APPENDIX 5

Glasgow City Council

Standing Orders Relating to Contracts

2022

Made in terms of Section 81 of the Local Government (Scotland) Act 1973

May 2022

PART I: STANDING ORDERS RELATING TO CONTRACTS: GENERAL MATTERS

1. PRELIMINARY

1.1 Extent and Application

1.1.1 Glasgow City Council makes these Standing Orders in terms of section 81 of the Local Government (Scotland) Act 1973.

1.1.2 The Standing Orders must be interpreted in accordance with the key principles of openness, fairness and non-discrimination.

1.1.3 Subject to the provisions of Standing Orders 1.1.7 and 16.6, the Standing Orders apply to all contracts made by or on behalf of the Council for the execution of works, for the supply of goods and materials, or for the provision of services.

1.1.4 The Standing Orders are subject to the over-riding provisions of UK or Scottish legislation. They are also subject to any applicable UK Government or Scottish Government guidance on public procurement, including any measure affecting procurement activity during extra-ordinary social, economic, health, or other emergency circumstances.

1.1.5 The Standing Orders shall not apply to any contracts made on behalf of the Council by Scottish Procurement, Scotland Excel or any other central purchasing body or procurement partnership with whom the Council has made arrangements for the award of works, supplies or services contracts on its behalf, save in respect of the reporting requirements prescribed in Standing Order 7.4.4.

1.1.6 All Council personnel shall comply with the terms of the Standing Orders. Failure by any employee to comply with the Standing Orders, or the Corporate Procurement Manual (see Standing Order 1.1.11 below) may result in disciplinary action.

1.1.7 The Standing Orders do not apply to any of the following:

1.1.7.1 contracts of employment;

1.1.7.2 contracts solely relating to the lease or disposal of heritable property; and

1.1.7.3 contracts for the execution of works, the supply of goods and materials, or the provision of services which are, in the reasonable opinion of the Executive Director of the Relevant Service, urgently required for the prevention of risk to life or damage to property.

The Executive Director of the Relevant Service shall prepare and retain for audit purposes a written report recording the reason(s) for the urgency, why the supplier was selected, and why the cost represented best value to the Council in the circumstances.

The Executive Director of the Relevant Service shall also submit a copy of the written report to the Head of Internal Audit and the Head of Corporate Procurement and include the same information in a written report to the Contracts and Property Committee within three months of any contract award being made in such circumstances.

1.1.7.4 any Social Care Contract governed by Standing Order 16.6.

1.1.8 The award of any Social Care Contract shall also be subject to the rules set out in Part III of these Standing Orders.

1.1.9 The Standing Orders may be reviewed by the Council from time to time.

1.1.10 The Standing Orders may be suspended either in whole or in part by the Contracts and Property Committee in respect of the proposed award of any contract upon the joint recommendation of the Executive Director of the Relevant Service, the Executive Director of Financial Services and the Director of Legal and Administration. This is subject to the provisos that:-

1.1.10.1 there are special circumstances justifying the suspension; and

1.1.10.2 the suspension is within the statutory powers of the Council.

1.1.11 The Standing Orders must be read in conjunction with the Corporate Procurement Manual. All Council personnel must comply with the Corporate Procurement Manual. Where there is any discrepancy, the Standing Orders shall take precedence.

1.1.12 All directors or trustees of associated or subsidiary companies, trusts or other bodies whose accounts form part of the Council's Group Accounts shall ensure that they adhere to the procedures set out in these Standing Orders and the Corporate Procurement Manual. It is recognised that such bodies will have their own separate management structures and so will have a different executive approvals process for the conduct of procurement activities and the award of contracts. In all other matters, however, directors or trustees shall follow the procedures set out here.

1.1.13 Any query regarding the application or interpretation of these Standing Orders should be made in the first instance to the Director of Legal and Administration.

1.2 Definitions

1.2.1 **"Authorised System User"** means an officer of the Council who has been authorised to perform specific activities in relation to the preparation, publication, opening, assessment or award of e-tenders and who has been issued with the requisite system permissions to enable him or her to carry out these functions, as such functions are assigned under these Standing Orders.

1.2.2 **"Contract Documents"** means the invitation to tender for or to negotiate a contract, the descriptive document (if any), the proposed conditions of contract, the specification of the supplies, services or works required by the Council and all supplementary documents.

1.2.3 **"Contracts and Property Committee"** means the decision-making body of the Council authorised to approve the award of contracts, except in the case of any contract relating to the Strathclyde Pension Fund, in which case it means the Strathclyde Pension Fund Committee of the Council.

1.2.4 **"Corporate Procurement Manual"** means the procedure manual, including the procurement toolkit, issued by the Council, setting out the detailed requirements for the conduct of procurement activity within the Council (as amended from time to time) with which Council personnel are required to comply.

1.2.5 **"Corporate Procurement Unit"** means the unit established within the Council responsible for the Council's operational and strategic procurement policies and governance, including development of procurement staff, procedures and systems.

1.2.6 **"Council Website"** means the website maintained by the Council on which information can be found regarding the Council's procurement procedures. This includes details of how to do business with the Council, how to obtain help with tendering, in addition to a register of current contracts. These details can be found by utilising the link https://www.glasgow.gov.uk/index.aspx?articleid=17561

1.2.7 **"E-tendering" or "electronic tendering"** means a tendering process where the Contract Documents are published electronically and the tender response to these is also submitted electronically in the first instance, and **"E-tender"** shall be construed accordingly.

1.2.8 **"Most Economically Advantageous Tender"** means the tender offer that is assessed from the Council's point of view as the most economically advantageous on the basis of the best price-quality ratio according to criteria linked to the subject matter of the contract.

1.2.9 **"Paralegal Team"** means the team based in the Chief Executive's Department carrying out paralegal activities on behalf of the Director of Legal and Administration.

1.2.10 **" Prescribed Value Threshold"** means the financial thresholds of £5,336,937 (incl. VAT) and above (works contracts), £213,477 (incl. VAT) and above (supplies/services contracts) and £663,540 (incl. VAT) and above (Schedule 3 service contracts) as such contracts are defined or referenced in the Regulations. The Scottish Ministers are responsible for reviewing and revaluing these financial thresholds every two years.

1.2.11 **"Procurement Journey Guidance"** means the Scottish Government guidance for public sector buyers who procure goods, services and care and support services, and which can be found at https://www.procurementjourney.scot/

1.2.12 **"Procuring Officer"** means any officer appointed to carry out procurement activities on behalf of the Council.

1.2.13 **"Proper Officer"** means any officer in the employment of the Council who is duly authorised for the purpose of signing contracts under the Council's Scheme of Delegated Functions.

1.2.14 **"Public Contracts Scotland Portal"** means the national portal established and maintained by Scottish Procurement for the purpose of publicising: (i) the seeking of offers, and (ii) the award of contracts, which may be found at http://www.publiccontractsscotland.gov.uk.

1.2.15 **"Regulated Contracts"** and **"Regulated Procurements"** have the meanings assigned to them in the 2014 Act.

1.2.16 **"Regulations"** means The Public Contracts (Scotland) Regulations 2015 (as amended from time to time) and any reference to **"light touch regime"** means those services that are listed in Schedule 3 and governed by Section 7 of the Regulations.

1.2.17 **"Relevant Service"** means the service department of the Council with the particular operational requirement in any individual case for supplies, services or works on behalf of the Council (or for the disposal of surplus materials).

1.2.18 **"Scotland Excel"** means the joint committee of local authorities constituted under Section 57 of the Local Government (Scotland) Act 1973 for the purpose of regulating the joint discharge of their general purchasing functions.

1.2.19 **"Scottish Procurement"** means that part of the Scottish Procurement and Property Directorate of the Scottish Government, with responsibility for developing and implementing procurement strategies for national category A commodities on behalf of all Scottish public sector organisations and includes any successor organisation.

1.2.20 **"Strathclyde Pension Fund"** means Glasgow City Council in its capacity as administering authority for the Strathclyde Pension Fund in terms of the Local Government Pension Scheme (Scotland) Regulations 2018 (as such may be amended from time to time).

1.2.21 **"UK Find A Tender Service"** means the Find A Tender service which replaced Tenders Electronic Daily (TED) in the UK public procurement process. (Notices published on the Public Contracts Scotland Portal will be automatically posted to the UK Find A Tender Service).

1.2.22 **"2014 Act"** means the Procurement Reform (Scotland) Act 2014 and any regulations or guidance made or issued thereunder.

1.2.23 Additional defined terms in relation to any Social Care Contract are contained in Part III of these Standing Orders.

2. TENDERING PROCEDURES FOR DIFFERENT CONTRACT VALUES

2.1 The procedure for the award of any contract depends upon the estimated value of that contract. The relevant threshold values and the associated tendering procedure that must be applied are detailed in Table 1 below. All values relate to the full life of the contract (including any potential extension). For ease of reference, a summary of the procedures set out in these Standing Orders for the advertisement, direct award, and extension/modification of contracts is annexed at Appendix 1.

TABLE 1: RELEVANT VALUES AND ASSOCIATED TENDERING PROCEDURE

Contract Type	Contract Value	Applicable Procedure
Works	£5,336,937[1] and above	Standing Orders 3 and 7

Supplies / Services	£213,477[1] and above	Standing Orders 3 and 7
Works	From £2,000,000[2] but below £5,336,937[1]	Standing Orders 4 and 7
Schedule 3 Social and Other Specific Services (light touch regime services)	£663,540[1] and above	Standing Orders 3 and 7 (and Part III for Social Care contracts)
Supplies/Services	From £50,000[2] but below £213,477[1] (or below £663,540[1] for light touch regime services)	Standing Orders 4 and 7
Works/Supplies/Services	Below £50,000[2] (supplies/services) or below £2,000,000[2] (works)	Standing Order 5

[1] *inclusive of VAT*
[2] *exclusive of VAT*

The threshold values will be automatically revised in accordance with any subsequent legislative amendment affecting supplies, services or works contracts. All other financial limits specified in the Standing Orders shall be subject to review from time to time in accordance with Standing Order 1.1.9. Procuring Officers will be notified promptly of any change to the relevant values.

3. SUPPLIES/SERVICES CONTRACTS EQUAL TO OR IN EXCESS OF £213,477 (incl. VAT); WORKS CONTRACTS EQUAL TO OR IN EXCESS OF £5,336,937 (incl. VAT); and LIGHT TOUCH REGIME SERVICES CONTRACTS EQUAL TO OR IN EXCESS OF £663,540 (incl. VAT)

3.1 This Standing Order applies where the Executive Director of the Relevant Service requires to procure any contract with an estimated value equal to or exceeding the Prescribed Value Threshold. Unless otherwise excluded, exempt or approved in accordance with these Standing Orders, any such contract shall be advertised via publication of the relevant notice on the UK Find A Tender Service portal.

3.2 Procuring Officers shall ensure that the selected procurement procedure is carried out in accordance with the relevant provisions of

the Regulations, the Procurement Journey Guidance, and the Corporate Procurement Manual. The Director of Legal and Administration must be consulted for legal advice, where required, in order to ensure compliance with the relevant provisions.

3.3 The negotiated procedure without prior publication of a contract notice/prior information notice may be adopted for the award of the contract where permitted under the Regulations only in accordance with advice received from the Executive Director of Financial Services and the Director of Legal and Administration.

3.4 Where the Executive Director of the Relevant Service wishes to retain an option to extend the period of any contract in accordance with the provisions of these Standing Orders, the relevant Procuring Officer shall ensure that the contract notice expressly states that the contract may be extended for a specified period. If it is intended specifically to use the negotiated procedure in order to extend the period of the contract, this must also be expressly stated in the contract notice.

3.5 The Paralegal Team must be consulted regarding the preparation and publication of any notice to be published on the UK Find A Tender Service portal.

Special Rules: Design Contests; Works and Services Concessions; Utilities

3.6 Special rules apply to the procurement of design contests for the acquisition of plans or designs by the Council following adjudication by a jury, as part of a procedure leading to the award of a public services contract of a value in excess of the relevant threshold.

3.7 Such contracts must be awarded in accordance with the relevant rules set down in the Regulations. The Executive Director of the Relevant Service shall consult the Executive Director of Financial Services and the Director of Legal and Administration prior to commencing any tendering procedure for the award of such contracts**.**

3.8 Any contract to be procured under either The Concession Contracts (Scotland) Regulations 2016 or The Utilities Contracts (Scotland) Regulations 2015 shall be subject to the relevant procedures set down in those Regulations. The Executive Director of the Relevant Service shall consult the Director of Legal and Administration and the Executive Director of Financial Services prior to commencing any tendering procedure for the award of any such contract.

3.9 Any other contract that is excluded or exempt from the Regulations shall be awarded following the prescribed procedure contained in any other relevant legislation governing the conduct of any competition for the award of such a contract.

4. SUPPLIES/SERVICES CONTRACTS FROM £50,000 (excl. VAT) TO BELOW £213,477 (incl. VAT); WORKS CONTRACTS FROM £2,000,000 (excl. VAT) TO BELOW £5,336,937 (incl. VAT); and LIGHT TOUCH REGIME SERVICES CONTRACTS BELOW £663,540 (incl. VAT) (OTHER THAN THOSE GOVERNED BY PART III)

4.1 Subject to Standing Order 8, this Standing Order applies where the Executive Director of the Relevant Service proposes to award any contract with an estimated value from £50,000 (excl. VAT) and below £213,477 (incl. VAT) (for supplies or services) or from £2,000,000 (excl. VAT) and below £5,336,937 (incl. VAT) (for works), or below £663,540 (incl. VAT) (for light touch regime services not subject to Part III of these Standing Orders), or otherwise exempt from the provisions of Standing Order 3.

4.2 In carrying out any Regulated Procurement, the Procuring Officer shall ensure compliance with the duties prescribed in Part 2 of the 2014 Act, any regulations made thereunder, and any guidance published under the relevant section of the 2014 Act.

4.3 Any Regulated Procurement shall be advertised on the Public Contracts Scotland Portal, unless otherwise authorised in terms of Standing Order 8 or directed by the Head of Corporate Procurement in consultation with the Director of Legal and Administration.

5. SUPPLIES/SERVICES CONTRACTS BELOW £50,000 (excl. VAT); and WORKS CONTRACTS BELOW £2,000,000 (excl. VAT)

5.1 Unless otherwise directed in writing by the Head of Corporate Procurement, any requirement for:

- any supplies or services contract with a total estimated value from £10,000 to below £50,000 (excl. VAT); or
- (subject to Standing Order 8) any works contract with a total estimated value below £2,000,000 (excl. VAT),

where the duration of the contract does not exceed four years must be advertised via the Public Contracts Scotland Portal.

5.2 For the purposes of this Standing Order, upon written application from the Executive Director of the Relevant Service, the Head of Corporate Procurement may direct that the Public Contracts Scotland Portal is not used and prescribe an alternative method of appointing a supplier where, in his or her opinion there exist special circumstances which make it impossible or inappropriate to seek quotations or tenders.

5.3 Where Standing Order 5.2 applies, the Executive Director of the Relevant Service shall prepare and retain for audit purposes a written report recording the reason(s) why use of the Public Contracts

Scotland Portal was not directed and an alternative method of appointing a supplier was selected. The Executive Director of the Relevant Service shall also submit the written report to the Head of Internal Audit and Head of Corporate Procurement .

5.4 Even at this level of expenditure, a contract is required. The relevant Procuring Officer must ensure that either an appropriate works contract is used or in the case of supplies/services, where considered appropriate, the Council's standard terms and conditions for the supply of goods and services form the basis of the contract. The Procuring Officer must determine whether these standard terms and conditions are sufficient to govern the contract and, in cases of doubt, must contact the Director of Legal and Administration for advice.

6. ELECTRONIC PROCUREMENT: E-TENDERING PROCEDURES FOR SUBMISSION AND OPENING OF TENDERS AND COMMUNICATION WITH TENDERERS

6.1 Unless otherwise permitted following consultation with the Executive Director of Financial Services and the Director of Legal and Administration, any procurement process shall be conducted by means of electronic communication in compliance with the procedures set out in the Corporate Procurement Manual. The Council must offer on the internet unrestricted and full direct access free of charge to the Contract Documents from the date of publication of the relevant contract notice or the date on which the relevant invitation to confirm interest was sent. The text of the contract notice or invitation to confirm interest must specify the internet address at which the Contract Documents are accessible.

7. EVALUATION, NOTIFICATION, FINAL AWARD OF CONTRACTS AND REPORTING PROCEDURES

7.1 Evaluation

7.1.1 The Contract Documents shall state tenders are to be evaluated on the basis of the Most Economically Advantageous Tender. Tenders shall be evaluated strictly in accordance with the evaluation criteria set out in the Contract Documents.

7.1.2 No tender is to be evaluated in accordance with criteria not set out in the Contract Documents unless following consultation with the Director of Legal and Administration and the Executive Director of the Relevant Service it is agreed that there are exceptional circumstances. The Executive Director of the Relevant Service shall report on that tender to the Contracts and Property Committee prior to award of the contract.

7.1.3 If, during the evaluation process, any post-tender communication with tenderers is necessary prior to contract award in order to clarify or supplement any aspect of their tender, such communication shall be conducted in accordance with Standing Order 14.

7.2 **Notification**

7.2.1 Once tender evaluation is complete, the Executive Director of the Relevant Service shall be responsible for seeking the necessary approvals to award the contract to the recommended tenderer. If this includes obtaining committee approval then the Authorised System User shall, as soon as practicable after the relevant committee report is published on the Council Website, notify those tenderers who are being recommended to Committee for award of the tender that the report is available online.

7.2.2 *Letters to Successful Tenderers (for ease of reference, a summary of the procedures set out in this Standing Order is annexed at Appendix 2)*.

In this Standing Order references to any letter(s) of acceptance shall be taken to include:-

- any notice of intent to award a contract, and
- any final letter of contract award following expiry of the relevant standstill period.

Letters of acceptance shall be issued to the successful tenderer(s) in accordance with the following procedure:-

7.2.2.1 Contracts equal to or in excess of £500,000 (excl. VAT) (supplies/services) or £663,540 (incl. VAT) (light touch regime services), or £5,336,937 (incl. VAT) (works):-

(1) The Director of Legal and Administration shall issue any letter(s) of acceptance upon instruction from the Contracts and Property Committee.

(2) Any Council contract at this value relating solely to Strathclyde Pension Fund property investment management functions as defined within the scope of an existing property investment management contract that has already been approved by the Strathclyde Pension Fund Committee does not require any further committee approval. In any such case, the letter(s) of acceptance of the

contract shall be issued upon instruction from the Director of Legal and Administration.

7.2.2.2 Contracts for supplies/services equal to or in excess of £213,477 (incl. VAT) up to £500,000 (excl. VAT), contracts for light touch regime services equal to or in excess of £213,477 (incl. VAT) up to £663,540 (incl. VAT), and works contracts equal to or in excess of £2,000,000 (excl. VAT) up to £5,336,937 (incl. VAT):-

(1) The Director of Legal and Administration (or the Chief Officer in relation to any contract governed by Part III of the Standing Orders) shall issue any letter(s) of acceptance.

7.2.2.3 Contracts up to £213,477 (incl. VAT) (for supplies/services), contracts up to £213,477 (incl. VAT) for light touch regime services, and contracts up to £2,000,000 (excl. VAT) (for works):

(1) The Head of Corporate Procurement (or Head of Commissioning in relation to any contract governed by Part III of the Standing Orders) shall issue any letter of acceptance.

7.2.3 *Letters to Unsuccessful Tenderers/Candidates*

For all contracts, the Head of Corporate Procurement (or Head of Commissioning in relation to any contract governed by Part III of these Standing Orders) shall prepare any letter informing unsuccessful tenderers/candidates of the Council's decision regarding the award of a contract. Where the contract value exceeds either £213,477 (incl. VAT) (supplies/services) or £663,540 (incl. VAT) (light touch regime services), or £2,000,000 (excl. VAT) (works) any such prepared letter shall be forwarded to the Paralegal Team for issue.

7.2.4 If none of the tenders submitted is to be accepted, the appropriate Authorised System User shall notify all tenderers accordingly.

7.2.5 All letters issued under this Standing Order 7 in relation to any particular contract award shall be issued at the same time. All such letters shall comply with the requirements of the Corporate Procurement Manual and shall be in the form prescribed in the procurement toolkit issued along with the Corporate Procurement Manual. The Director of Legal and Administration must be consulted in cases where further advice or assistance is required.

7.2.6 No tender shall be accepted unless the Executive Director of the Relevant Service is satisfied regarding the successful tenderer’s

technical or professional ability, and the Executive Director of Financial Services is satisfied regarding its economic and financial standing. The Chief Officer must be satisfied regarding these matters for any Social Care Contract which is subject to Part III of these Standing Orders.

7.3 Final award of contracts

7.3.1 At the conclusion of the evaluation and notification procedure prescribed in Standing Orders 7.1 and 7.2 and (if applicable) after the expiry of the mandatory standstill period, the final contract shall be entered into between the Council and the successful tenderer as follows:

7.3.1.1 For contracts with a value equal to or over £100,000, (excl. VAT) through the execution of a written contract executed in accordance with Scots law (unless otherwise agreed in accordance with Standing Order 11.6.1), and signed on behalf the Council by a Proper Officer;

7.3.1.2 For contracts with a value of up to £100,000 (excl. VAT), either through the execution of a written contract as prescribed in Standing Order 7.3.1.1 ; or else by the issue of a letter of award by the Executive Director of the Relevant Service and the return of this letter duly executed or submission of any invoice by the tenderer signifying their acceptance of the appointment on the terms and conditions stated therein. The Procuring Officer shall determine which of these options to adopt unless the Director of Legal and Administration has directed the option to be selected in the case of any particular procurement.

7.4 Procurement Strategy and Reporting

7.4.1 *Procurement Strategy*

Subject to Part 2 of the 2014 Act, the Director of Legal and Administration shall prepare and publish a procurement strategy setting out how the Council intends to carry out Regulated Procurements in the next financial year, or review the Council's procurement strategy for the current financial year and make such revisions as are considered appropriate and publish the revised strategy.

7.4.2 *Annual Procurement Report*

The Director of Legal and Administration shall in relation any financial year prepare and publish an annual procurement report on the Council's regulated procurement activities as soon as

reasonably practicable after the end of the financial year.

7.4.3 *Register of Contracts*

The Director of Legal and Administration shall keep and maintain a register of contracts containing the following information:

- The date of award
- The name of the contractor
- The subject matter
- The estimated value
- The start date
- The end date (disregarding any option to extend), or where no end date is specified a description of the circumstances in which the contract will end
- The duration of any period for which the contract can be extended.

7.4.4 *Contracts and Property Committee*

7.4.4.1 Any contract awarded with an estimated value of £50,000 (excl. VAT) and above, but either below £500,000 (excl. VAT) (supplies/services), or below £663,540 (incl. VAT) (light touch regime services) or below £5,336,937 (incl. VAT) (works) shall be reported to the Contracts and Property Committee by the Executive Director of the Relevant Service (or the Chief Officer for contracts governed by Part III). A report shall be submitted to the Committee on a three-monthly basis containing the following information in relation to any such contract awarded within that period:-

- the value of any contract awarded;
- the identity of the tenderer to whom it was awarded; the number of tenderers invited to submit a tender; the number of tenders submitted;
- the criteria adopted for awarding the contract; where due to exceptional circumstances as set out in Standing Order 7.1.2, the contract was to be awarded to anyone other than the Most Economically Advantageous Tenderer, the score of the Most Economically Advantageous Tender and the score of the successful tender and the

reason(s) for the selection of the successful tenderer; and such other information as may be specified from time to time by the Director of Legal and Administration in consultation with the Executive Director of Financial Services.

The report shall also be made available for inspection by other members of the Council.

7.4.4.2 Notwithstanding Standing Order 1.1.5, any participation agreement or call-off contract relating to Scottish Procurement national Category A commodities shall be reported to the Contracts and Property Committee by the Executive Director of the Relevant Service, irrespective of the estimated contract value.

8. DIRECT AWARD OF CONTRACTS WITHOUT PRIOR ADVERTISEMENT (see Standing Order 23 for direct award of contracts governed by Part III)

8.1 Where the Executive Director of the Relevant Service considers that there are special circumstances which justify the negotiation of a contract with any supplier without prior advertisement, then this Standing Order 8 shall apply. For ease of reference, a summary of the procedure set out in this Standing Order is annexed at Appendix 3.

8.2 Any direct award of the contract must be made in compliance with the Regulations, the 2014 Act, and any UK Government or Scottish Government guidance, as applicable.

8.3 Prior to concluding any such direct award, the Executive Director of the Relevant Service shall (in consultation with the Head of Corporate Procurement) ensure that he or she has obtained legal advice from the Director of Legal and Administration confirming the proposal is permitted under the applicable legislation and guidance.

8.4 A written report demonstrating the legal basis for the direct award and how it represents best value must be prepared (in consultation with the Head of Corporate Procurement) and submitted by the Executive Director of the Relevant Service to the Executive Director of Financial Services and the Director of Legal and Administration for their prior written approval. The report and approval shall be maintained on file by the Executive Director of the Relevant Service to provide an audit trail in each case.

8.5 Notwithstanding any approval granted under this Standing Order 8, any direct award of a contract above the thresholds set out in Standing Order 7.2.2.1 also requires the prior approval of the Contracts and Property Committee, unless otherwise exempt.

8.6 This Standing Order 8 shall not apply to the direct award of any supplies/services contract with an aggregate value below £50,000 (excl. VAT), which shall be subject to the separate approval process set out in Standing Order 5.

9. EXTENSION/MODIFICATION OF EXISTING CONTRACTS (see Standing Order 24 for extension/modification of existing contracts governed by Part III)

9.1 Where the Executive Director of the Relevant Service considers that there are special circumstances which justify the negotiation of an extension or a modification of an existing contract beyond what is permitted under its existing terms and conditions, then this Standing Order 9 shall apply. For ease of reference, a summary of the procedure set out in this Standing Order is annexed at Appendix 4.

9.2 Any such extension or modification of the contract must be made in compliance with the Regulations, the 2014 Act, and any UK Government or Scottish Government guidance, as applicable.

9.3 Prior to concluding any such extension or modification, the Executive Director of the Relevant Service (in consultation with the Head of Corporate Procurement) shall ensure that he or she has obtained legal advice from the Director of Legal and Administration confirming the proposal is permitted under the applicable legislation.

9.4 A written report demonstrating the legal basis for the extension or modification and how it represents best value must be prepared by the Executive Director of the Relevant Service (in consultation with the Head of Corporate Procurement) and submitted to the Executive Director of Financial Services and the Director of Legal and Administration for their records. The report shall be maintained on file by the Executive Director of the Relevant Service to provide an audit trail in each case.

10. ETHICS AND STANDARDS

10.1 The guiding principles of ethical behaviour in purchasing are as follows:-

10.1.1 ethical behaviour must be promoted and supported by appropriate systems and the governance arrangements set out by the Council which are specified in the Corporate Procurement Manual;

10.1.2 the conduct of employees should not foster the suspicion of any conflict between their official duty and their personal interest;

10.1.3 the action of employees should not be, nor give the impression that they have or may have been, influenced by a gift or consideration to show favour or disfavour to any person or organisation;

10.1.4 dealings with suppliers must at all times be transparent, honest and fair; and

10.1.5 staff must keep sufficient records to establish an audit trail to demonstrate that appropriate standards have been observed throughout any procurement process.

10.2 The most relevant offences under the Bribery Act 2010 are set out below. These offences relate to receiving bribes and being bribed.

10.2.1 These offences relate to any person carrying out any:-

- function of a public nature; or
- activity connected with a business; or
- activity being performed in a person's employment; or
- activity performed by or on behalf of a body of persons;

where that person is expected to perform the function or activity:-

- in good faith;
- impartially; and/or
- is in a position of trust by virtue of performing it.

10.2.2 The grounds for three of the offences are established when any person requests, agrees to receive or accepts a financial or other advantage; and

1 intends that a relevant function or activity should be performed improperly by them or another person; or

2 the request, agreement or acceptance itself constitutes the improper performance by them of a relevant function or activity; or

3 it is a reward for the improper performance by them or another person of a relevant function or activity.

The grounds for the fourth offence are:-

4 where in anticipation of or in consequence of someone

requesting, agreeing to receive or accepting a financial or other advantage, a relevant function or activity is performed improperly by them or by another person at their request or with their assent or acquiescence.

The Bribery Act 2010 contains other offences and staff must contact Legal Services or Internal Audit for further advice where required.

10.3 It is essential that all Councillors in line with the Councillors' Code of Conduct and all Council employees are (and are seen to be) above reproach in their actions. They must ensure that their personal judgement and integrity cannot reasonably be seen to be compromised by the acceptance of benefits of any kind from a third party.

10.4 There may be conflicts of interest between a supplier and employees who are conducting a procurement activity. If this is the case, the situation must be assessed to determine how it can be resolved. Usually, this involves removing any conflicted individual from the procurement process so that he/she is not in a position to influence decisions made.

10.5 Examples of conflict of interest are when someone in the procurement team or an immediate family member:

- stands to benefit from an award of contract and that person is in a position to influence the decision about whether to make such an award; or

- has a controlling interest in a supplier as a shareholder, director or senior manager which might affect the delivery of products under a contract.

10.6 If a staff member is uncertain whether or not they have a conflict of interest, further advice must be obtained from the Director of Legal and Administration (via Legal Services and/or the Head of Corporate Procurement).

10.7 All procurement activities can be subject to review by Internal Audit. Internal Audit is an independent assurance function established by the Executive Director of Financial Services. Auditors have unrestricted access to all Council records (whether manual or computerised), cash, stores and other property. They also have unrestricted access to all locations and officials, where necessary on demand and without prior notice.

11. MISCELLANEOUS

11.1 National/International Standards

11.1.1 Where there is a recognised national or international standard applicable to any contract current at the date of tender, the Contract Documents shall require that the works, goods, or services to be supplied shall at least meet the requirements of that standard, or that an appropriate equivalent standard be used. In presenting evidence of equivalence tenderers shall be required to provide a certified translation into English of the standard being used.

11.2 Prevention of Collusion, Corruption or Illegal Practices

11.2.1 Every contract shall include a clause entitling the Council to:-

11.2.1.1 terminate the contract if the supplier or its representative (whether with or without the supplier's knowledge) shall have:-

(1) practised collusion in tendering for the contract or any other contract with the Council; or

(2) employed any corrupt or illegal practices in obtaining or performing the contract or any other contract with the Council; and

11.2.1.2 recover from the supplier the amount of any loss resulting from such termination.

11.3 Equal Opportunity and Equality

11.3.1 Before entering into any contract, the Procuring Officer shall obtain from the supplier an assurance in writing that, to the best of its knowledge and belief, the supplier has:-

11.3.1.1 complied with all statutory requirements relating to equal opportunity in employment; and

11.3.1.2 is not unlawfully discriminating within the meaning and scope of the Equality Act 2010 (or any statutory amendment, modification or re-enactment thereof) relating to discrimination in employment.

11.4 Freedom of Information

11.4.1 The Contract Documents shall give notice to tenderers of the Freedom of Information (Scotland) Act 2002 (or, if applicable, the Environmental Information (Scotland) Regulations 2004). The Act and Regulations give a statutory right of access to all information held by the Council except where an exemption or exception can be applied.

11.4.2 Tenderers who seek to incorporate provisions within any contract that all or some information is provided by them in confidence will not necessarily be entitled to rely on such provisions.

11.4.3 The Procuring Officer shall ensure that the required Freedom of Information clause drafted by the Director of Legal and Administration is incorporated in the Contract Documents.

11.5 **Assignation**

11.5.1 Except where otherwise agreed between the Executive Director of the Relevant Service and the Director of Legal and Administration, every contract entered into by the Council shall include a clause prohibiting the supplier from assigning or sub-letting the contract without the prior written consent of the Council.

11.6 **Scots Law**

11.6.1 Except where otherwise agreed between the Executive Director of the Relevant Service and the Director of Legal and Administration, every contract entered into by the Council shall be in writing and shall be subject to Scots Law and the exclusive jurisdiction of the Scottish Courts.

PART II: STANDING ORDERS RELATING TO CONTRACTS: SPECIAL MATTERS

12. DISPOSAL OF SURPLUS MATERIALS

12.1 The care, custody and level of stores and equipment in any service is the responsibility of the Executive Director of the Relevant Service. Subject to Standing Order 12.2 and 12.3 below he or she shall ensure that all obsolete or excess stock or scrap materials are identified and disposed of in accordance with this Standing Order 12.1 unless beforehand the Director of Legal and Administration and the Executive Director of Financial Services approve otherwise in a particular case.

12.1.1 *Offer to other Council Family Services*

Where, in the opinion of the Executive Director of the Relevant Service, stock is surplus or scrap and has been valued, he or she shall first offer the surplus material to other services within the Council and its arm's-length external organisations). Only where no such service or organisation wishes the surplus material shall it be offered for value to third parties.

12.1.2 *Disposal to Third Parties*

Where the Executive Director of the Relevant Service proposes to dispose of surplus or scrap material to a third party, such disposal shall take place either for value by way of competitive tender in accordance with Standing Order 12.1.3, or at no cost on a "first come first served" basis to other local authorities, public sector organisations, and third parties in accordance with Standing Order 12.4 below. (Where surplus or scrap materials are disposed of on a recurring basis (e.g. surplus vehicles) the Executive Director of the Relevant Service may seek the approval of the Contracts and Property Committee for a special scheme for disposal.)

12.1.3 *Disposal by Way of Competitive Tender*

The Executive Director of the Relevant Service shall ensure that:-

12.1.3.1 details of what has to be disposed are specified and advertised as required;

12.1.3.2 arrangements are made for viewing if appropriate;

12.1.3.3 arrangements for receipt, custody and opening of tenders comply with these Standing Orders; and

12.1.3.4 the tenderer offering the best price shall be accepted.

Where, in exceptional cases, the successful tenderer is not the one offering the best price, the Executive Director of the Relevant Service shall prepare and retain a written record of the reason(s) why it was selected.

12.1.4 *Disposal to Other Public Bodies*

Disposal to other local authorities, public sector organisations, and third sector bodies may be made using a web-based portal maintained by a third party to facilitate disposal provided that the Executive Director of Financial Services and the Director of Legal and Administration have indicated their prior acceptance in writing of the use of any particular web-based portal, and subject to such terms and conditions of use as they may prescribe.

12.2 *Disposal by Way of Quotation*

Where the Executive Director of the Relevant Service considers the surplus to be a small quantity of materials of low value, he or she may dispose of it on a casual basis. At least three interested parties shall be invited to submit written quotations, where possible. The Executive Director of the Relevant Service shall retain a written record of the type and amount of materials disposed of and the successful tender offer.

12.3 *Disposal by Way of Donation:-*

The Executive Director of the Relevant Service is authorised to donate or provide at less than the market value surplus equipment, furniture, or materials (including but not limited to ICT equipment subject to compliance with the Council's information security policy) up to an estimated value of £1,000 in any one instance to a charity or voluntary organisation. Each Executive Director will:

- ensure that each disposal complies with all relevant Council policies,
- maintain a record on file of all such disposals for audit purposes, and
- report the details of each disposal to the Contracts and Property Committee (or such other Council forum as the Director of Legal and Administration may direct) as soon as reasonably practicable, including the donee organisation and a description / estimated value of the items disposed.

[NOTE: The Executive Director of Neighbourhoods, Regeneration and Sustainability will not actively circulate to other services details of any surplus vehicles and items of plant for whose maintenance that Service is responsible.

The Executive Director of Neighbourhoods, Regeneration and Sustainability has instituted a file of written requests from other services for such vehicles. Requests will be acknowledged with an indication of whether there is any likelihood of an appropriate surplus vehicle being made available.

If any appropriate vehicles become available and are considered potentially suitable for further use, the Executive Director of Neighbourhoods, Regeneration and Sustainability will offer them to the service with the earliest request on file. The offer will contain relevant details of the vehicle and likely costs involved].

13. PAYMENT IN ADVANCE

13.1 In any contract for the supply of goods and materials where the purchase price, or any instalment of it, is to be paid in advance by the Council to any contractor prior to completion of the contract or the relevant stage or section of the contract, the following shall apply:-

13.1.1 The Executive Director of the Relevant Service must be satisfied that payment in advance is the only available option if the contract is to proceed.

13.1.2 The proposed payment in advance shall reflect the progress of the contract and the approximate value of goods or materials supplied.

13.1.3 If a proposal requires payment in advance for goods or materials which are to be retained in the possession of the contractor (e.g. until further work has been completed) then a document either vesting ownership in the Council, or otherwise protecting the Council's interest, prior to the payment of the first instalment must be obtained by the Executive Director of the Relevant Service in consultation with the Director of Legal and Administration.

13.1.4 The Executive Director of the Relevant Service shall ensure that any such goods or materials are insured while retained on the Contractor's premises.

13.1.5 If any payment in advance is released following a site or factory visit to inspect work in progress or equipment, a written report of the visit shall be prepared and retained within the contract records.

13.1.6 The Executive Director of the Relevant Service shall obtain the prior written approval of the Director of Legal and Administration and the Executive Director of Financial Services when entering into any agreement to make payment in advance other than as permitted under this Standing Order.

14. POST-TENDER COMMUNICATIONS

14.1 Procuring Officers may, where appropriate, contact any tenderer in respect of any matter necessary to clarify or supplement its tender in accordance with these Standing Orders and, where applicable, the Regulations, the 2014 Act and any UK Government or Scottish Government guidance.

14.2 In order to ensure that there is no distortion of competition, post tender communications undertaken prior to conclusion of the tender evaluation process shall be carried out in a restricted and carefully handled manner. Any amendment to tenders or Contract Documents made as a result of such communications must not go beyond clarifying or supplementing a tenderer's offer unless otherwise permitted under the Regulations. It is essential to consider, prior to commencing communications whether the amendments that may be achieved are such that an economic operator excluded from the communications (whether on the list of tenderers or not) could have been unfairly treated and/or could have submitted a better offer.

14.3 In particular, all Procuring Officers shall ensure that all discussions on fundamental aspects of contracts, variations on which are likely to distort competition, and in particular on prices, shall be ruled out during the tender evaluation process.

14.4 In conducting post tender communications during the tender evaluation process, Procuring Officers shall comply with the following additional rules:-

14.4.1 all tenderers must be treated equally and in an open and fair manner;

14.4.2 tenderers must not be permitted to amend their bids in a manner that allows them to improve their offer unless otherwise permitted under the Regulations, the 2014 Act and any applicable UK or Scottish Government guidance;

14.4.3 post tender communications must not be carried out in such a manner as to leave the Council open to charges of acting anti-competitively;

14.4.4 where any factor giving rise to post tender communications is not specific to one tenderer, all tenderers must be invited to participate in such communications;

14.4.5 there must be no material change to the specification(s) and/or criteria on which tenders are to be assessed;

14.4.6 if it becomes apparent that a material change is necessary, the tendering process must be recommenced with a revised specification or evaluation criteria;

14.4.7 the Procuring Officer must keep written records of all meetings with contractors and these must include the following details:-

- who was present from the Council (always more than one officer) and from the tenderer;
- the date, time and location of any meeting; and
- the nature of the discussion and the outcome (it would be advantageous if both parties can confirm agreement of the accuracy of this record);

14.4.8 if in doubt at any stage in the process, the Procuring Officer must seek advice from the Director of Legal and Administration and the Head of Corporate Procurement, as appropriate.

14.5 Upon conclusion of the tender evaluation process and selection of the successful candidate, any further communication with the successful candidate must be in compliance with the Regulations, the 2014 Act and any applicable UK or Scottish Government guidance.

PART III: Standing Orders Relating to Social Care Contracts

15. INTERPRETATION/REFERENCES

In this Part III, unless the context requires otherwise the terms set out below shall have the following meanings.

15.1 **"Best Practice Guidance"** means the Best Practice Guidance on the Procurement of Care and Support Services which can be found at (http://www.gov.scot/Resource/0049/00498200.pdf).

15.2 **"Care Home Service"** means residential accommodation with or without nursing care that the Council is obliged to provide or to secure the provision of in terms of either section 13A or section 12 of the Social Work (Scotland) Act 1968, respectively.

15.3 **"Care Inspectorate"** means the body and registration authority constituted as Social Care and Social Work Improvement Scotland in terms of the Public Services Reform (Scotland) Act 2010.

15.4 **"Chief Officer"** means the Glasgow City Integrated Joint Board member of staff appointed in terms of section 10 of the Joint Working Act who has delegated operational responsibility for the delivery of Integrated Services.

15.5 **"Commissioning Staff"** means those commissioners carrying out Health and Social Care Partnership commissioning functions.

15.6 **"Contract Documents"** has the same meaning as in Part I.

15.7 "**Contract Management Framework**" means the framework adopted by the Council to manage purchased care and support services across client groups.

15.8 "**Contracts and Property Committee"** has the same meaning as in Part I.

15.9 "**Council Website"** has the same meaning as in Part I.

15.10 **"Direct Payment"** means a payment made by the Council to any person under the Social Care (Self Directed Support) (Direct Payment) (Scotland) Regulations 2014 for the purpose of enabling that person to arrange for the provision of support by any other person including the Council.

15.11 **"Host Authority"** means the local authority of an area outside Glasgow, in which a particular Social Care service is based and into which the Council has placed or intends to place a person assessed as needing such a service.

15.12 **"Housing Support"** means support of the type described in the Housing (Scotland) Act 2001 (Housing Support Services) Regulations 2002, which is primarily intended to assist a person to live as independently as possible in the community; and "**Housing Support Contract"** means any contract entered into to purchase or facilitate the purchase of such support.

15.13 **"HSCP"** means the Health and Social Care Partnership structure designed further to the Integration Scheme to ensure the operational delivery of Integrated Services.

15.14 **"HSCP Executive Group"** means the weekly business meeting chaired by the Chief Officer or authorised delegate.

15.15 **"Integrated Services"** means the services identified as such in the Integration Scheme.

15.16 **"Integration Scheme"** means the Integration Scheme agreed between the Council and NHS Greater Glasgow and Clyde and approved by the Scottish Ministers under the Joint Working Act setting out the integration arrangements for the strategic planning and operational delivery of certain health and social care services.

15.17 **"Joint Working Act"** means the Public Bodies (Joint Working) (Scotland) Act 2014.

15.18 **"Locality Team"** means those officers carrying out Health and Social Care Partnership individual purchasing/call-off arrangements allocated to teams based in the South, North East and North West areas of the city.

15.19 **"Looked After and Accommodated Children"** means children to whom the Council owes a statutory duty to look after and/or accommodate in terms of the Children (Scotland) Act 1995.

15.20 **"National Care Home Contract"** means the call-off contract negotiated by Scotland Excel and the private and voluntary care home sector for the provision of residential and nursing care for older people, as the same may be amended from time to time.

15.21 **"Notional Value"** means, where a contract does not have an date, the value of the contract calculated as three times its original value.

15.22 **"Older Adult"** means an adult aged 65 years or over.

15.23 **"Paralegal Team"** has the same meaning as in Part I.

15.24 **"Part I"** or "**Part II"** or "**Part III"** unless otherwise stated means that part of these Standing Orders.

15.25 **"Prescribed Value Threshold"** means, in this Part III specifically governing Social Care contracts, the financial threshold of £663,540

(incl. VAT) and above. The Scottish Ministers are responsible for reviewing and revaluing these financial thresholds every two years.

15.26 **"Procurement Journey Guidance"** has the same meaning as in Part I.

15.27 **"Provider"** means a provider who is signatory to an existing national or Council framework agreement for Social Care under which the Council may procure such services; or a provider: (i) from whom the Council is otherwise purchasing Social Care, or (ii) who the Council intends to deliver Social Care (and, where the context permits, includes a potential Provider).

15.28 **"Public Contracts Scotland Portal"** has the same meaning as in Part I.

15.29 "**Regulated Social Care Contract"** means a contract for social care services governed by the provisions of the Procurement Reform (Scotland) Act 2014.

15.30 **"Regulation and Quality Improvement Authority"** means the body constituted under the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.

15.31 **"Regulations"** has the same meaning as in Part I

15.32 **"Scotland Excel"** has the same meaning as in Part I.

15.33 "**Service User"** means a person who has been assessed as having needs that call for the provision of Social Care.

15.34 **"Social Care"** means care which the Council has the power or duty to provide or secure principally in terms of Part II of the Social Work (Scotland) Act 1968, the Chronically Sick and Disabled Persons Act 1970, the Children (Scotland) Act 1995; and the Mental Health (Care and Treatment) (Scotland) Act 2003

15.35 **"Social Care Contract"** means any contract entered into to procure or facilitate the procurement of Social Care.

15.36 **"1993 Directions"** means the Social Work (Scotland) Act 1968 (Choice of Accommodation) Directions 1993.

15.37 **"2014 Act"** has the same meaning as in Part I.

16. PRELIMINARY

16.1 This Part III outlines key elements of the Social Care commissioning process, and where appropriate, refers to the relevant provisions of Parts I and II.

16.2 Part III must be followed by all officers who are authorised to commission Social Care in terms of the Council's Scheme of Delegated Functions to ensure that an appropriate commissioning route is followed and that contract award decisions are referred to the Contracts and Property Committee for approval when required.

16.3 Whilst the objective of Social Care Contracts is to secure and regulate service arrangements to meet the needs of individual Service Users, Commissioning Staff must also meet legal and audit requirements with respect to procurement and achieving best value. Where a commissioner is in any doubt about how to proceed, advice from the Executive Director of Financial Services and/or the Director of Legal and Administration must be sought as appropriate.

16.4 Notwithstanding Standing Order 1.1.9 (power of the Council to review the Standing Orders), the Director of Legal and Administration in consultation with the Chief Officer may amend Part III.

16.5 Except where otherwise agreed between the Chief Officer and the Director of Legal and Administration, every contract entered into by the Council in accordance with Part III shall include a clause prohibiting the Provider from assigning or sub-letting the contract without the prior written consent of the Council.

16.6 Any Social Care Contract for the delivery of care packages to individuals assessed by the Chief Officer as having complex sensitive care requirements shall be excluded from these Standing Orders. The Chief Officer shall prepare and retain for audit purposes a written report recording, on an anonymised basis, the individual care requirements in each case, the reason(s) why the particular Provider was selected, and why the cost represented best value to the Council in the circumstances. The Chief Officer shall submit a report to the Contracts and Property Committee on a three-monthly basis containing this information in relation to any such contract awarded within that period.

17. PROCUREMENT THRESHOLDS FOR SOCIAL CARE

17.1 Contracts valued at £663,540 (incl. VAT) and above

In accordance with the Regulations, health, social and related services are classed as Schedule 3 services. Commissioning Staff will therefore be required to adhere to certain requirements prescribed in the Regulations and comply with the Procurement Journey Guidance where the value of the contract is equal to or above the Prescribed Value Threshold for Schedule 3 (light touch regime) services contracts.

17.2 **Contracts valued at £50,000 (excl. VAT) or above, but below £663,540 (incl. VAT) (Regulated Social Care Contracts)**

Although it is not mandatory to advertise any Regulated Social Care Contract, a decision must be made on a case-by-case basis whether to seek offers in relation to the proposed contract or directly award the contract to a particular Provider. In each case regard must be made to the Procurement Journey Guidance and the Statutory Guidance made under the 2014 Act (http://www.gov.scot/Resource/0049/00496919.pdf). The Best Practice Guidance must also be taken into account. When Commissioning Staff wish to make a direct award of the contract rather than seek offers, the approvals required under Standing Order 23 must be sought and obtained in advance of award.

Where the Chief Officer decides to advertise the contract he or she must ensure:

17.2.1 a satisfactory degree of advertising in accordance with Standing Order 18; and

17.2.2 that best value is achieved.

17.3 **Contracts valued below £50,000 (excl. VAT)**

Subject to there being no circumstances justifying negotiation with one Provider, the advertising requirements of Standing Order 18 shall be followed.

17.4 **Financial Threshold Bandings**

The financial threshold bands which apply to the purchase or commissioning of Social Care and to whom they apply are as follows:

Banding	Threshold	Applies To
1.	Value below £663,540 (incl. VAT)	Locality Team and Commissioning Staff authorised by the Council's Scheme of Delegated Functions.
2	Value equal to and above £663,540 (incl. VAT) (i.e. the current Prescribed Value Threshold for Schedule 3 light touch regime services contracts)	Commissioning Staff authorised by the Council's Scheme of Delegated Functions (subject to Contracts and Property Committee prior approval)

NB The total value is the estimated total value of a contract over its life

where an end date is known. Where a contract does not have an end date, the Notional Value of the contract will determine its approval, award and reporting requirements.

18. CONTRACTS BELOW £663,540 (incl. VAT):

Locality Team Purchasing

18.1 The relevant Locality Team should arrange for any Social Care service to be provided from the following sources as set out here:

(i) a directly provided service;

(ii) any national or Council framework agreement or other purchasing arrangements as prescribed by Commissioning Staff where applicable;

(iii) the purchased services vacancy lists if applicable; or

(iv) the centralised allocation systems or other lists appropriate to the service as determined by Commissioning Staff.

Locality Team staff must contact Commissioning Staff for advice prior to arranging services from the sources referred to in options ii, iii and iv.

When a service cannot be arrangedfrom these sources, approval must be obtained from Commissioning Staff to ensure alternative options are considered within the rules governing exceptional circumstances.

Commissioning Staff

18.2 Commissioning Staff must ensure that any procurement complies with the relevant sections of the 2014 Act, the Procurement Journey Guidance and the Best Practice Guidance.

19. CONTRACTS EQUAL TO AND ABOVE £663,540 (incl. VAT)

19.1 As Social Care Contracts valued at £663,540 (incl. VAT) and above are Schedule 3 light touch regime services in terms of the Regulations, Commissioning Staff are required to comply with the relevant requirements prescribed in the Regulations, the 2014 Act, the Procurement Journey Guidance and the Best Practice Guidance and in so doing must obtain the appropriate legal advice, where required, from the Director of Legal and Administration.

20. EVALUATION AND NOTIFICATION

20.1 Evaluation

Standing Orders 7.1.3 and 14 must be followed regarding post-tender communications.

20.2 Notification

20.2.1 Commissioning Staff must ensure compliance with the notification requirements of Standing Order 7.2.

20.2.2 References to contract values in Standing Order 7.2 shall be read as total or Notional Value for Social Care Contracts; and letters referred to at Standing Order 7.2.5 shall be in the form prescribed to support the Procurement Journey Guidance as part of the Council's procurement strategy.

20.2.3 No acceptance shall be issued except on prior written confirmation by the Chief Officer that the necessary clearances, including those prescribed below, have been obtained where required, in compliance with the relevant Standing Orders; or that they will be addressed by way of suspensive conditions in the contract.

Such clearances include:-

i) <u>From the Chief Officer</u>

(a) Confirmation that any relevant resource transfer has been effected by the relevant Health Board to the Council.

(b) Confirmation that planning consent and/or a building warrant, if required, have been obtained.

(c) Confirmation that the economic and financial standing of the preferred Provider has been investigated and found to be satisfactory.

ii) <u>From the Executive Director of Financial Services</u>

(a) Confirmation that necessary insurance is/will be in place prior to the commencement of the contract or at whatever stage the Executive Director of Financial Services considers appropriate.

(b) For Care Home Service contracts, confirmation of the

satisfactory assessment of the preferred Provider's economic and financial standing is required from the Executive Director of Financial Services

iii) <u>From the Director of Legal and Administration</u>

(a) Where commencement of the contract depends upon the Council acquiring or leasing heritable property, written clearance/confirmation from the Director of Legal and Administration that missives for the acquisition or lease have been concluded and entry is available.

(b) Confirmation that the Director of Legal and Administration is satisfied with the terms and conditions of the contract.

iv) <u>From the Contracts and Property Committee</u>

Confirmation that a minute of the Contracts and Property Committee approves the award of any contract with a total or Notional Value equal to or above £663,540 (incl. VAT).

21. FINAL AWARD OF CONTRACTS

21.1 Procurement Exercises

Contracts up to the level that require Contracts and Property Committee approval, must be awarded by the Chief Officer or the Head of Commissioning as appropriate in accordance with Standing Orders 7.2.2.2 and 7.2.2.3.

22. RECORDING AND REPORTING

22.1 Procurement exercises of a value below £663,540 (incl. VAT)

For exercises conducted by Commissioning Staff, the relevant commissioner will be responsible for retaining all information regarding the procurement for audit purposes. This information must include the reasons for choosing the successful Provider and evidence of any tenders or quotations submitted.

22.2 Procurement exercises equal to or above a value of £663,540 (incl. VAT)

These exercises must be conducted in compliance with the Regulations, the 2014 Act, the Procurement Journey Guidance and Best Practice Guidance and require Contracts and Property Committee approval prior to award.

23. DIRECT AWARD OF SOCIAL CARE CONTRACTS WITHOUT PRIOR ADVERTISEMENT

23.1 This Standing Order must be applied where the Chief Officer considers in relation to any requirement to purchase Social Care services that there are special circumstances which justify the negotiation of a contract with any Provider without prior advertisement. For ease of reference, a summary of the procedure set out in this Standing Order is annexed at Appendix 5.

23.2 Any direct award of the contract must be made in compliance with the Regulations, the 2014 Act, the Procurement Journey Guidance and the Best Practice Guidance, as applicable.

23.3 The Chief Officer must prepare and submit a written report to the Executive Director of Financial Services and the Director of Legal and Administration requesting their prior written approval of the direct award. The report shall demonstrate the legal basis for the direct award and how it represents best value; and it must be maintained, along with any approval granted, on file by the Chief Officer to provide an audit trail in each case.

23.4 The Chief Officer in consultation with the Paralegal Team shall ensure that the contract award letter is issued, and any contract award notice is published in relation to any such direct award where required by either the Regulations and/or the 2014 Act.

23.5 Where the contract has a total value below £663,540 (incl. VAT) such approval will be sufficient to permit the negotiation of the contract, subject to any conditions that the Executive Director of Financial Services and Director of Legal and Administration may specify.

23.6 Notwithstanding this Standing Order, any direct award of a contract with a value of £663,540 (incl. VAT) and above also requires the prior approval of the Contracts and Property Committee, unless otherwise exempt, and publication of such notice as may be required under the Regulations or otherwise.

24. EXTENSION/MODIFICATION OF EXISTING SOCIAL CARE CONTRACTS

24.1 Standing Order must be applied where the Chief Officer considers that there are special circumstances which justify the negotiation of an extension or a modification of an existing Social Care Contract beyond what is permitted under its existing terms and conditions. For ease of reference, a summary of the procedure set out in this Standing Order is annexed at Appendix 6.

24.2 Any such extension or modification of the contract must be made in compliance with the Regulations, the 2014 Act, the Procurement Journey Guidance and the Best Practice Guidance, as applicable.

24.3 Prior to concluding any such extension or modification, the Chief Officer shall ensure that he or she has obtained legal advice from the Director of Legal and Administration confirming the proposal is permitted under the applicable legislation and guidance.

24.4 The Chief Officer shall prepare and submit a written report to the Executive Director of Financial Services and the Director of Legal and Administration for their records. The report shall demonstrate the legal basis for the extension/modification and how it represents best value; and it must be maintained on file by the Chief Officer to provide an audit trail in each case.

24.5 The Chief Officer, in consultation with the Paralegal Team, shall ensure that any contract award notice is published in relation to any such extension or modification of the contract where required by either the Regulations and/or the 2014 Act.

25. PROVIDERS

25.1 Whenever the Council intends to permit a Provider to deliver Social Care on its behalf, the Chief Officer shall ensure that the Provider is a suitable person/organisation/company to provide such services by ensuring that they:

(a) are, where applicable, the holder of a current and valid Certificate of Registration from the Care Inspectorate as Registration Authority in terms of the Public Services Reform (Scotland) Act 2010;

(b) have produced satisfactory evidence to the Chief Officer regarding their economic and financial standing; insurance arrangements; legal capacity and health, safety and environmental procedures;

(c) have the professional or technical capability to provide the services required by the Council; and

(d) have confirmed in writing that they will enter into a contract with the Council (or an approved sub-contracting arrangement), should the Council require the Provider to deliver Social Care services.

26. CARE HOME SERVICES CONTRACTS

A. Care Home Services for Adults and Older Adults

26.1 *Care Home Services for Adults and Older Adults in the UK but outwith Scotland*

Where the Council wishes to make a placement in a care home establishment in England, Wales, Northern Ireland, any of the Channel Islands or the Isle of Man, in accordance with Section 5 of the Community Care and Health (Scotland) Act 2002 it is required to do so in accordance with the Community Care (Provision of Residential Accommodation Outwith Scotland) (Scotland) Regulations 2015 ("the Residential Accommodation Regulations") and Scottish Government Circular CCD1/2016.

The Chief Officer may enter into a contract directly with the Provider on similar terms to the National Care Home Contract amended as appropriate by the Director of Legal and Administration, subject to:

(a) the care home being an "appropriate establishment" as defined in the Residential Accommodation Regulations;

(b) the Provider being the holder of a current and valid Certificate of Registration under the Health and Social Care Act 2008; or being registered with the Regulation and Quality Improvement Authority in Northern Ireland as appropriate; and

(c) the placement being in compliance with the 1993 Directions.

B. Care Home Services for Adults other than Older Adults

26.2 *Care Home Services for Adults except Older Adults within the Glasgow City Council Area*

The Chief Officer shall enter into contractual arrangements with a Provider of Care Home Services on satisfactory terms subject to:-

(a) The Provider being the holder of a current and valid Certificate of Registration from the Care Inspectorate as Registration Authority in terms of the Public Services Reform (Scotland) Act 2010;

(b) The Provider having produced to the Council satisfactory evidence regarding its financial standing, insurance arrangements and legal status; and

(c) Placement should be made only with the prior written agreement of the Executive Director of Financial Services and the Director of Legal and Administration and following conclusion of the contractual arrangements.

26.3 *Care Home Services for Adults except Older Adults within Scotland but outwith Glasgow*

Where the Council wishes to make a placement in a care home for adults, which is in Scotland but outwith the Glasgow City Council area the Chief Officer shall enter into a contract with the Provider of the service on satisfactory terms, subject to receiving confirmation from the Host Authority that:

(a) the Provider holds a current and valid Certificate of Public Services Reform (Scotland);

(b) the placement is in compliance with the 1993 Directions; and

(c) the Host Authority (being the authority in which the individual is placed) has no issues with the quality or standard of the service being provided.

27. SERVICES OUTWITH GLASGOW OTHER THAN CARE HOME SERVICES

27.1 *Individual Care Packages outwith Glasgow*

Where the Council wishes to put in place an arrangement to provide an individual care package at a location outwith the Glasgow City Council area the Chief Officer or their nominee shall: (a) With the consent of the Host Authority, utilise any list of Providers approved by the Authority for the relevant category of service provision, to identify a Provider with whom to contract for the Services; and use the Host Authority rate; (b) Where such a list does not exist within the Host Authority's area, the Chief Officer or their nominee will liaise with the Host Authority to ascertain which Providers are already operating in the area with a view to negotiating directly with a suitable Provider for the service package in question.

27.2 *Supported Living Placements outwith Glasgow for Adults except Older Adults*

Where the Council has effected a placement outwith the Glasgow City Council area and:

(i) the Provider ceases to provide the service; and

(ii) there is a continuing need for a service to be provided to the service user referred by the Council; and

(iii) the Host Authority is carrying out a tendering exercise to replace the service provision for another supported living service,

then the Council will, with the agreement of the Host Authority, put

arrangements in place with the successful Provider, which failing the Council shall enter into negotiations with the successful Provider for it to provide the service. If for whatever reason this is not possible the Council shall seek to identify a suitable Provider with whom to contract for the services and the Chief Officer shall:

(a) seek the consent of the Host Authority to utilise any list of Providers approved by the Host Authority for the relevant category of service provision; or

(b) where such a list does not exist within the Host Authority area, the Chief Officer will liaise with the Authority to ascertain which Providers are already operating in the area with a view to:

(i) using this information as an equivalent to a list of Providers; or

(ii) negotiating directly with a suitable Provider for the service package in question.

28. RESIDENTIAL PLACEMENTS FOR LOOKED AFTER AND ACCOMMODATED CHILDREN

28.1 Where there arises an unforeseen and urgent requirement to place a child in residential care and no suitable vacancy exists under an existing contractual arrangement with a Provider, Commissioning Staff with the appropriate delegated authority shall be permitted to place the child with another Provider as long as the Chief Officer is satisfied that the Provider is appropriately registered with the Care Inspectorate and where the placement is outside Glasgow, that the Host Authority has no concerns regarding the Provider.

28.2 Where this Standing Order has been utilised the placement must be regularly reviewed by on-site visit; the Provider's satisfactory insurance provision and economic financial standing must be confirmed by the Executive Director of Financial Services; and a contract on terms satisfactory to the Director of Legal and Administration must be put in place.

28.3 The Director of Legal and Administration and Executive Director of Financial Services must be notified on a quarterly basis of all instances where this Standing Order has been utilised.

29. RESOURCE TRANSFER FROM HEALTH AUTHORITIES

29.1 Where agreement has been reached between the Council and any relevant Health Board for the transfer of resources, whether in cash or otherwise from one party to the other, then the Council shall enter into a contract with the relevant Health Board for the transfer of those

resources without the requirement for Contracts and Property Committee approval, subject to:-

(i) the contract in question being for the transfer of resources to the Council for the provision by the Council of Social Care services and for no other purpose;

(ii) the Director of Legal and Administration being satisfied as the terms of the contract; and

(iii) the Chief Officer advising the Contracts and Property Committee at annual intervals of the amount of resources so agreed.

APPENDIX 1

PROCEDURES FOR ADVERTISEMENT, DIRECT AWARD, EXTENSION, MODIFICATION OF CONTRACTS

VALUE / TYPE	ADVERTISEMENT	DIRECT AWARD	EXTENSION/ MODIFICATION	LEGISLATION
≥ £5,336,937[1] (Works) ≥ £663,540[1] (Schedule 3 Services/Light Touch Regime) ≥ £213,477 [1] (Services/Supplies)	UK Find a Tender Service and Public Contracts Scotland	Relevant Service (or Chief Officer for Part III contracts) must obtain Legal / Audit approval following receipt of legal advice (S.O. 8 & 23))	Relevant Service (or Chief Officer for Part III contracts) submits report to Legal / Audit following receipt of legal advice (S.O. 9 & 24)	Public Contacts (Scotland) Regulations 2015 (Regulation 33 / Regulation 72)
≥ £2,000,000[2] - £5,336,937[1] (Works) < £663,540[1] (Schedule 3 Services/Light Touch Regime) ≥ £50,000[2] - < £213,477[1] (Services/Supplies)	Public Contracts Scotland	Relevant Service (or Chief Officer for Part III contracts) must obtain Legal / Audit approval following receipt of legal advice (S.O. 8 & 24)	Relevant Service (or Chief Officer for Part III contracts) submits report to Legal / Audit following receipt of legal advice (S.O. 9 & 25)	Unregulated if <£2,000,000 (Works) Procurement Reform (Scotland) Act 2014 The Procurement (Scotland) Regulations 2016 (Regulation 6)

<£2,000,000[2] (Works) <£50,000[2] (Services/Supplies)	Public Contracts Scotland	Relevant Service must obtain approval from the Head of Corporate Procurement (S.O. 5.2) Relevant Service submits written report following approval to the Head of Internal Audit & Head of Corporate Procurement (SO 5.3)	N/A	Unregulated

[1] *including VAT*
(the totals including VAT as set out in SPPN 8/2021)

[2] *excluding VAT*

APPENDIX 2

PROCEDURES FOR APPROVAL AND ISSUE OF CONTRACT AWARD LETTERS

VALUE / (CATEGORY)	LETTER OF ACCEPTANCE ISSUED BY	STANDING ORDER	SCHEME OF DELEGATED FUNCTIONS
≥ £5,336,937[1] (WORKS) ≥ £663,540[1] (SCHEDULE 3 SERVICES/LIGHT TOUCH REGIME) ≥ £500,000[2] (SERVICES / SUPPLIES)	DIRECTOR OF LEGAL AND ADMINISTRATION - UPON CONTRACTS & PROPERTY COMMITTEE INSTRUCTION	7.2.2.1	N/A
≥ £2,000,000[2] UP TO £5,336,937[1] (WORKS) ≥ £213,477[1] UP TO £500,000[2] (SERVICES/SUPPLIES) ≥ £213,477[1] UP TO £663,540[1] (SCHEDULE 3 SERVICES LIGHT TOUCH REGIME)	DIRECTOR OF LEGAL AND ADMINISTRATION or, in relation to Part III CHIEF OFFICER	7.2.2.2	CHIEF EXECUTIVE DELEGATION NO 32(b)[3] CHIEF OFFICER (PART III CONTRACTS) DELEGATION No. 2[3]

< £2,000,000[2] (WORKS) < £213,477[1] (SERVICES / SUPPLIES) < £213,477[1] (SCHEDULE 3 SERVICES/LIGHT TOUCH REGIME) < £213,477[1] (SERVICES / SUPPLIES)	HEAD OF CORPORATE PROCUREMENT or, in relation to Part III CHIEF OFFICER/HEAD OF COMMISSIONING	7.2.2.3	SECTION 4 (GENERAL) DELEGATION NO 3 TO CHIEF EXECUTIVE (EXERCISABLE BY, AMONG OTHERS, THE HEAD OF CORPORATE PROCUREMENT) and, in relation to Part III CHIEF OFFICER/HEAD OF COMMISSIONING

[1] *including VAT*

[2] *excluding VAT*

[3] *This delegation is also exercisable by the Head of Corporate Procurement, but in practice award letters at these values are normally signed by Legal Managers in the Corporate & Property Law Section. The Chief Officer has delegated authority to commission and enter into any contracts for social care and/or housing support services in accordance with Part III of the Council's Standing Orders Relating to Contracts.*

APPENDIX 3
STANDING ORDER 8
DIRECT AWARD OF CONTRACTS WITHOUT PRIOR ADVERTISEMENT

Are there special circumstances justifying a direct award?

The Relevant Service (in consultation with the CPU) must take legal advice to confirm that the applicable legislation/guidance permits a direct award without prior advertisement.

A written report demonstrating:

(i) the legal basis for the direct award; and
(ii) how the direct award represents best value

is submitted by the Relevant Service, in consultation with the CPU, to Legal Services & Internal Audit for approval

Once Legal Services & Internal Audit's written approval has been received, the Relevant Service retains it on file and can proceed to arrange award of the contract (in consultation with the CPU).

Where the contract value is £500,000 (excl. VAT) (supplies/services), £5,336,937 (incl. VAT) (works), £663,540 (incl. VAT) (light touch regime services), or above, Contracts and Property Committee approval to award the contract is also required.

NB Where the contract value is below £50,000 (excl. VAT) (services/light touch regime contracts)/£2,000,000 (excl. VAT) (works contracts), the approval is dealt with under Standing Orders 5.2 and 5.3

APPENDIX 4
STANDING ORDER 9
EXTENSION/MODIFICATION OF EXISTING CONTRACTS

Are there special circumstances justifying a negotiated extension or modification beyond that permitted under the existing contract?

The Relevant Service (in consultation with the CPU) must take legal advice to confirm that the applicable legislation/guidance permits such an extension or modification.

A written report demonstrating:

(i) the legal basis for the extension or modification; and
(ii) how the negotiated extension/modification represents best value

is submitted by the Relevant Service, in consultation with the CPU, to Legal Services & Internal Audit for their records

The Relevant Service retains the written report on file and instructs the extension or modification (in consultation with the CPU).

APPENDIX 5
STANDING ORDER 23
DIRECT AWARD OF SOCIAL CARE CONTRACTS WITHOUT PRIOR ADVERTISEMENT

Are there special circumstances justifying a direct award?

The Chief Officer must take legal advice to confirm that the applicable legislation/guidance permits a direct award without prior advertisement.

A written report demonstrating:

(i) the legal basis for the direct award; and
(ii) how the direct award represents best value

is submitted by the Chief Officer to Legal Services & Internal Audit for approval

Once Legal Services & Internal Audit's written approval has been received, the Chief Officer retains it on file and consults with the Paralegal Team to arrange the award of the contract and publish any required notice.

Where the contract value is £663,540 (incl. VAT) or above, Contracts and Property Committee approval to award the contract is also required.

APPENDIX 6
STANDING ORDER 24
EXTENSION/MODIFICATION OF EXISTING SOCIAL CARE CONTRACTS

Are there special circumstances justifying a negotiated extension or modification beyond that permitted under the existing contract?

The Chief Officer must take legal advice to confirm that the applicable legislation/guidance permits such an extension or modification.

A written report demonstrating:

(i) the legal basis for the extension or modification; and
(ii) how the negotiated extension/modification represents best value

is submitted by the Chief Officer to Legal Services & Internal Audit for their records

The Chief Officer retains the written report on file and consults with the Paralegal Team to arrange the formal extension/modification and publish any required notice.