / Threshold	Degree of Competition	Authority to make an award of contract
A Up to £50,000	Written quotations must be obtained to demonstrate best value to the Council in accordance with Procurement Standing Orders 10.1(i), 10.1(ii), 10.2(i) and 10.2(ii)	Chief Officer / Director
B £50,000 up to Light Touch Regime (LTR) Threshold	Direct award provided there is justification in accordance with Procurement Standing Order 17.3 or a competitive tendering process can be undertaken in accordance with Procurement Legislation. TFEU (Treaty on Functioning of European Union) Fundamental Principles should always be considered	Chief Officer / Director
C LTR Threshold and above	Must be advertised in accordance with the Procurement Reform (Scotland) Act 2014, The Public Contracts (Scotland) Regulations 2015 or any amending legislation	<ol style="list-style-type: none"> 1. LTR Threshold to Committee Threshold – Chief Officer / Director 2. Direct Award over Committee Threshold in accordance with Procurement Standing Order 17.4 - Chief Officer / Director 3. Tendered Contract Over Committee Threshold – Chief Officer / Director if Committee has not reserved award.

- 17.3 Where the relevant Chief Officer / Director is satisfied and there is justification in terms of any of (i) to (vi) below, they have the delegated authority to direct award, (including call off contracts directly awarded from Framework Agreements) a contract for Health, Social and Related Services for Thresholds A and B in Procurement Standing Order 17.2 -
- (i) That the requirement of the contract is unique or, after research, only one suitable source of supply can be identified;
 - (ii) When, for reasons of extreme urgency or risk to life or health and wellbeing, the other procurement procedures cannot be complied with;
 - (iii) Where in the case of residential or supported living services, there are only limited places available for a specific type of care and/or support and those places only become available occasionally and/or at short notice;
 - (iv) Where the Council is instructed by a Children's Hearing or Educational Tribunal or the Court to place a child in a particular setting;
 - (v) Where the individual has the right to choose and direct their own accommodation and/or support;
 - (vi) Where the appropriate Chief Officer / Director is satisfied that the risk to service user(s) outweighs the benefits of advertising the requirement and awarding the contract or framework following competition.
- 17.4 The relevant Chief Officer / Director can determine if there are exceptional circumstances that justify a direct award being made in relation to Thresholds C1 and C2. One or more of the justifications in Procurement Standing Order 17.3 (i) to (vi) inclusive must apply and the relevant Chief Officer / Director must demonstrate that they have followed the Scottish Government's Best Practice Guidance (which states that a public body should decide, on a case-by-case basis, whether or not to advertise the requirement and award a contract or framework agreement by competition. A number of factors should be taken into account, including application of the procurement legislation, procurement policy and risk of legal challenge; application of local financial regulations and standing orders; and benefits and risks to people who use services and service delivery).
- 17.5 Provided that -
- Where the individual has the right to choose and direct their own accommodation and/or care and support the contract is exempt from Procurement Standing Orders 2.2, 9, 10.1(i), 10.1(ii), 10.2(i), 10.2(ii) and 10.2(iii) and the relevant Chief Officer / Director can approve all direct awards for Thresholds (A), (B) and (C).

18. CONTRACT EXTENSIONS AND VARIATIONS

18.1 Committee Approval in place

There shall be no requirement to report to Committee or seek Committee approval to extend a contract where the option to extend was included in the original Committee approval. The authority to exercise an option to extend in these circumstances shall be delegated to the relevant Chief Officer / Director unless the combined Contract Value exceeds the amount approved by Committee by more than 25% in which case the relevant Committee shall have the authority to agree the extension or variation following presentation of an Award Report by the Procuring Officer justifying the extension or variation.

18.2 No Committee Approval in place

18.2.1 Where there is no relevant Committee approval in place but there are good reasons to justify the extension or variation of the scope of an existing Contract and the value of the extension or variation is less than £50,000, then following presentation of an Award Report by the Procuring Officer justifying the extension or variation, the relevant Chief Officer / Director shall have authority to agree the extension or variation subject to Procurement Standing Order 18.3.

18.2.2 Where there is no relevant Committee approval in place but there are good reasons to justify the extension or variation of the scope of an existing contract and the value of the extension or variation is £50,000 or more, the contract extension is required to be approved by the relevant Committee on a Procurement Plan;

- (i) if the combined Contract Value of the existing Contract and the extension or variation is equal to or exceeds the Committee Threshold then the relevant Committee shall have authority to agree the extension or variation following presentation of an Award Report justifying the extension or variation; or
- (ii) if the combined Contract Value of the existing Contract and the extension or variation is less than the Committee Threshold then the relevant Chief Officer / Director shall have authority to agree the extension or variation following presentation of an Award Report justifying the extension or variation.

18.3 No Contract extension or variation of the scope of a contract can be awarded in terms of Procurement Standing Orders 18.2.1 – 18.2.2 unless the Manager of the Procurement & Commissioning Service is satisfied that such an extension or variation is permitted by the Procurement Legislation.

19. FRAMEWORK AGREEMENTS

- 19.1 A framework agreement is a general term for agreements with suppliers which set out terms and conditions under which specific purchases (call-offs) can be made throughout the term of the framework agreement. These Procurement Standing Orders also apply to framework agreements and call-off contracts including the thresholds for approval of expenditure and authority to award Contracts. Provided there is Committee approval to incur expenditure from the framework agreement, a call-off from that framework with a Contract Value that is less than the Committee Threshold is not required to be on a Procurement Plan but must comply with Procurement Standing Order 9 and must be recorded in the Council's Contracts Register in accordance with Procurement Standing Order 5.4.
- 19.2 Where the Council has entered into a framework agreement with external suppliers covering the provision of goods, services or works for the whole Council, orders for such goods, services or works shall be placed with the contracted suppliers. The approval of the Manager of the Procurement & Commissioning Service must be sought before seeking alternative provision unless there is an agreed and recorded dispensation.
- 19.3 Officers may procure goods, services or works under external framework agreements provided that authority to incur expenditure has been approved in accordance with these Procurement Standing Orders and also provided that:
- (i) Use of the proposed external framework agreement by the Council has been approved in writing by the Manager of the Procurement & Commissioning Service;
 - (ii) No material change may be made to the call off terms under the framework agreement. (Calling-off from the framework may only be done in accordance with the procedures laid down within that framework);
 - (iii) All call-off contracts must be reported to the Manager of the Procurement & Commissioning Service unless there is an agreed and recorded dispensation; and
 - (iv) If the aggregate Contract Value of call-off contracts under a framework agreement is likely to exceed the Committee Threshold, then the authority of the relevant Committee to incur the expenditure must be obtained in advance of the Committee Threshold being exceeded.

20. PURCHASE OF SECOND-HAND GOODS

- 20.1 Second-hand goods up to a value of £50,000 may be acquired without a competitive quotation being obtained provided that:

- (i) The Chief Officer / Director can demonstrate that the purchase is necessary to facilitate service delivery;
- (ii) The Chief Officer / Director can demonstrate that the purchase represents best value, having given due consideration to the cost of an equivalent new purchase and estimated life of the asset both from new and current age;
- (iii) The goods have been subject to inspection to ascertain their physical condition, with a record kept of the outcome of the inspection;
- (iv) The Council has clear title to the goods; and
- (v) The Chief Officer / Director obtains in writing (including e-mail) the prior consent of the Manager of the Procurement & Commissioning Service before effecting the purchase.

21. INCOME AND SAVINGS GENERATING ARRANGEMENTS, INC. CONCESSION CONTRACTS

- 21.1 The requirements in relation to the award of Contracts and the approval thresholds detailed throughout this document will apply equally to:
- (i) Contracts resulting in the generation of income;
 - (ii) Contracts transferring a benefit/asset to a supplier, the relevant value of which will be the value of the benefit transferred net of any income received or gross of cost incurred by the Council as a result of the arrangement; and
 - (iii) Arrangements based on a review of activities resulting in a saving to the Council where a percentage of that saving is paid to the contractor.

22. REBATES

- 22.1 The potential for generation of any rebate should not form part of the evaluation process for any commercially evaluated procurement process. However, there will be instances where a rebate is payable as a direct result of expenditure under a particular framework. In such cases the rebate should be treated as follows:
- (i) If the rebate results from expenditure via the HRA then the rebate must be paid into the HRA.
 - (ii) If the rebate results from expenditure not via the HRA then the rebate must be paid into the Council's General Fund Account.

22.2 Where a proposed procurement route is likely to result in payment of a rebate, this information is to be provided as part of the PAF process.

22.3 In all instances where a rebate is received, the Council's Director of Finance must be notified, along with the Manager of Procurement & Commissioning who will maintain a central record of rebates received.

23. STANDARDISED TEMPLATES TO ACCOMPANY STANDING ORDERS

- Procurement Plan
- Procurement Approval Form (PAF)
- Framework Adoption Report
- Delegated Procurement Authority (DPA) Request
- Award Report
- Exemption Request – Low Value / High Value
- Invitation to Quote
- Invitation to Tender
- Invitation to Mini Comp
- Award Letter

24. FLOWCHART

For all procurements >£50k

1. Proposal is reported via Procurement Plan (PP) at start of year
 - a. PP goes to committee at start of FY with accompanying PAF for each line
 - b. Procurement undertaken via PCS
 - c. Award Report for sign off
 - i. If all in line with committee approvals (or 25% of) – Chief Officer / Director
 - ii. If not, then committee
 - d. Contract awarded in line with Standing Orders
 - e. Contract Register updated and all appropriate contract management undertaken
2. Not on Procurement Plan
 - a. PAF goes to committee with supplementary Procurement Plan report
 - b. As per above