

FIFE COUNCIL

CONTRACT STANDING ORDERS Scheme of Tender Procedures

2018

Effective Date: 04 October 2018

1. EXTENT AND APPLICATION

- 1.1 These Contract Standing Orders are made under Section 81 of the Local Government (Scotland) Act, 1973 and shall apply to the Council or on their behalf for all Contracts. The term “Contract” includes any form of agreement, written or unwritten, to which the Council is a party which creates rights and responsibilities for any of the parties involved in connection with:
 - a. the execution of works; or
 - b. the supply of goods/ supplies; or
 - c. the provision of services;
- 1.2 Any disputes or queries regarding legal issues, including the extent to which these Contract Standing Orders apply to any Contract, shall be referred to the Head of Legal & Democratic Services, whose decision on such issues shall be final;
- 1.3 These Contract Standing Orders apply to the Council carrying out its own procurement activity and any activity that the Council conducts on behalf of other parties such as ALEOs and the Health and Social Care Partnership;
- 1.4 Where the procurement is to spend funds raised by third parties including, but not limited to: Parent Teacher Association, School Fund and Pupil Equity Fund for example, those funds shall be subject to the application of Procurement Legislation where the Contract is entered into by the Council.

2. REVIEW OF CONTRACT STANDING ORDERS

- 2.1 The financial thresholds contained in these Contract Standing Orders will be reviewed in accordance with changes to financial thresholds stated in Procurement Legislation;
- 2.2 These Contract Standing Orders will be reviewed every three years.

3. DEFINITIONS AND INTERPRETATION

3.1 Definitions

ALEO	Arm's Length External Organisation used by the Council to deliver services. Formed from Services that previously were part of the Council. E.g. Fife Sports And Leisure Trust is an ALEO.
Best Value	Continuous improvement in the performance of the Council's functions in accordance with the provisions of the Local Government in Scotland Act 2003 and in the context of this document also includes the optimum combination of whole life cost and quality (or fitness for purpose) to meet the customer's requirements.
Competitive Dialogue Negotiated procedure & Innovation Partnership	As defined in <u>The Public Contracts (Scotland) Regulations 2015</u> .
Consultant / Consultancy	The provision of advice, design and development, and implementation to management through time limited or ad-hoc assignments that do not form part of business as usual operations. Consultancy can include management consultancy, IT consultancy, financial consultancy, construction or infrastructure related consultancy, research and evaluation, and policy development (including feasibility studies).
Contractor	The supplier engaged by the Council to provide the goods/ supplies/works / services required.
Contract Notice including PINs advertisements and award notices	An advert for a procurement opportunity published on www.publiccontractsscotland.gov.uk Also includes procurement requirements published in the new UK e – notification system called Find a Tender Service (FTS) via www.publiccontractsscotland.gov.uk
Contract Programme	The register of contracts awarded by Procuring Officers used to meet the duty to publish a Contracts register.
Contracts register	A register of contracts entered into as a result of a Regulated procurement as required by the <u>Procurement Reform (Scotland) Act 2014</u> .
Delegated Contracting Authority	A Service with Delegated Contracting is authorised to undertake its own procurement as long as the Council Officer doing the procurement is on the DPA List.
DPA /Delegated Procurement Authority	The permission to undertake procurement and enter into contracts on behalf of the Head of Revenue and Commercial Services.
DPA List	List of all Council Officers with Delegated Procurement Authority. The list shall be maintained by the Head of Revenue and Commercial Services.

FTS Thresholds	The Threshold amounts are reviewed every two years. The FTS Thresholds in accordance with Regulations 5 and 5A of Public Contracts Scotland Regulations are published by the Scottish Government.
Health & Social Care Services	The health, social and related services listed in Schedule 3 of the Public Contracts (Scotland) Regulations 2015.
In-House Works Provider	A Service that operates a trading account to deliver works contracts and works related service contracts on behalf of the Council.
Most Economically Advantageous Tender (MEAT)	The Most Economically Advantageous Tender is assessed on the basis of the best price-quality ratio using criteria linked to the subject matter of the contract and must include criteria that reflect qualitative (including but not limited to technical and sustainable) aspects and price.
FTS Contracts /Procurements	Procurements subject to being advertised in FTS and the requirements of <u>The Public Contracts (Scotland) Regulations 2015</u> .
Procurement Documents	Documents relating to a procurement requirement. May include: Contract Strategy, Single Procurement Document, Invitation to Tender, Terms & Conditions of Contract and Contract Notices placed by the Council on Public Contracts Scotland, Tenders and Quotations received.
Procurement Legislation	<u>The Procurement (Scotland) Regulations 2016</u> , <u>The Public Contracts (Scotland) Regulations 2015</u> and the <u>Procurement Reform (Scotland) Act 2014</u> ("The Act").
Procurement Processes	The Procurement Processes means those processes maintained by the Head of Revenue and Commercial services in accordance with Standing Order 13 which shall provide all Procuring Officers with instructions and guidance on best practice for conducting procurement exercises, including templates to be used as appropriate. The Procurement Processes will contain information from sources including the following: the Scottish Government's Procurement Journey, Scottish Procurement Policy Notes (SPPNs), any procurement information, guidance and/or documentation issued by the Head of Revenue and Commercial Services specific to Fife Council.
Procurement Summary Report	A report written by the Procuring Officer detailing all stages of the procurement process for procurement requirements.
Procuring Service	Council Service undertaking the procurement.
Procuring Officer	Council Officer in the Procuring Service undertaking the Procurement.
Public Contracts Scotland (PCS)	The advertising portal provided by the Scottish Government for the advertising of public contract

	opportunities using a Contract Notice, and for the award of contracts via a Contract Award Notice.
Public Contracts Scotland – Tender (PCS-T)	The online tendering tool provided by the Scottish Government.
Quick Quote	An online request for quotation facility operated through the Public Contracts Scotland Website used to obtain competitive quotes for low value/low risk procurement exercises or for mini competitions within framework agreements.
Regulated Contracts /Procurements	As defined in the Procurement Reform (Scotland) Act 2014 .
Regulated Contracts Procurements Thresholds	As defined in the Procurement Reform (Scotland) Act 2014 Regulated Thresholds .
Small and Medium-sized Enterprises (SMEs)	Businesses with no more than 250 employees. As defined in Guidance under the Procurement Reform (Scotland) Act 2014
Supported Businesses	An economic operator whose main aim is the social and professional integration of disabled or disadvantaged persons and where at least 30% of the employees of the economic operator are disabled or disadvantaged persons.
Supported Employment Programmes	An employment programme operated by an economic operator the main aim of which is the social and professional integration of disabled or disadvantaged persons and where at least 30% of those engaged in the programme are disabled or disadvantaged persons.
Tender	A formal, usually competitive procurement process, where potential suppliers, providers or contractors apply in writing for inclusion in a specific procurement process and ultimately submit legally binding proposals for goods / supplies, services or works.
Tenderer	The organisation or individual that has applied for inclusion in a specific procurement process.
Fundamental Principles	<ul style="list-style-type: none"> • Transparency - contract procedures must be transparent and contract opportunities should generally be publicised; • Equal treatment and non-discrimination - potential suppliers must be treated equally; • Proportionality - procurement procedures and decisions must be proportionate; • Mutual recognition – giving equal validity to qualifications and standards from other States where appropriate.
The Council	The Fife Council constituted in terms of the Local Government etc. (Scotland) Act 1994 and having its principal office at Fife House, North Street, Glenrothes, KY7 5LT.

Third Sector	Organisations (other than bodies established under an enactment) that exist wholly or mainly to provide benefits for society or the environment e.g. community groups, voluntary organisations, charities, social enterprises, co-operatives and individual volunteers.
Find a Tender Service (FTS)	new UK e-notification system called Find a Tender Service (FTS)

4. PRINCIPLES OF PROCUREMENT

- 4.1 It is mandatory that all procurements undertaken by the Council shall take account of the following principles which shall be applied in a proportionate manner having due regard to the value, complexity and importance of each contract:
- 4.1.1 All contracts let by or on behalf of the Council, shall be subject to an obligation to seek Best Value for the Council;
 - 4.1.2 All contracts let by or on behalf of the Council must be done so in a proportionate manner that demonstrates compliance with the Fundamental Principles to all parties having an interest in that procedure;
 - 4.1.3 Any overriding requirements of the Procurement Legislation and any other UK or Scottish Legislation on the co-ordination of procedures for the award of public works contracts, public supply contracts and public service contracts;
 - 4.1.4 The remainder of the council's governance scheme, in particular the [List of Officer Powers](#), the [List of Committee Powers](#) and the [Financial Regulations](#);
 - 4.1.5 The Council's Procurement Processes;
 - 4.1.6 All procurements will comply with these Contract Standing Order Scheme of Tender Procedures.

5. EXEMPTIONS

- 5.1 Contracts where the following provisions apply shall be exempted from these Contract Standing Orders:
- 5.1.1 For Regulated Procurements (below FTS Thresholds, the Procuring Officer has satisfied the Head of Revenue and Commercial Services that circumstances as set out in Regulation 6 of [The Procurement \(Scotland\) Regulations 2016](#), circumstances in which a contract can be awarded without competition, apply to the procurement;
 - 5.1.2 For procurements with a value above the FTS Thresholds the Procuring Officer has satisfied the Head of Revenue of Commercial Services that circumstances as set out in [Regulations 7 to 18 inclusive of The Procurement \(Scotland\) Regulations 2015](#), apply to the procurement;
 - 5.1.3 In the opinion of the Executive Director of the Procuring Service, or of the Chief Executive, or the Head of Revenue and Commercial Services, action is urgently required in circumstances out with Council control due to special and exceptional circumstances. For the avoidance of doubt, where practicable, the Executive Director of the Procuring Service or

the Chief Executive shall consult with the Head of Revenue and Commercial Services and the Head of Legal & Democratic Services before taking any action under this Standing Order. In all circumstances where this exemption has been used, the Head of Revenue and Commercial Services shall be notified as soon as reasonably practicable following which a report will be submitted to the appropriate Committee at the first available subsequent meeting detailing both the circumstances justifying use of this exemption and the action taken; **N.B. Delays caused by a lack of sufficient procurement planning and/or internal process delays are not examples of special and exceptional circumstances.**

- 5.1.4 Subject to any financial or other limits contained in the Council's List of Officer Powers and/or Financial Regulations, where in the Head of Legal & Democratic Services' opinion it is essential that the contract is entered into for the settlement of any claim or litigation raised by or against the Council; such matter to be reported to the appropriate Committee;
- 5.1.5 Where the contract is being funded by money provided by the Government or a public body (including funds from the National Lottery) and the award of that money to the Council is subject to such conditions that make it impractical for the Council to comply with these Contract Standing Orders in letting the contract. However, in such circumstances, the Executive Director of the Procuring Service shall, after consultation with the Head of Revenue and Commercial Services and the Head of Legal & Democratic Services, submit a report to the appropriate Committee explaining the procedure to be used and why these Contract Standing Orders could not be complied with. The report shall be submitted in advance of the contract award unless, in the opinion of the Head of Revenue and Commercial Services, the time limit for acceptance or use of the funds makes this impractical. In these circumstances the report shall be submitted to the next meeting of the appropriate Committee. See also Standing Order 14;
- 5.1.6 The Council may reserve the right to limit participation in a tendering procedure to providers operating Supported Businesses or Supported Employment Programmes. Where this right is exercised by the Council the contract award procedures provided by the Procurement Legislation shall be followed;
- 5.1.7 Contracts of direct employment, but this exemption does not apply to contracts with employment agencies/professional services for the supply of resource / expertise.
- 5.1.8 Any contract entered into by a consortium, partnership, collaboration, company or similar body of which the Council is a member or registered user, which body exists for the purpose of joint purchasing arrangements, and where such body has invited Tenders for the

provision of goods/supplies/services/works e.g. Office of Government Commerce, Procurement Scotland and Scotland Excel. However call-offs must be made in accordance with agreed processes for the operation of the framework and any subsequent guidance from the Procurement Service;

5.1.9 In circumstances where an approved case has been made for direct purchasing as set out in Standing Order 10.9;

5.1.10 The contract relates to the transfer, acquisition or disposal of an interest in heritable property including a licence to occupy or use heritable property. Contracts relating to disposal, lease of land shall be carried out in accordance with the process laid out in the Procurement Processes.

5.2 Exemptions from the Application of Contract Standing Orders relating to In-House Works Providers

5.2.1 Where there is a requirement identified that could be delivered by a Council In-House Works Provider, the appropriate In-House Works Provider shall be contacted in the first instance;

5.2.2 The In-House Works Provider shall fulfil the requirement unless the Head of the client Service(s) and the Head of Assets, Transportation & Environment agree an alternative arrangement represents Best Value;

5.2.3 Where the In-House Works Provider needs to engage sub-contractors to deliver requirements then the In-House Works Provider shall arrange for Tenders to be obtained. Tenders shall be invited in accordance with the Council's Procurement Processes and these Contract Standing Order Scheme of Tender Procedures.

6. SUSPENSION, VARIATION AND REVOCATION (OF THE STANDING ORDERS)

6.1 The Contract Standing Orders may be suspended, either in whole or in part, with regard to the proposed award of any Contract by the appropriate Committee, or by any sub-committees which have the subject matter of the proposed award within their remit, upon the joint recommendation of the Executive Director of the Procuring Service, the Head of Legal & Democratic Services and the Head of Revenue and Commercial Services where:

6.1.1 There are special circumstances justifying the suspension;

6.1.2 In the circumstances described at Standing Orders 6.1.1 a report detailing the circumstances proposed to justify the suspension must be completed by the Procuring Officer for consideration by the parties stated in Standing Order 6.1;

- 6.2 The Head of Revenue and Commercial Services and the Head of Legal & Democratic Services shall have power acting together to vary these Contract Standing Orders but only in the following circumstances:
- 6.2.1 To reflect changes in job titles, reorganisations of committees, departments and vacancies in posts; or
- 6.2.2 To make such changes as are necessary to comply with changes in legislation.
- 6.3 Any variation to or revocation of the Contract Standing Orders will be effective on the first working day after the conclusion of the Council meeting at which it was approved.

7. BREACH OF CONTRACT STANDING ORDERS AND/OR PROCUREMENT PROCESSES

- 7.1 Any contravention of or non-compliance with these Contract Standing Orders and/or Procurement Processes must be reported immediately to the Head of Revenue and Commercial Services and the Head of Democratic Services who may discuss the matter with Senior Managers as appropriate, to determine any action to be taken;
- 7.2 Any incidents of suspected fraud must be directed to the Corporate Fraud team immediately;
- 7.3 Disciplinary action may be taken as a result of any of the events in Standing Orders 7.1 and/or 7.2 being found to have occurred.

8. HEAD OF REVENUE AND COMMERCIAL SERVICES

- 8.1 Only the Head of Revenue and Commercial Services shall be authorised to undertake the procurement of any Contracts and to make Contract awards;
- 8.2 The Head of Revenue and Commercial Services may delegate procurement activity to any Council Officer who has been added to the Delegated Procurement Authority List (“DPA List”) and is in a Service with Delegated Contracting Authority. See Standing Order 9;
- 8.3 The Head of Revenue and Commercial Services shall:
- 8.3.1 Make arrangements for the provision of advice, if requested, in respect of tendering arrangements for any proposed Contracts;
- 8.3.2 Take all reasonable steps to ensure all staff responsible for procurement have read and understood and are familiar with these Contract Standing Orders and the Procurement Processes, undertake relevant training, and have Delegated Procurement Authority (are on the DPA List) where appropriate;

- 8.3.3 Maintain the DPA List and ensure that all officers on the list are provided with appropriate guidance to enable them to carry out the tasks delegated to them;
- 8.3.4 Consult with the Head of Legal & Democratic Services to establish Fife Council Standard Terms and Conditions of Contract where appropriate;
- 8.3.5 Maintain the Contract Programme for the purposes of meeting the Council's duty to publish a Contracts register;
- 8.3.6 Compile and issue the organisational Procurement Strategy and subsequent annual Procurement Report;
- 8.3.7 Take all reasonable steps to ensure duplication of tendering procedures and Contracts for the same works, goods/ supplies and services is avoided. See also Standing Order 10.3;
- 8.3.8 Take all reasonable steps to ensure all procurements above the FTS Thresholds or Regulated Procurements Thresholds are conducted in accordance with the requirements of the relevant legislation;
- 8.3.9 Take all reasonable steps to ensure documents relating to procurements shall be retained in accordance with the requirements of The Council's document retention schedule for procurement documents.

9. DELEGATION OF PROCUREMENT ACTIVITY

9.1 In accordance with Standing Order 8.2 Services may undertake procurement activity as set out in Table 1;

9.2 Table 1 - Delegated Contracting Authority

Service	Type & Value (excluding VAT) of Tendering Exercises able to be Undertaken
All Services	Goods/ supplies/ services Tenders below £50,000, with the exceptions of: <ul style="list-style-type: none"> • Consultancy where any requirement with the potential to exceed £5,000 shall be directed to the Procurement Service (see Standing Order 13); and • ICT requirements which shall be dealt with in accordance with Standing Order 12. • Works Tenders - Only Building, Property, Procurement and Roads & Transportation Services may commission works / works related activities of any value. See also Standing Order 12
Procurement Service	All Tenders (goods/supplies, services and works) of any value
Building Services	Works and works related services
Property Services	Works and works related services
Asset Management - Property	Tenders involving significant investment in refurbishment of existing, or establishment of new Council Assets (predominantly buildings) of any value
Housing Services	Works Tenders relating to Occupational Therapy Adaptations below £25,000
Roads & Transportation Services	Works Tenders and related services Tenders of any value. Goods/ supplies/ services Tenders related to one-off projects tendered for by the In-House Works provider

9.3 Where a Service has Delegated Contracting Authority:

9.3.1 Officers undertaking procurement activity in Services with Delegated Contracting Authority must have Delegated Procurement Authority (be on the DPA List) where appropriate;

9.3.2 For procedures other than competitive tendering e.g. the Negotiated Procedure without prior advertisement (see Standing Order 10.9), Competitive Dialogue, Innovation Partnership, advice must be sought from the Head of Revenue and Commercial Services prior to commencing the project; and

- 9.3.3 If the Officer undertaking procurement activity is unsure of the appropriate course of action to follow in respect of any procurement process they are undertaking, they should seek advice from the Procurement Service and follow any such advice received.

10. THRESHOLDS AND PROCUREMENT VALUES

10.1 Contract Values

10.1.1 When estimating the value of a Contract the Procuring Officer must consider the total aggregate value across The Council of all similar requirements for the works/ goods/ supplies/ services. If the aggregate value for all similar requirements over the Contract term equals or exceeds the relevant Regulated or FTS Threshold, then the appropriate Procurement Legislation applies to the award of each Contract;

10.1.2 Even if the procurement of any such requirement is split among a number of Contracts which, taken individually, are below the Regulated and /or FTS Threshold values, each of these Contracts is subject to the Procurement Legislation in the same way as if the requirement were procured through a single large Contract;

10.1.3 Breaking down or disaggregating requirements in order to avoid the necessity of exposing them to competition is prohibited as being contrary to Procurement Legislation and must not be carried out under any circumstances.

10.2 Table 2 and Table 3 set out the processes that must be followed when undertaking procurements. The process to be followed depends on the aggregate value of the Contract (as per Standing Order 10.1);

10.3 Pre-existing Contracts and Frameworks:

10.3.1 It is incumbent on the officer undertaking the procurement to check if there is a suitable pre-existing Contract / framework (these may include Fife Council, Scotland Excel, Scottish Government, Crown Commercial Services etc.) that could be used to fulfil the requirement. Where such a Contract / framework exists, it should be used unless an alternative procurement represents Best Value and is compliant with the Procurement Legislation.

10.3.2 Information about existing Contracts / frameworks can be found in the Council's [Contract Programme](#);

10.3.3 When using a pre-existing Contract/ framework the procedures set out for use of the particular Contract / framework must be followed;

10.3.4 Any identified or known omissions must be notified to Procurement for inclusion where appropriate on the Contract Programme;

10.4 Table 2 - Goods/ Supplies/ Services Thresholds

VALUE THRESHOLD	PROCESS
Up to £5,000 N.B. see Standing Order 10	Make decision on basis of Best Value if no Contract/ framework exists for same/ similar (good practice to obtain three quotations/ evidence of firm/ fixed prices). Documentary evidence of decision must be retained either by the Procuring Officer or centrally within the team
£5,000 to £24,999 N.B. see Standing Orders 10 and 11	Obtain at least three quotations, email is sufficient. Documentary evidence must be retained either by the Procuring Officer or centrally within their team
£25,000 to £49,999 N.B. see Standing Orders 10 (ICT) and 11 (Consultancy)	Below Regulated Procurements Threshold procedure - obtain at least three quotations using Quick Quote
All processes up to £49,999 for goods/ supplies/ services	Follow the £50,000 process
£50,000 to current FTS value	Follow the Procurement Process for a Regulated Procurement
Current FTS goods/ supplies/ services threshold value	Follow the Procurement Process for an FTS Procurement

10.4.1 See Standing Order 11 for Health & Social Care Thresholds and Processes

10.5 Table 3 - Works Thresholds

VALUE THRESHOLD	PROCESS
Up to £10,000	Make decision on basis of Best Value if no Contract/ framework exists for same/ similar (good practice to obtain three quotations/ evidence of firm/ fixed prices). Documentary evidence of decision must be retained either by the Procuring Officer or centrally within the team
£10,000 to £499,999	Obtain at least three quotations via Quick Quote. Documentary evidence must be retained either by the Procuring Officer or centrally within their team
£500,000 to £1,999,999	Advertise on Public Contracts Scotland use website notice
£2,000,000 to current FTS Works threshold value	Follow the Procurement Process for a Regulated Procurement
Current FTS Works threshold value	Follow the Procurement Process for an FTS Procurement

10.6 It is mandatory that processes stated in Tables 2 and 3 are followed for the applicable financial thresholds. However stated processes within the applicable financial thresholds may be adjusted to suit individual Service needs if they

believe it is proportionate and appropriate to their business needs to have more stringent procedures in place;

10.7 FTS Threshold values are issued by the Scottish Government in the form of a <https://www.gov.scot/publications/changes-to-procurement-legislation-at-the-end-of-the-eu-exit-transition-period-sppn-11-2020/> every two years and take effect from 1st January as appropriate.

10.8 Where a requirement is likely to be close to any threshold, advice should be sought from Procurement as to which process it is most appropriate to apply;

10.9 Direct Purchasing

10.9.1 For requirements below the Regulated Contracts Threshold values, direct purchasing above £5,000 for goods/ supplies/ services or between £10,000 and £500,000 for works without seeking quotations may be acceptable where the Procuring Officer is satisfied the award meets Best Value and:

- a. the requirement is not readily obtainable from more than one supplier, service provider, or contractor, and it can be demonstrated that no equivalent is available; or
- b. there is an immediate need caused by real and demonstrable emergency which creates a real risk to life, property or Council systems; or
- c. an assessment of risk, the market place and competition has been deemed to be low; or
- d. the prices of the goods/ supplies, services or works are wholly controlled by trade organisations or government order and it can be demonstrated that no equivalent is available; or that
- e. the requirements are subject to intellectual property rights and it can be shown that either no suitable alternative is available, or that exposure to competition of an item covered by copyright, patent, or trademark would breach such rights. Note that where an item is described by a reference to a trade name, it must be followed by the phrase “or equivalent”;

10.9.2 Evidence justifying such direct purchasing must be provided to and agreed by the Head of the Procuring Service;

10.9.3 For requirements above the Regulated Contracts Threshold value for goods/ supplies/ services, and above £500,000 for works, direct purchasing may be acceptable where the Procuring Officer has satisfied the Head of Revenue and Commercial Services that:

- a. The requirement is not readily obtainable from more than one supplier, service provider, or contractor, and it can be demonstrated that no equivalent is available; or
- b. There is an immediate need caused by real and demonstrable emergency which creates a real risk to life, property or Council systems; or

- c. The prices of the goods/ supplies, services or works are wholly controlled by trade organisations or government order and it can be demonstrated that no equivalent is available; or that
- d. The requirements are subject to intellectual property rights and it can be shown that either no suitable alternative is available, or that exposure to competition of an item covered by copyright, patent, or trademark would breach such rights. Note that where an item is described by a reference to a trade name, it must be followed by the phrase “or equivalent”;
- e. The award is consistent with State Aid requirements.

10.10 The Procurement Service may carry out procurement activity for other relevant organisations and for Services who have devolved procurement authority and where this activity occurs, out with business as usual processes for undertaking delegated procurement, the Procurement Service may charge a fee for professional services where appropriate;

10.11 If there are any queries or concerns about the processes to be followed then contact Procurement for advice and/ or guidance.

11. HEALTH AND SOCIAL CARE SERVICES

11.1 This section shall apply to the procurement of Health and Social Care Services.

11.2 Contracts for Health and Social Care Services must be procured having due regard to:

- a. The Procurement Legislation;
- b. The statutory "[Guidance under the Procurement Reform \(Scotland\) Act 2014](#)" issued by the Scottish Government;
- c. The statutory "[Guidance on the Procurement of Care and Support Services 2016 \(Best-Practice\)](#)" issued by the Scottish Government.

11.3 Table 4 – Procurement of Health and Social Care Services by value. The following table summarises the different rules which apply to health and social care Contracts at different thresholds:

£663,540* and above	Must be advertised in FTS and the light touch provisions in the Public Contracts (Scotland) Regulations 2015 apply	
£50,000 - £663,539	May award without seeking offers, but should consider the Fundamental Principles where relevant. For Contracts over	May choose to seek offers: in which case all provisions of the Procurement Reform (Scotland) Act 2014 apply
Below £50,000	£50,000, an award notice must be published on PCS. Certain other rules also apply (see paragraph 8.12 of Guidance on the Procurement of Care and Support Services 2016 (Best Practice)	Non-Regulated Procurements (under the value for Regulated Procurements)

* or the applicable FTS Threshold for Social and other specified services as defined in Schedule 3 of the Public Contracts (Scotland) Regulations 2015;

11.4 Where a requirement is likely to be close to a threshold, advice should be sought from Procurement as to which process it is most appropriate to apply;

11.5 Any competitive process must be carried out in line with the requirements of these Contract Standing Order Scheme of Tender Procedures and the Procurement Processes.

12. INFORMATION COMMUNICATIONS TECHNOLOGY (ICT) RELATED REQUIREMENTS & REQUIREMENTS AFFECTING COUNCIL ASSETS AND INFRASTRUCTURE

12.1 ICT

12.1.1 Where a proposed purchase or Tender of any value involves the use, adoption or purchase of information communication technologies (ICT), such as a digital service, software or hardware, the advice of the Council's ICT Category Manager must be sought;

12.1.2 The Council's ICT Category Contract(s) should be used for any Council requirements unless it can be demonstrated that it will not provide Best Value;

12.1.3 All requirements for ICT goods, services and solutions must follow [Business Technology Solutions \(BTS\) Procedures](#) prior to being procured.

12.2 COUNCIL ASSETS AND INFRASTRUCTURE

12.2.1 Where a proposed purchase or Tender of any value involves the installation of goods that may have an impact on Council buildings / sites or infrastructure, or have health and safety implications or maintenance obligations, the advice of Property Services must be sought before any such goods are procured;

12.3 Advice, as required by Standing Orders 12.1 and 12.2, must be obtained where the expenditure of third-party funds (see Standing Order 1.4) will result in the purchase of IT equipment, alterations to Council land or buildings or require equipment to be fixed to Council land or buildings, have health or safety implications or maintenance obligations.

13. CONSULTANCY REQUIREMENTS

13.1 Any requirements for Consultancy with the potential to exceed £5,000 in value should be directed to the Procurement Service, even if the Service with the requirement has Delegated Contracting Authority;

13.2 When the procurement of Consultancy is undertaken the [Procedure for Engaging Consultants](#) shall be followed by the Procuring Officer.

14. GRANTS

14.1 Where the procurement is made using monies received in the form of a grant to the Council not only must the procurement comply with these Contract Standing Orders Scheme of Tender Procedures but also any additional requirements imposed by the body awarding the grant;

14.2 Any request not to comply with this Standing Order must follow the process stated at Standing Order 10.9 (Direct Purchasing).

15. GENERAL PROCUREMENT GUIDANCE AND PROCUREMENT PROCESSES

- 15.1 The Procurement Processes shall be maintained by the Head of Revenue and Commercial Services in consultation with the Head of Legal & Democratic Services;
- 15.2 The Procurement Processes shall provide all officers with Delegated Procurement Authority instructions and guidance on best practice for conducting procurement exercises, including templates to be used as appropriate;
- 15.3 The Procurement Processes shall be deemed to form part of these Contract Standing Orders for the purpose of determining whether any action is a breach of these Contract Standing Orders.

16. TENDER DOCUMENTS

- 16.1 Only the latest version of templates issued by the Head of Revenue and Commercial Services should be employed. Any other template should only be used if agreed by the Head of Revenue and Commercial Services and the appropriate Procuring Service;
- 16.2 Terms and Conditions of Contract
 - 16.2.1 All Contracts/ frameworks entered into by the Council should be on the basis of the appropriate Fife Council Standard Terms and Conditions. No amendment to these conditions should be adopted without the agreement of the Head of Legal & Democratic Services. Where the Head of Revenue and Commercial Services considers that the standard terms and conditions are not appropriate for a particular Contract, by their significance or complexity, alternative terms and conditions can be used but only if approved by the Head of Legal & Democratic Services;
 - 16.2.2 For works Contracts recognised industry terms and conditions of Contract e.g. I.C.E, J.C.T, NEC3 and SBCC may be used.

17. ELECTRONIC PROCUREMENT

- 17.1 Requests for quotations should be sought by email and retained as a record of the process;
- 17.2 Contract Notices (including PINs, advertisements and award notices), and Invitations to Tender should be issued and/ or received by electronic means, usually through PCS and/or PCS-Tender unless otherwise agreed by the Head of Revenue and Commercial Services.

18. ELIGIBILITY OF THE TENDERER TO TENDER

- 18.1 Where any of the mandatory exclusion grounds specified in Regulation 58 of The Public Contracts (Scotland) Regulations 2015 apply to a Tenderer, the Procuring Officer shall treat that Tenderer as ineligible to Tender;
- 18.2 Where any of the discretionary exclusion grounds specified in Regulation 58 of The Public Contracts (Scotland) Regulations 2015 apply to a Tenderer, the Procuring Officer may treat that Tenderer as ineligible to Tender;
- 18.3 Prior to excluding a Tenderer from a procurement process, the Procuring Officer shall seek advice the matter from the Head of Revenue and Commercial Services and/ or the Head of Legal & Democratic Services;
- 18.4 These same exclusions shall apply if information comes to light following Contract award. At which point the Contract may be terminated.

19. LATE TENDERS

- 19.1 Tenders and quotations received after the closing date and time stipulated for return of Tenders, or Tenders which are incomplete or in an incorrect format must not be opened or considered except with the express approval of the Head of Revenue and Commercial Services and the Head of Legal & Democratic Services.

20. EVALUATION OF TENDERS AND QUOTATIONS

- 20.1 Tenders and quotations for procurements with values above the Regulated Procurements Thresholds shall be evaluated on the basis of Most Economically Advantageous Tender (MEAT);
- 20.2 Lowest cost will only be permitted for Contracts below Regulated Contracts Thresholds and Contracts placed under frameworks where the Procuring Officer can demonstrate that Best Value has already been established and the Procurement Processes allow for lowest cost;
- 20.3 The evaluation process must be fully and appropriately documented, and a record retained in all cases.

21. FORM, ACCEPTANCE, AWARD AND TERMINATION OF CONTRACTS

- 21.1 No Contract subject to the Procurement Legislation shall be entered into without a Procurement Summary Report being completed by the Procuring Officer and agreed by the appropriate Category Manager and/ or the Procurement Service Manager;
- 21.2 Except in circumstances where the Head of Revenue and Commercial Services and the Head of Legal & Democratic Services agree otherwise, every Contract shall be:
- a. In the name of The Fife Council; and
 - b. Awarded by an officer on the DPA list; and
 - c. Entered on the Contract Programme;
- 21.3 The Procuring Officer shall retain a copy of the Contract, keep proper records of all Contracts and Tenders and record where they are stored, and ensure the Contract Programme is updated;
- 21.4 The Executive Director of the Procuring Service in consultation with the Head of Revenue and Commercial Services, and the Head of Legal & Democratic Services, may terminate or suspend a Contract, in accordance with the express or implied terms of the Contract, and may also take such further action with regard to any Contract as the Council is legally entitled to take.

22. CONTRACT VARIATION/EXTENSION

- 22.1 The Head of Revenue and Commercial Services may authorise an extension to a Contract, or any other variation, including a consequent change in price, provided such extension or variation has been provided for in the initial Procurement Documents including the Contract Notice, and is not contrary to the Procurement Legislation;
- 22.2 A Contract shall not be extended, modified or amended if such extension or variation is not expressly permitted by the Contract without seeking advice from the Head of Revenue and Commercial Services and the Head of Legal & Democratic Services;
- 22.3 No Contract subject to the Procurement Legislation shall be extended without a Procurement Summary Report being completed by the Procuring Officer and agreed by the appropriate Category Manager and/ or the Procurement Service Manager.

23. CONTRACT NOVATION AND ASSIGNATION

- 23.1 In every Contract, there shall be included a provision whereby the Contractor shall be prohibited from transferring, novating or assigning to any person or persons whatever, any portion of the Contract without the prior written consent of the Council;
- 23.2 The Head of Revenue and Commercial Services, in consultation with the Head of Legal & Democratic Services and the Executive Director of the Procuring Service shall have the power to consent on behalf of the Council to the assignation of a Contract;
- 23.3 The assignation, novation or sub-contracting of any part of a Contract except to the extent permitted in writing by the Head of Revenue and Commercial Services, in consultation with the Head of Legal & Democratic Services, shall be prohibited.

24. CONTRACTS REGISTER

- 24.1 The Head of Revenue and Commercial Services shall maintain a register of all Contracts awarded by Fife Council as required by the Procurement Reform (Scotland) Act 2014;
- 24.2 The following information shall be entered into the register (as a minimum):
- 24.2.1 Date of award;
 - 24.2.2 Name of the contractor;
 - 24.2.3 Subject matter;
 - 24.2.4 Estimated value;
 - 24.2.5 Start date;
 - 24.2.6 End date provided for in the Contract (disregarding any option to extend the Contract) or, where there is no date specified, a description of the circumstances in which the Contract will end;
 - 24.2.7 Duration of any period for which the Contract can be extended; and
 - 24.2.8 Such other information as the Head of Revenue and Commercial Services deems appropriate;
- 24.3 The Contracts register shall be available publicly;
- 24.4 The Council's Contract Programme will provide information required for the completion of the Contracts register;
- 24.5 Services with Delegated Contracting Authority must provide all information required for maintaining the Contracts register and Contract Programme to the Head of Revenue and Commercial Services.

25. STRATEGIC REVIEW OF SERVICE PROVISION

- 25.1 Where a Service plans to undertake a strategic review of their service provision, the Head of Revenue and Commercial Services should be contacted at the outset of any such review to ensure that any relevant procurement issues are identified and addressed.