

DATA LABEL: OFFICIAL



**COUNCIL EXECUTIVE**

**REVIEW OF STANDING ORDERS FOR THE REGULATION OF CONTRACTS**

**REPORT BY HEAD OF CORPORATE SERVICES**

**A. PURPOSE OF REPORT**

To present proposed revised Standing Orders for the Regulation of Contracts (Contract Standing Orders).

**B. RECOMMENDATION**

It is recommended that the Council Executive approves the proposed revised Contract Standing Orders, attached at Appendix 1.

**C. SUMMARY OF IMPLICATIONS**

<b>I</b>	<b>Council Values</b>	Focusing on our customers' needs; being honest, open and accountable.
<b>II</b>	<b>Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)</b>	Public procurement regulations. Local Government (Scotland) Act 1973. Corporate Procurement Strategy.
<b>III</b>	<b>Implications for Scheme of Delegations to Officers</b>	The Scheme of Delegations will be updated where required to reflect the updated roles and responsibilities in the revised Standing Orders
<b>IV</b>	<b>Impact on performance and performance Indicators</b>	The proposed revisions to Contract Standing Orders will support delivery of the Outcomes in the Corporate Procurement Strategy.
<b>V</b>	<b>Relevance to Single Outcome Agreement</b>	Our economy is diverse and dynamic, and West Lothian is an attractive place for doing business.
<b>VI</b>	<b>Resources - (Financial, Staffing and Property)</b>	None.
<b>VII</b>	<b>Consideration at PDSP</b>	P&R PDSP - 18 September 2020.

**VIII Other consultations**

Procurement Board, Governance Manager and all Service areas as part of a Working Group, including Legal Services.

**D. TERMS OF REPORT**

**D1 Background**

The Contract Standing Orders ensure that uniform contracting procedures of the highest standard are laid down for use across the Council to secure competition and compliance within the law with respect to all contracts. They also ensure that the council obtains best value in its procurement and contracting and provide a framework for detailed procurement procedures which can be made by Senior Officers under delegated powers, affording protection to the Council and its staff.

**D2 Procurement Considerations**

Minor updates to the current Contract Standing Orders were made in March 2019. More recently, a working group from across service areas was established to review Standing Orders. The updated document, attached at Appendix 1, incorporates, along with other minor changes, changes to accommodate Brexit, clarification of Works thresholds, integrate health and social care procurement and to clarify and strengthen the Responsible Officer role in respect of Health and Social Care Partnership Contract Advisory Group around exemptions to tender and ensure an escalation process to Council Executive, where applicable. The proposed amendments and how these relate to the current Contract Standing Orders are detailed in Appendix 2. Amendments of particular note are at paragraph C2.2 and C2.3 where it is proposed to change the threshold for reporting Works contracts to Committee. Current Standing Orders require all contracts over a £50,000 threshold to be reported to Committee. This is the regulated procurement threshold for supplies and services contracts. Below that threshold officers can progress procurement via Quick Quotes. The regulated procurement threshold for Works contracts is £249,999, below which threshold officers can progress procurement by way of Quick Quote. The proposed change to Contract Standing orders would require both categories of contracts to be reported only where they are over threshold, i.e. supplies and services over £50,000 and Works over £249,999.

There is also an amendment at paragraph C3.3 to delegate authority to the Responsible Officer to determine the tender award criteria.

Further to the review the Scheme of Delegation will be updated where required to reflect the updated roles and responsibilities in the revised Standing Orders.

The Contract Standing Orders attached at Appendix 1 will become effective from 6 October 2020.

**D3 PDSP Feedback**

The revised draft Contract Standing Orders were considered at Partnership and Resources PDSP on 18 September. The Panel asked for clarification on the position with regards the potential impact on Procurement Law in Scotland as result of the UK Government's new internal market legislation. There is no indication, as yet, that the Internal Market Bill will impact on the Scottish Government proposals to adopt the European procurement legislation.

The representative from the joint Forum of Community Councils expressed disappointment that figures for procurement spend via quick quote were not published.

**E. CONCLUSION**

The proposed revised Contract Standing Orders will ensure continued compliance with the law whilst recognising the changing landscape of local authority procurement as a result of Brexit, the integration of health and social care.

**F. BACKGROUND REFERENCES**

None.

Appendices: One

Appendix 1 – Draft Standing Orders for the Regulation of Contracts (Standing Orders)

Appendix 2 – Amendments to Standing Orders

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Date of meeting: 6 October 2020



# STANDING ORDERS

for the

## REGULATION OF CONTRACTS

DOCUMENT HISTORY		
24 April 2012	New Standing Orders approved following Corporate Procurement Review	Council Executive (with effect from 1 June 2012)
1 January 2013	Amendment to Clause A.7 in relation to Bribery Act 2010	Head of Finance & Estates in consultation with Chief Solicitor
1 July 2013	Amended to reflect Corporate Procurement Strategy 2013/18	Council Executive, 4 June 2013
31 December 2014	Amended following adoption of Best Value Framework	Council Executive, 5 June 2014
	Amended to reflect changes to procurement and exemption spend thresholds	Council Executive, 19 August 2014
August 2017	Amended under delegated powers to reflect management changes and new legislation	N/A
March 2019	Amended under delegated powers to amend errors in spelling, terminology and formatting	N/A
August 2020	Amended to reflect changes in relation to exit from the European Union, integration health and Social Care and clarification of Responsible Officer role in CAG, along with clarification of Works spend thresholds for tendering and other minor amendments.	P&R PDSP, 18 September 2020 Council Executive, 6 October 2020

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## **APPENDICES**

- 1 Current Tender Thresholds (6 October 2020)

## A. EXTENT AND INTERPRETATION

1	<p>The purposes of these Standing Orders are:</p> <ul style="list-style-type: none"> <li>• to ensure that uniform contracting procedures of the highest standard are laid down for use throughout the council;</li> <li>• to secure competition and compliance with the law with respect to all contracts;</li> <li>• to ensure the council obtains best value in its procurement and contracting;</li> <li>• to provide a framework for detailed Corporate Procurement Procedures which can be made by Senior Officers under delegated powers; and</li> <li>• to afford protection to the council and its staff</li> </ul>
2	<p>The Council makes these Standing Orders in terms of section 81 of the Local Government (Scotland) Act 1973. Section 81 requires the council to make Standing Orders with respect to the making of contracts by or on behalf of the council both for Works and for the supply of goods and materials. Such Standing Orders must include provision for securing competition for such contracts and for regulating the manner in which tenders are invited by the council. Section 81 also gives the council the power to make, if it chooses, Standing Orders for contracts for the supply of services, as distinct from the supply of goods and materials. These Standing Orders also cover contracts for Works and Services, including health and social care services.</p> <p>The Health and Social Care partnership is the name of the umbrella partnership body through which the council and NHS Lothian Health Board co-operate and work together to deliver health and social care services in West Lothian. It takes in delivery of Adult and Older Peoples Services, Children's Services, Criminal and Youth Justice service as directed by the West Lothian Integration Joint Board and the delivery of children's services under direct control of the partners. On 24 April 2012, the Council approved a separate process for health and social care services contracts and decided that approval of contracts covered by the West Lothian Health and Social Care Partnership, which are health and social care services, covered by the schedule in the Procurement (Scotland) Regulations 2016 should be devolved to the Responsible Officer and approval granted with advice and assistance from the Health and Social Care Contracts Advisory Group (CAG). Such contracts are treated differently in public procurement legislation and are of a particular nature where the needs of service users are of over-riding importance. Where applicable, these standing orders make provision for Health and social care contracts to be governed differently and the Corporate procurement procedures provide further information on the procurement and reporting arrangements.</p>
3	<p>These Standing Orders must be interpreted and applied in accordance with the key principles of transparency, equal treatment, non-discrimination and proportionality.</p>
4	<p>These Standing Orders apply to all contracts made by or on behalf of the Council, on or after 6 October 2020, for the procurement of the execution of works, the supply of goods and materials to the Council, and/or for the provision of services, including health and social care services. Where the tender process to make the contracts began prior to the 6 October 2020, the previous Standing Orders will apply.</p>
5	<p>The Standing Orders are subject to the over-riding provisions of public procurement legislation. Officers must also have regard to statutory guidance when using the Standing Orders.</p>

6	<p>Section 81 allows the council to exempt any contract from this requirement for competition where the council decides that it is satisfied that the exemption is justified by special circumstances. However, this exemption from competition can only apply to contracts where the aggregated Estimated Contract Value, for the same procurement requirement, is less than the relevant regulated procurement spend threshold under the applicable public procurement legislation. Even in some of those cases, consideration is still required about the appropriate method and extent of advertising or publicity. These Standing Orders contain procedures for the granting of such exemptions.</p>
7	<p>The Standing Orders must be read in conjunction with (and all Council staff must comply with) the Scheme of Delegation, the Council's Financial Regulations and Corporate Procurement Procedures.</p>
8	<p>Public Procurement legislation regulates the making of contracts by the council. The legislative framework seeks to ensure that public sector bodies such as the council award contracts in an efficient and non-discriminatory manner. It sets out general duties for public bodies to follow and more specific duties for specified types of procurement activity. Public Procurement legislation set out the procedures to be followed at each stage of the procurement process leading to the award of contracts above certain financial spend thresholds (regulated spend thresholds) for works, goods and materials and services, including health and social care services, by the council and other public bodies. They take account of modern techniques such as e-procurement and the provision of framework agreements, as well as the extent to which sustainable procurement and social, economic and environmental issues can be considered during the procurement process.</p> <p>Public Procurement legislation makes provision to exclude some types of spend from its scope and although, grant funding received by the Council, as a grant recipient, may be subject to public procurement legislation when the Council spends it, <a href="#">grant funding</a> paid out by the Council to grant recipients is not subject to public procurement legislation so falls outwith the scope of Standing Orders.</p>
9	<p>In addition, the Local Government in Scotland Act 2003, section 1 requires the council:</p> <ul style="list-style-type: none"> <li>• to secure best value in the performance of its functions;</li> <li>• to balance the quality and cost of the performance of its functions and the cost of council services to service users;</li> <li>• to have regard to efficiency, effectiveness, economy and the need to meet equal opportunity requirements in maintaining that balance; and</li> <li>• to discharge its duty to secure best value in a way which contributes to the achievement of sustainable development.</li> </ul> <p>The council has adopted a Best Value Framework to ensure compliance with the relevant legislation and statutory guidance. The Framework applies across the council to all services and areas of activity and is of particular relevance to the procurement process, as part of making the decision to procure goods, materials, services, including health and social care, and works from external providers and in seeking to achieve Best Value procurement. In making decisions about procurement and in applying these Standing Orders, officers must have regard to and comply with that Framework. Best Value procurement is a process that</p>

	<p>considers and returns more than just best price. It is a process that takes account of the whole life cost of buying products, services or works.</p> <p>Best Value includes financial and non-financial elements such as time, administration, sourcing and benchmarking.</p>
<b>10</b>	<p>The council's Scheme of Delegation to Officers sets out the powers which have been delegated by the council to senior officers. Subject to certain general conditions set out in this Scheme, such as the requirement to follow council policies, the day-to-day running of council services is delegated to the Chief Executive and Depute Chief Executives, and also to Head Teachers under the council's Scheme of Devolution of School Management. These senior officers are also authorised to delegate any of their authority to other officers under their direction and who are appropriately qualified and experienced. This means that, in the context of the making of contracts on behalf of the council, the Chief Executive, Depute Chief Executives, Heads of Service, as well as Head Teachers, must ensure that those officers whom they authorise to perform procurement functions and tasks on their behalf have sufficient training, knowledge and experience to determine compliant and relevant procurement issues and are aware of the extent and limitation of their delegated authority. Regardless of any delegations by them, the final responsibility for ensuring compliance with all applicable regulation's rests with the "Responsible Officer". The Responsible Officer for all types of procurement by the council is currently the Head of Corporate Services.</p>
<b>11</b>	<p>The Responsible Officer will: -</p> <ul style="list-style-type: none"> <li>• ensure compliance with these Standing Orders;</li> <li>• determine disputes amongst officers engaged in the procurement and contracting process and procedures in accordance with clause A.15, below;</li> <li>• ensure that the award of any regulated contract applying to services is advertised within the relevant legislative timescales and contract award notices published;</li> <li>• include the details of regulated contract awards in the annual statistical returns and Annual Procurement Report to the Scottish Government;</li> <li>• add details of the contract awards into the council's corporate contract register; and</li> <li>• comply with provisions of Standing Orders in relation to delegation and training of officers, procurement strategies, use of standard terms of contract, use of the Corporate Contract Register, use of framework agreements and collaborative arrangements, contract monitoring, and reporting to committee and Policy Development and Scrutiny Panel.</li> </ul>
<b>12</b>	<p>All officers exercising delegated powers in relation to procurement and contracting functions must comply with these Standing Orders, with the relevant Procurement Procedure as approved by the Head of Corporate Services, and with the Employee Code of Conduct. They must also be aware of the provisions of the Bribery Act 2010 and the Councils Anti-Money Laundering Policy in relation to giving or accepting a financial or other advantage and the potential for personal and corporate criminal liability. Any failure in or disregard of these requirements may amount to gross misconduct or misconduct under the council's Disciplinary Code and may result in disciplinary action.</p>
<b>13</b>	<p>The council's Scheme of Delegation to Officers applies to the signature of contracts. Simple electronic signatures may be used where appropriate.</p> <p>The council's Corporate Procurement Strategy sets out the framework by which the council will ensure it maximises effective service delivery and the provision of best value for money.</p>

	<p>The Strategy is aligned to the pursuit of the Scottish Government's national performance framework and the Sustainable Procurement Duty. It requires, in particular, the use of a Contract strategy template as defined, and updated from time to time, in the Corporate Procurement Procedures.</p> <p>These Standing Orders should be read in conjunction with the relevant Corporate Procurement Procedure and in the context of the Corporate Procurement Strategy.</p>
<b>14</b>	<p>Amendment or replacement of these Standing Orders requires a decision of full council or committee, except that:</p> <ul style="list-style-type: none"> <li>• The Head of Corporate Services, in consultation with the Chief Solicitor, may make minor administrative changes required from time to time to any part of this document without reference to committee (arising from, for example, changes in legislation or changes in management structures); or</li> <li>• The Head of Corporate Services, in consultation with the Chief Solicitor, may revise and amend this section "(A) – Extent and Interpretation", and the documents comprised in the Appendices.</li> </ul>
<b>15</b>	<p>Any dispute arising from the application, operation or interpretation of these Standing Orders and Corporate Procurement Procedures shall be resolved by a decision of the Responsible Officer after discussion with the appropriate Head of Service and after consultation with the Chief Solicitor, Head of Finance &amp; Property Services or Governance Manager, as appropriate to the nature of the dispute.</p>

## B. DEFINITIONS

TERM	MEANING
2014 Act	Procurement Reform (Scotland) Act 2014
2015 Regulations	The Public Contracts (Scotland) Regulations 2015
2016 Regulations	Procurement (Scotland) Regulations 2016
Annual Procurement Report	Procurement Reform (Scotland) Act 2014 requires that all Contracting Authorities, who are eligible to prepare and publish a Procurement Strategy, must publish an annual procurement report which reports on actual and planned regulated procurement activities; achievement of community benefits; activity with supported businesses; and any regulated procurement, i.e. above £50,000 for goods and services and £2,000,000 for works contracts, that did not comply with the procurement strategy.
Best Value Framework	The regime adopted at Council Executive to guide the council in securing best value and complying with the relevant legislation and statutory guidance.
Collaborative Contracts	All contracts (including framework agreements) placed in conjunction with other contracting authorities or other public bodies, by the council or another authority or body, or through joint committees, or in partnership with other parties.
Committee	Full council, or the committee established by the council with a remit which includes corporate procurement (presently Council Executive)
Contract	<p>Legislation regulates how contracts can be made by or on behalf of the council. In this context, “contract” means any agreement:</p> <ul style="list-style-type: none"> <li>• with an individual, company or other organisation</li> <li>• for the execution of building and civil engineering works or</li> <li>• for the supply of goods, materials or services, and</li> <li>• which is authorised to be entered into by the council or one of its committees or sub-committees, usually in writing, or</li> <li>• which is entered into, either in writing or verbally, by an officer of the council, acting under their delegated powers to do so, and</li> <li>• which commits the council to the outcome of the agreement and, therefore, is legally enforceable by either the council or the other party or parties to the agreement.</li> </ul>

TERM	MEANING
Contracting Authority	The term used in public procurement legislation to define those organisations that must comply with it. West Lothian Council is a Contracting Authority.
Contractor	Contractor, also referred to as Supplier and/or service provider in these Standing Orders mean a third party organisation with whom West Lothian Council may contract.
Contract Strategy	A pre-tender template, approved by the Responsible Officer, which is used by officers in carrying out procurement exercises to determine the route to market for regulated tenders, in line with the Sustainable procurement duty. The contract strategy template is defined, and updated from time to time, in the Corporate Procurement Procedures.
Corporate Contract Management System	Council system used to hold information in relation to current and proposed contracts.
Corporate Contract Register	Contract register required, in line with public procurement legislation, which holds information on regulated contracts awarded by the Council.
Corporate Procurement Board	The group of officers chaired by the Depute Chief Executive with responsibility for the oversight and control of the corporate procurement function of the council
Corporate Procurement Procedures	The Corporate Procurement Procedures is a complementary and supportive set of procedures which set out the operational requirements of the Standing Orders for the Regulation of Contracts.
Corporate Procurement Strategy	Council-wide procurement strategy approved at Council Executive
Estimated Contract Value	The aggregate Estimated Contract Value (total Estimated Contract Value), excluding VAT, established prior to tendering, over the entire term of the Contract and use across the whole council, including all options, permitted extensions and variations. (Section 5 of the Procurement Reform (Scotland) Act 2014, Regulation 6 of the Public Contracts (Scotland) Regulations 2015 and Regulation 3 of the Procurement (Scotland) Regulations 2016).
Framework Agreement – External and Internal	<p>An agreement or other arrangement between one or more contracting authorities and one or more suppliers which establishes the terms (in particular the terms as to price and, where appropriate, quantity) under which the supplier will enter into one or more contracts with a contracting authority in the period during which the framework agreement applies (Section 6 of the 2014 Act and Regulations 2(1) and 34 of the 2015 Regulations)</p> <p>An “internal framework agreement” is where the council is the body letting the contract to a number of suppliers, an “external framework agreement” is where another body lets the contract but the council is entitled to participate in the contract</p>

TERM	MEANING
General duties	Generally applicable principles of fairness, equal treatment, non-discrimination and transparency and compliance with the sustainable procurement duty (Sections 8 - 10 of the 2014 Act)
Grant	<p>A grant is awarded to individuals or organisations by public authorities for specific purposes, often covered in legislation, and usually following an application process. Grants are issued, depending on eligibility and funding, where:</p> <ul style="list-style-type: none"> <li>• The public authority has a legal basis to pay the grant and the grant will further the public authority's statutory duty</li> <li>• the project or organisation being funded contributes to the public authority's policy aims</li> <li>• The money will be used to deliver something (which can include goods, services or works) to someone other than the public authority itself.</li> </ul> <p>Further guidance can be found in the <a href="#">Scottish Public Finance Manual</a></p>
Health and Social Care services	As defined by Regulation 12(1) and 13(1) of the Procurement Reform (Scotland) Act 2014 Act, Schedule 3 and Regulations 74 to 76 of the Public Contracts (Scotland) Regulations 2015 Regulations and Regulation 5, along with the associated schedule of The Procurement (Scotland) Regulations 2016.
Health & Social Care Partnership Contracts Advisory Group (CAG)	Contracts for social and health care services in the West Lothian Health & Social Care Partnership for which a separate procedure has been approved by the council, including derogations and variations on some of the provisions of these Standing Orders. CAG advise the Responsible Officer on procurement of Health and Social Care contracts. Further information on the approach is provided in the
International Legislation	Any applicable residual European Procurement Legislation and any subsequent law that replaces it, such as a Government Procurement Agreement.
Negotiated Tender Procedure	A procedure leading to the award of a contract whereby the council negotiates the terms of the contract without prior publication of a contract notice or prior information notice. This may only be used in particular circumstances as identified by Regulations 2(1) and 33 of the 2015 Regulations.
Open Procedure	A procedure leading to the award of a contract whereby all interested suppliers may tender for the contract (Regulations 2(1) and 28 of the 2015 Regulations)

TERM	MEANING
Procurement Legislation in Scotland	<a href="#">The Procurement (Scotland) Regulations 2016</a> <a href="#">The Public Contracts (Scotland) Regulations 2015</a> <a href="#">Procurement Reform (Scotland) Act 2014</a>
Public Contracts Scotland	<p>The national advertising website for Scottish public sector organisations to post contracts, including those that are subject to public procurement legislation. It also allows contracting authorities to invite suppliers to submit quotations electronically via the website's secure tender post box (Section 22 of the 2014 Act)</p> <p>(<a href="http://www.publiccontractsscotland.gov.uk/">http://www.publiccontractsscotland.gov.uk/</a>)</p>
Public Procurement Legislation	Any legislation that applies to procurement processes in Scotland.
Quick Quote	An online request for quotation facility provided through the Public Contracts Scotland website, used to obtain competitive quotes for low value/low risk procurement exercises or procurement mini competitions within framework agreements from suppliers who are registered on the website.
Responsible Officer	The Head of Service, currently the Head of Corporate Services, with overall procurement responsibility for all council contracts (works, services - including health and social care services, supply of goods and materials).
Restricted Procedure	A procedure leading to the award of a contract whereby only economic operators selected by the council may submit tenders for the contract (Regulations 2(1) and 29 of the 2015 Regulations)
Scheme of Delegations (to Officers)	The record maintained of all powers enduring for six months or more delegated to council officers by full council or committee
Services (and Services Contracts)	<p>The provision of services by a person engaged by the council to do so but not including works or supplies/materials as described in Regulation 2(1) of <a href="#">The Public Contracts (Scotland) Regulations 2015</a></p>
Service Provider	Service Provider, also referred to as Supplier and/or contractor in these Standing Orders mean a third party organisation with whom West Lothian Council may contract.
Standstill Period	The standstill period provides for a short (at least 10 calendar day) pause between the point when the contract award decision is notified to bidders, and the final contract conclusion, during which time suppliers can challenge the decision. It is a legal requirement imposed through public procurement legislation.

TERM	MEANING
Supplier	Supplier, also referred to as Contractor and/or service provider in these Standing Orders mean a third party organisation with whom West Lothian Council may contract.
Supplies (and Supplies Contracts)	The purchase or hire of goods, or their siting or installation as defined in paragraph 2(1) of the <a href="#">2015 Regulations</a> .
Thresholds	<p>Regulated spend thresholds, also known as tender thresholds, are the limits specified in legislation which determine applicable law and procedures (Regulation 5 of the 2015 Regulations) or as updated by Scottish Procurement through <a href="#">Scottish Procurement Policy Notes</a> from time to time which determine which procurement procedure should be followed.</p> <p>West Lothian Council also sets local spend thresholds below the regulated spend threshold values. All thresholds are set out in the Corporate Procurement Procedures. The thresholds in the Corporate Procurement Procedures will be amended from time to time. The current thresholds are at Appendix 1.</p>
Works (and Works Contracts)	The carrying out of a work or works for the council, or under an arrangement whereby the council engages a person to procure by any means the carrying out for the council of a work corresponding to specified requirements Regulation 2(1) and Schedule 2 of the <a href="#">2015 Regulations</a> .

## **C. STANDING ORDERS**

### **1. ROLES AND RESPONSIBILITIES**

1.1	The Responsible Officer carries ultimate responsibility for the actions of all staff engaged in the procurement and contracting process.
1.2	It is the duty of the Responsible Officer to ensure that all staff engaged in the procurement and contracting process are properly authorised to act, are properly trained and supervised, understand these Standing Orders and related Corporate Procurement Procedures, and that they comply with them.
1.3	All staff engaged in the procurement and contracting process must be properly authorised to act, must be properly trained and supervised, must understand these Standing Orders and related Corporate Procurement Procedures, and must comply with them.
1.4	In carrying out functions and in the procurement and contracting process all staff must have regard to the need to take legal advice, shall ensure that legal advice is timeously taken where required, and shall record and retain a record of the advice requested and provided.
1.5	External specialist procurement advice shall only be purchased when approved by the Responsible Officer in consultation with the Chief Solicitor.
1.6	All staff engaged in the procurement and contracting process must act in accordance with these Standing Orders, with the relevant Corporate Procurement Procedures made from time to time by the Responsible Officer, and with the council's Best Value Framework, and must have regard to the Corporate Procurement Strategy.
1.7	All staff must ensure that all information in relation to a contract or proposed contract is entered when and where required in the Corporate Contract register which is currently held in the Corporate Contract Management System.

### **2. APPLICATION AND EXCEPTIONS**

2.1	These Standing Orders shall apply to the placing of any contract. All such contracts, and extensions to contracts, must be made within the terms of all applicable public procurement legislation and statutory guidance, these Standing Orders and the council's Corporate Procurement Procedures issued by the Responsible Officer. The council's duty at all times will be to achieve best value.
2.2	Except where prohibited by legislation, committee may decide that these Standing Orders, or parts of them, shall not apply to a specific contract or to a specific class or category of contract, if it is satisfied that there are circumstances, such as arising from geographical, sole provider, technical, artistic or urgency factors, to justify the exemption. For supplies/materials and services certain officers may grant such exemptions where the Estimated Contract Value is less than £50,000 (SO2.3) but exemptions where the Estimated Contract Value is £50,000 or more may only be granted by the council committee. For Works certain officers may grant such exemptions where the Estimated Contract Value is less than £250,000 (SO2.3) but exemptions where the Estimated Contract Value is £250,000 or more may only be granted by the council committee. The Responsible Officer, with advice and guidance from The Health and Social Care Partnership Contracts Advisory Group (CAG), will grant any exemption for contracts for health and social care services with an estimated contract value of £50,000 or more.

2.3	<p>In exceptional circumstances, such as arising from geographical, sole provider, technical, artistic or urgency factors, where the Estimated Contract Value is less than £50,000 for Supplies/Materials and Services (including Health and Social Care Services), and £250,000 for Works, certain officers may decide that the provisions of Standing Order 4.4 to 4.9 in relation to the obtaining of estimates, quotations or tenders shall not apply. Such exemptions may only be granted as follows:</p> <ul style="list-style-type: none"> <li>(a) For an Estimated Contract Value of less than £1,000 (Standing Order 4.5), no exemption is required or available;</li> <li>(b) For an Estimated Contract Value of between £1,000 and £4,999, by the relevant Head of Service (and by no other officer on his or her behalf, except in his or her absence from the service, the appropriate Depute Chief Executive) on completion of a <a href="#">Head of Service Business Case Exemption</a> and compliance with Corporate Procurement Procedures (Standing Order 4.6)</li> <li>(c) For an Estimated Contract Value of between £5,000 and £49,999 for supplies/materials and services, by the Responsible Officer (and by no other officer on his or her behalf, except in his or her absence from the service, the appropriate Depute Chief Executive) on completion of the <a href="#">Responsible Officer (Head of Corporate Services) Business Case Exemption</a> and compliance with Corporate Procurement Procedures (Standing Order 4.7)</li> <li>(d) For an Estimated Contract Value of between £5,000 and £249,999 for Works, by the Responsible Officer (and by no other officer on his or her behalf, except in his or her absence from the service, the appropriate Depute Chief Executive) on completion of the Responsible Officer Business Case Exemption and compliance with Corporate Procurement Procedures (Standing Order 4.7)</li> <li>(e) For an Estimated Contract Value of £50,000 or more, for supplies/materials and services (excluding Health and Social Care Services), by the council committee on a recommendation from the Responsible Officer (Standing Order 2.2)</li> <li>(f) For an Estimated Contract Value of £50,000 or more, for health and social care services, by the Responsible Officer, with advice and guidance from The Health and Social Care Partnership Contracts Advisory Group (CAG) (Standing Order 2.2)</li> <li>(g) For an Estimated Contract Value of £250,000 or more, for Works, by the council committee on a recommendation from the Responsible Officer (Standing Order 2.2)</li> </ul> <p>The officer granting such an exemption shall ensure that a record is kept.</p>
2.4	<p>For spend of £50,000 or more for supplies/materials and services and for Works of £2m or more, except where Scottish Government and Scotland Excel Frameworks for Category A and B spend are utilised, external Framework Agreements may only be used with the prior written approval of the Responsible Officer and as required in accordance with the council's Corporate Procurement Procedures.</p>
2.5	<p>Pilot Schemes set up in accordance with the council's Corporate Procurement Procedures may only be used where approved by the Responsible Officer and only when a business case has been prepared and the Pilot Scheme provider has been identified following a competitive tender exercise.</p>

### 3. BEFORE COMMENCING THE PROCUREMENT PROCESS

3.1	<p>Heads of Service shall, subject to advice and guidance from the Responsible Officer, ensure compliance with the council's Best Value Framework in relation to the contract strategy and decision, and shall determine:</p> <ul style="list-style-type: none"> <li>• The nature of the contract (wholly works, wholly supplies/materials and services, wholly Health and Social Care Services or, where the contact shall include a mix, the category into which it falls);</li> <li>• Where the contract is for supplies/materials and services, the type of services (whether or not within the category of Health and Social Care Services or, where the contact shall include both, the category into which it falls);</li> <li>• Whether or not the Estimated Contract Value will be less than £1,000;</li> <li>• Whether or not the Estimated Contract Value will be greater than or equal to £1,000 but less than £5,000;</li> <li>• Whether or not the Estimated Contract Value will be greater than or equal to £5,000 but less than £50,000;</li> <li>• Whether or not the Estimated Contract Value will be greater than or equal to £50,000 but less than the relevant regulated spend threshold;</li> <li>• Whether or not the Estimated Contract Value will fall within the regulated spend threshold;</li> <li>• Whether or not the Estimated Contract Value will be greater than the relevant regulated spend threshold;</li> <li>• Whether the Estimated Contract Value is within the regulated spend threshold which indicates that wider advertising is needed;</li> <li>• Whether there are any existing, forthcoming or potential Collaborative Contracts or Framework Agreements, internal or external, which may be utilised.</li> </ul> <p>Regardless of any delegations, the final responsibility for ensuring compliance with all applicable public procurement legislation rests with the "Responsible Officer". The Responsible Officer for all types of procurement by the council is currently the Head of Corporate Services.</p>
3.2	<p>For Works, Supplies/Materials and Services contracts (including health and social care contracts), where the Responsible Officer identifies an existing Collaborative Contract or Framework Agreement (Internal or External) this may be utilised provided it is compliant with public procurement legislation and presents best value.</p>
3.3	<p>The Responsible Officer shall determine the quotation or tender award criteria and the proposed contract strategy for the proposed procurement but the Responsible Officer may ask committee to do so if they believe there is good reason.</p>
3.4	<p>The Responsible Officer shall prepare such documentation as is necessary to obtain competitive quotations or tenders for all contracts. The documentation shall be prepared and issued in accordance with the council's Corporate Procurement Procedures.</p>

#### 4. ISSUING DOCUMENTATION AND ADVERTISING

4.1	Officers shall ensure compliance with public procurement legislation and the Sustainable Procurement Duty and shall have regard to guidance relating to the extent of advertising and publicity required which is proportionate to the Estimated Contract Value, under reference to the spend thresholds in Appendix 1.
4.2	The Responsible Officer shall issue contract documents and invitations to quote and to tender for all contracts in accordance with the council's Corporate Procurement Procedures.
4.3	Contract documentation shall utilise the relevant set of the council's standard Terms and Conditions of Contract, and any departure from them must be approved in writing by the Responsible Officer and, where applicable, the Chief Solicitor.
4.4	The Responsible Officer may utilise electronic tendering and electronic auction techniques where appropriate and as required in accordance with the council's Corporate Procurement Procedures.
4.5	Where the Estimated Contract Value is less than £1,000 the procurement shall be carried out in such manner as the relevant Head of Service may determine, subject to the requirements to demonstrate best value and retain adequate records to substantiate the decision.
4.6	Where the Estimated Contract Value is £1,000 or more but less than £5,000, the procurement shall be carried out in such manner as the relevant Head of Service may determine, subject to the requirement to obtain at least two competitive quotations.
4.7	Where the Estimated Contract Value is £5,000 or more but less than £50,000 for Supplies/Materials and Services, the procurement shall be carried out by using Quick Quote and a minimum of three quotations must be sought. For Works, where the Estimated Contract Value is £5,000 or more but less than £250,000, the procurement shall be carried out by using Quick Quote and a minimum of three quotes must be sought.
4.8	Quick Quotes must be carried out through Public Contracts Scotland (PCS) and, except where exempted by public procurement legislation, regulated tenders must be carried out through Public Contracts Scotland Tender (PCS-Tender) but the Responsible Officer shall, in addition, consider and arrange for such additional advertising or publicity as may be required to secure compliance with public procurement legislation.
4.9	<ul style="list-style-type: none"> <li>(a) For spend up to £999 there is no requirement to seek quotes. However, there is a requirement to ensure best value.</li> <li>(b) For spend between £1,000 and £4,999 a minimum of 2 quotations must be sought.</li> <li>(c) For Supplies/Materials and Services (including Health and Social Care) for spend between £5,000 and £49,999 a minimum of 3 quotes must be sought.</li> <li>(d) For Works spend between £5,000 and £250,000 a minimum of 3 quotes must be sought.</li> <li>(e) Except where exempted by public procurement legislation, for spend over £50,000 to £189,329 for regulated contracts for supplies/materials and services (including Health and Social Care), the procurement must be carried out through Public Contracts Scotland-Tender and, where there is a high level of bidders, selecting a minimum of 3 tenders</li> <li>(f) A minimum of 5 tenders should be selected, where there is a high level of bidders, for spend of £189,330 and above.</li> </ul>

	<p>(g) For Works spend between £250,000 to £3.999m, the procurement must be carried out through Public Contracts Scotland-Tender and, where there is a high level of bidders, select a minimum of 3 tenders.</p> <p>(h) For Works spend over £4m, where there is a high level of bidders, a minimum of 5 tenders must be sought.</p>
4.10	If the Estimated Contract Value to carry out work under any one Works Contract is more than £1,000,000 the council shall ask for security for completing the contract. The Head of Service, subject to advice and guidance from the Responsible Officer, shall ensure that the tender and conditions of contract shall set out the nature and amount of the security.
4.11	The council may ask for security on any other contract where considered appropriate and the Head of Service, subject to advice and guidance from the Responsible Officer, shall ensure that the tender and conditions of contract shall set out the nature and amount of the security.
4.12	After due consideration, but only where permitted by law, committee may decide that a tenderer or a contractor shall not be invited to or be allowed to quote or tender for any future contract for any part of the council.

## 5. RECEIVING QUOTATIONS AND TENDERS

5.1	All quotations and tenders shall be received and opened by the Responsible Officer in accordance with the relevant Procurement Procedure.
5.2	In the event that Public Contracts Scotland or Public Contracts Scotland-Tender has not been utilised, all quotations and tenders not received at the specified return address by the specified closing date and time will not be considered, and shall be returned unopened. Quotations and tenders must be submitted in the form specified.
5.3	In the case of unsatisfactory performance or conduct by any person submitting a quotation or tender before a decision is made as to which should be accepted, the Responsible Officer may, in consultation with the Chief Solicitor, as far as permitted by law, disqualify that person from further participation or reject the quotation or tender, after considering any representations made.

## 6. EVALUATION

6.1	Quotations and tenders shall be evaluated by the Head of Service, in consultation with the Responsible Officer, in accordance with the Scheme of Delegation and the Corporate Procurement Procedures.
6.2	Quotations and tenders shall be evaluated in accordance with the quotation or tender award criteria and the agreed contract strategy for the proposed procurement, and on the basis of establishing which offer is the most economically advantageous and provides Best Value to the council.
6.3	A written record must be maintained outlining the evaluation process, recording the process followed and the criteria applied, and detailing the reasons for the decision.

## 7. SELECTION AND ACCEPTANCE

7.1	The decision as to which quotation or tender to accept shall be taken by Heads of Service, after consultation with the Responsible Officer, in accordance with the Scheme of Delegation and the Corporate Procurement Procedures, unless the Responsible Officer is required by a decision of the council to refer the decision to committee, or in any other case in which the Responsible Officer decides that committee approval is desirable.
7.2	Quotations and tenders shall thereafter be accepted by Heads of Service, after consultation with the Responsible Officer, in accordance with the Scheme of Delegation and the Corporate Procurement Procedures. In particular, Heads of Service, with advice and guidance from the Responsible Officer, shall observe any standstill period required before acceptance of a quotation or tender.

## 8. CONTRACT MONITORING

8.1	The Responsible Officer shall ensure that the performance of the contract is monitored and reviewed, and shall maintain a record of those processes which is proportionate in light of the value, duration, subject matter, risk rating and complexity of the contract.
8.2	In a case of unsatisfactory performance or conduct by a contractor following the award of a contract, the Responsible Officer may, in consultation with the Chief Solicitor, and subject to any failure to implement any applicable improvement action by the contractor, take action in terms of the contract to terminate the contract.

## 9. EXTENSIONS AND RENEWALS

9.1	Subject always to compliance with public procurement legislation and the relevant Corporate Procurement Procedures, the Responsible Officer may vary, alter, extend (but only where the contract allows the council those options) or re-negotiate any part of a contract to achieve best value for the council.
9.2	A Responsible Officer business case, in compliance with the relevant renewal/extension procedure documented in the Corporate Procurement Procedures, justifying the reasons for this course of action together must be prepared and retained before proceeding.
9.3	A detailed written record of all negotiations and discussions with the contractors must be maintained and retained.

## 10. RECORDS AND REPORTING

10.1	Heads of Service shall report to the Head of Corporate Services all contracts let and other information required under the Corporate Procurement Strategy, and shall comply with the reporting procedures put in place by the Corporate Procurement Board.
10.2	Unless an exception is made by the council for any class or value of contracts, the Responsible Officer shall ensure that reports are brought to the Corporate Procurement Board, on a quarterly basis, on those matters specified in the Corporate Procurement Strategy and otherwise as required by the Council Executive or the Corporate Procurement Board.
10.3	An annual Procurement Strategy review will be conducted and reported annually to the Policy Development and Scrutiny Panel.
10.4	The Annual Procurement Report, as required by the Procurement Reform (Scotland) Act 2014 will be brought to the Council Executive prior to publication. An update, reporting on the first 6 month of the financial year, will also be reported to Council Executive.
10.5	As well as ensuring amendments and updates are made as required, the Responsible Officer shall carry out a review of these Standing Orders at least once in each administrative term and shall report the outcome to PDSP and Council Executive.
10.6	Reporting on H&SCP contract activity will be carried out as follows: - <ul style="list-style-type: none"> <li>• Annually to the Council Executive on the regulated contracts awarded, extended or renewed as a result of recommendations from the Health and Social Care Partnership Contract Advisory Group.</li> <li>• Biannually to Social Policy Policy Development and Scrutiny Panel on the regulated contracts awarded, extended or renewed as a result of recommendations from the Health and Social Care Partnership Contract Advisory Group.</li> </ul>
10.7	The Responsible Officer shall maintain a corporate contract register, comply with the statutory requirements for annual procurement reports, and comply with publication duties, all in accordance with the 2014 Act.

## 11. DISPOSALS

11.1	The Head of Finance and Property is responsible for disposing of assets and materials (including land and buildings) which are not needed on behalf of all council services, except for the disposal of IT hardware and software which is the responsibility of the Depute Chief Executive (Corporate, Operational & Housing Services).
11.2	All disposals of assets and materials except for IT hardware and software shall be undertaken in accordance with procedures approved by committee or issued by the Head of Finance and Property under delegated powers.
11.3	All disposals of IT hardware and software shall be undertaken in accordance with the procedure issued by the Depute Chief Executive Corporate, Operational & Housing Customer and Building and Services).

Appendix 1

**WEST LOTHIAN COUNCIL TENDER THRESHOLDS**

**Supplies/Materials and Services**

Procurement Type	Aggregate Estimated Contract Value**	Tender Advertising Requirement	Minimum No of Quotations/Tenders Sought
Informal Quotation/PECOS Order	£0-£999	N/A	Requirement to ensure best value
Informal Quotation	£1,000-£4,999	N/A	Two Quotes
Quick Quote	£5,000 to £49,999	PCS - Quick Quotes	Three Quotes
Tender	£50,000 to £189,329	PCS – Tender	Three Tenders
Tender	£189,330 and above	PCS – Tender	Five Tenders

**Health and Social Care Services**

Procurement Type	Aggregate Estimated Contract Value**	Tender Advertising Requirement	Minimum No of Quotations/Tenders Sought
Informal Quotation/PECOS Order	£0-£999	N/A	Requirement to ensure best value
Informal Quotation	£1,000-£4,999	N/A	Two Quotes
Quick Quote	£5,000 to £49,999	PCS - Quick Quotes	Three Quotes
Tender	£50,000 to £663,539	PCS – Tender	Three Tenders
Tender*	£663,540 and above	PCS – Tender	Five Tenders

**Works**

Procurement Type	Aggregate Estimated Contract Value**	Tender Advertising Requirement	Minimum No of Quotations/Tenders Sought
Informal Quotation/PECOS Order	£0-£999	N/A	Requirement to ensure best value
Informal Quotation	£1,000-£4,999	N/A	Two Quotes
Quick Quote	£5,000 to £249,999	PCS - Quick Quotes	Three Quotes
Tender	£250,000 to £3.999m	PCS – Tender	Three Tenders
Tender	£4m and above	PCS – Tender	Five Tenders

\*Some Health and Social Care tenders in this threshold may be exempt, in line with public procurement legislation, from tendering requirements. Please contact CPU for guidance.

\*\*Updated from time to time in line with regulatory amendments.

**Amendments to Standing Orders for the Regulation of Contracts**

**Appendix 2**

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments														
1	Contents, Appendices	<p><b>APPENDICES</b></p> <table><tr><td>1</td><td>Contract Strategy Template (A.9)</td><td>14</td></tr><tr><td>2</td><td>Business Case Template for Renewal or Extension (SO9.2)</td><td>23</td></tr><tr><td>3</td><td>Cross Border Interest and Adequate Advertising (SO3.1, SO4.7)</td><td>24</td></tr><tr><td>4</td><td>Health &amp; Social Care Partnership Contracts Advisory Group (A.3)</td><td>26</td></tr></table>	1	Contract Strategy Template (A.9)	14	2	Business Case Template for Renewal or Extension (SO9.2)	23	3	Cross Border Interest and Adequate Advertising (SO3.1, SO4.7)	24	4	Health & Social Care Partnership Contracts Advisory Group (A.3)	26	<p><b>APPENDICES</b></p> <table><tr><td>1</td><td>Current Tender Thresholds (6 October 2020)</td></tr></table>	1	Current Tender Thresholds (6 October 2020)
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3	Cross Border Interest and Adequate Advertising (SO3.1, SO4.7)	24															
4	Health & Social Care Partnership Contracts Advisory Group (A.3)	26															
1	Current Tender Thresholds (6 October 2020)																
2	Paragraph A2	<p>Legislation regulates how contracts can be made by or on behalf of the council. In this context, “contract” means any agreement:-</p> <ul style="list-style-type: none"><li>• with an individual, company or other organisation</li><li>• for the execution of building and civil engineering works or</li><li>• for the supply of goods, materials or services, and</li><li>• which is authorised to be entered into by the council or one of its committees or sub-committees, usually in writing, or</li><li>• which is entered into, either in writing or verbally, by an officer of the council, acting under their delegated powers to do so, and</li><li>• which commits the council to the outcome of the agreement and, therefore, is legally enforceable by either the council or the other party or parties to the agreement.</li></ul>	<p>This wording has been moved to Section B, definitions under “Contracts”.</p>														
3	Paragraph A3	<p>In particular, the Local Government (Scotland) Act 1973, section 81 requires the council to make Standing Orders with respect to the making of contracts by or on behalf of the council for both works and for the supply of goods and materials. Such Standing Orders must include provision for securing competition for such contracts and for regulating the manner in which tenders are invited by the council. Section 81 also gives the council the power to make, if it chooses, Standing Orders for contracts for the supply of services, as distinct from the supply of goods and materials. These Standing Orders cover contracts for services as well.</p> <p>Section 81 allows the council to exempt any contract from this requirement for competition where the council decides that it is satisfied that the exemption is justified by special circumstances. However, this exemption from competition can only apply to contracts where the aggregated estimated cost is less than the relevant regulated procurement threshold under the procurement regulations in Scotland or the European Procurement Directives. Even in some of those cases, consideration is still required about the appropriate method and extent of advertising or publicity. These Standing Orders contain procedures for the granting of such exemptions.</p>	<p>Now Paragraph A2:</p> <p>The Council makes these Standing Orders in terms of section 81 of the Local Government (Scotland) Act 1973. Section 81 requires the council to make Standing Orders with respect to the making of contracts by or on behalf of the council both for Works and for the supply of goods and materials. Such Standing Orders must include provision for securing competition for such contracts and for regulating the manner in which tenders are invited by the council. Section 81 also gives the council the power to make, if it chooses, Standing Orders for contracts for the supply of services, as distinct from the supply of goods and materials. These Standing Orders also cover contracts for Works and Services, including health and social care services.</p> <p>The Health and Social Care partnership is the name of the umbrella partnership body through which the council and NHS Lothian Health Board co-operate and work together to deliver health and social care services in West Lothian. It takes in delivery of Adult and Older Peoples Services, Children’s Services, Criminal and Youth Justice service as directed by the West Lothian Integration Joint Board and the delivery of children’s services under direct control of the partners. On 24 April 2012, the Council approved a</p>														

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
		<p>The council has in particular decided that contracts covered by the West Lothian Health &amp; Social Care Partnership which are health and social care services, covered by the Schedule in The Procurement (Scotland) Regulations 2016 should be exempt from the full rigour of these Standing Orders. The Health &amp; Social Care Partnership is the name of the umbrella partnership body through which the council and NHS Lothian Health Board cooperate and work 3</p> <p>together to deliver health and social care services in West Lothian. It takes in delivery of adult and older people's services as directed by the West Lothian Integration Joint Board and the delivery of children's services under direct control of the partners. Such contracts are treated differently in procurement legislation and regulations, and are of a particular nature where the needs of service users are of over-riding importance. They are governed by a separate set of procurement and reporting arrangements (Appendix 4).</p>	<p>separate process for health and social care services contracts and decided that approval of contracts covered by the West Lothian Health and Social Care Partnership, which are health and social care services, covered by the schedule in the Procurement (Scotland) Regulations 2016 should be devolved to the Responsible Officer and approval granted with advice and assistance from the Health and Social Care Contracts Advisory Group (CAG). Such contracts are treated differently in public procurement legislation and are of a particular nature where the needs of service users are of over-riding importance. Where applicable, these standing orders make provision for Health and social care contracts to be governed differently and the Corporate procurement procedures provide further information on the procurement and reporting arrangements.</p> <p>Now Paragraph A6: Section 81 allows the council to exempt any contract from this requirement for competition where the council decides that it is satisfied that the exemption is justified by special circumstances. However, this exemption from competition can only apply to contracts where the aggregated estimated contract value, for the same procurement requirement, is less than the relevant regulated procurement spend threshold under the applicable public procurement legislation. Even in some of those cases, consideration is still required about the appropriate method and extent of advertising or publicity. These Standing Orders contain procedures for the granting of such exemptions.</p>
4	Paragraph A4	<p>European legislation also regulates the making of contracts by the council. Some is of direct effect and some is translated into UK and Scots law by domestic legislation. This legislative framework seeks to ensure that public sector bodies such as the council award contracts in an efficient and non-discriminatory manner. It sets out general duties for public bodies to follow and more specific duties for specified types of procurement activity. Regulations set out the procedures to be followed at each stage of the procurement process leading to the award of contracts above certain financial thresholds for works, supplies/materials and services by the council and other public bodies. They take account of modern techniques such as e-procurement and the provision of framework agreements, as well as the extent to which sustainable procurement and social and environmental issues can be considered during the procurement process.</p>	<p>Now Paragraph A3: These Standing Orders must be interpreted and applied in accordance with the key principles of transparency, equal treatment, non-discrimination and proportionality.</p> <p>Now Paragraph A8: Public Procurement legislation regulates the making of contracts by the council. The legislative framework seeks to ensure that public sector bodies such as the council award contracts in an efficient and non-discriminatory manner. It sets out general duties for public bodies to follow and more specific duties for specified types of procurement activity. Public Procurement legislation set out the procedures to be followed at each stage of the procurement process leading to the award of contracts above certain financial spend thresholds for works, goods and materials and services, including health and social care services, by the council and other public bodies. They take account of modern techniques such as e-procurement and the provision of framework agreements, as well as the</p>

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
			<p>extent to which sustainable procurement and social, economic and environmental issues can be considered during the procurement process.</p> <p>Public Procurement legislation makes provision to exclude some types of spend from its scope and although, grant funding received by the Council, as a grant recipient, may be subject to public procurement legislation when the Council spends it, grant funding paid out by the Council to grant recipients is not subject to public procurement legislation so falls outwith the scope of Standing Orders.</p>
5	Paragraph A5	<p>In addition, the Local Government in Scotland Act 2003, section 1 requires the council:</p> <ul style="list-style-type: none"> <li>• to secure best value in the performance of its functions;</li> <li>• to balance the quality and cost of the performance of its functions and the cost of council services to service users;</li> <li>• to have regard to efficiency, effectiveness, economy and the need to meet equal opportunity requirements in maintaining that balance; and</li> <li>• to discharge its duty to secure best value in a way which contributes to the achievement of sustainable development.</li> </ul> <p>The council has adopted a Best Value Framework to ensure compliance with the relevant legislation and statutory guidance. The Framework applies across the council to all services and areas of activity and is of particular relevance to the procurement process, as part of making the decision to procure goods, materials, services, including health and social care, and works from external providers and in seeking to achieve Best Value procurement. In making decisions about procurement and in applying these Standing Orders, officers must have regard to and comply with that Framework. Best Value procurement is a process that considers and returns more than just best price. It is a process that takes account of the whole life cost of buying products, services or works. Best Value includes financial and non-financial elements such as time, administration, sourcing and benchmarking.</p>	<p>This wording has been moved to Paragraph A9.</p>
6	Paragraph A6	<p>The council's Scheme of Delegation to Officers sets out the powers which have been delegated by the council to senior officers. Subject to certain general conditions set out in this Scheme, such as the requirement to follow council policies, the day-to-day running of council services is delegated to the Chief Executive and Depute Chief Executives, and also to Head Teachers under the council's Scheme of Devolution of School Management. These senior officers are also authorised to delegate any of their authority to other officers under their direction and who are appropriately qualified and experienced.</p>	<p>Now Paragraph A10: The council's Scheme of Delegation to Officers sets out the powers which have been delegated by the council to senior officers. Subject to certain general conditions set out in this Scheme, such as the requirement to follow council policies, the day-to-day running of council services is delegated to the Chief Executive and Depute Chief Executives, and also to Head Teachers under the council's Scheme of Devolution of School Management. These senior officers are also authorised to delegate any of their</p>

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
		This means that, in the context of the making of contracts on behalf of the council, the Chief Executive, Depute Chief Executives, Heads of Service, as well as Head Teachers, must ensure that those officers whom they authorise to perform procurement functions and tasks on their behalf have sufficient training, knowledge and experience to determine relevant procurement issues and are aware of the extent and limitation of their delegated authority. Regardless of any delegations by them, the final responsibility for ensuring compliance with the "Responsible Officer". The Responsible Officer for all types of procurement by the council is presently the Head of Corporate Services.	authority to other officers under their direction and who are appropriately qualified and experienced. This means that, in the context of the making of contracts on behalf of the council, the Chief Executive, Depute Chief Executives, Heads of Service, as well as Head Teachers, must ensure that those officers whom they authorise to perform procurement functions and tasks on their behalf have sufficient training, knowledge and experience to determine compliant and relevant procurement issues and are aware of the extent and limitation of their delegated authority. Regardless of any delegations by them, the final responsibility for ensuring compliance with all applicable regulations rests with the "Responsible Officer". The Responsible Officer for all types of procurement by the council is currently the Head of Corporate Services.
7	Paragraph A7	All officers exercising delegated powers in relation to procurement and contracting functions must comply with these Standing Orders, with the relevant Procurement Procedure as approved by the Head of Corporate Services, and with the Employee Code of Conduct. They must also be aware of the provisions of the Bribery Act 2010 in relation to giving or accepting a financial or other advantage and the potential for personal and corporate criminal liability. Any failure in or disregard of these requirements may amount to gross misconduct or misconduct under the council's Disciplinary Code and may result in disciplinary action.	Now Paragraph A12 All officers exercising delegated powers in relation to procurement and contracting functions must comply with these Standing Orders, with the relevant Procurement Procedure as approved by the Head of Corporate Services, and with the Employee Code of Conduct. They must also be aware of the provisions of the Bribery Act 2010 and the Councils Anti-Money Laundering Policy in relation to giving or accepting a financial or other advantage and the potential for personal and corporate criminal liability. Any failure in or disregard of these requirements may amount to gross misconduct or misconduct under the council's Disciplinary Code and may result in disciplinary action.
8	Paragraph A8	<p>The council's Scheme of Delegation to Officers sets out which officers can sign formal deeds to which the council is a party. Apart from certain named officers for deeds dealing with particular council functions, the Chief Solicitor and senior colleagues in Legal Services are the officers designated to sign formal deeds on behalf of the council. This means that these officers must sign contracts where they are constituted on the basis of requiring formal execution, such as a minute of agreement. The majority of contracts, however, do not require such formal signature and can be signed by the Chief Executive, relevant Depute Chief Executive, or Head Teacher, or any officer to whom they have delegated authority to do so.</p> <p>The council's Corporate Procurement Strategy 2019/23 sets out the framework by which the council will ensure it maximises effective service delivery and the provision of best value for money through a corporate and strategic approach to procurement.</p> <p>The Strategy is aligned to the pursuit of the Scottish Government's objectives of promoting collaborative procurement opportunities and the implementation of</p>	<p>Now Paragraph A13: The council's Scheme of Delegation to Officers applies to the signature of contracts. Simple electronic signatures may be used where appropriate.</p> <p>The council's Corporate Procurement Strategy sets out the framework by which the council will ensure it maximises effective service delivery and the provision of best value for money.</p> <p>The Strategy is aligned to the pursuit of the Scottish Government's national performance framework and the Sustainable Procurement Duty. It requires, in particular, the use of a Contract strategy template as defined, and updated from time to time, in the Corporate Procurement Procedures.</p> <p>These Standing Orders should be read in conjunction with the relevant Procurement Procedure and in the context of the Corporate Procurement Strategy.</p>

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
		<p>leading practice whilst promoting economic wellbeing and sustainable development. It requires in particular the use of a Contracts Strategy Template (Appendix 1).</p> <p>These Standing Orders should be read in conjunction with the relevant Procurement Procedure and in the context of the Corporate Procurement Strategy.</p>	
9	Paragraph A9	<p>Amendment or replacement of these Standing Orders requires a decision of full council or an appropriate committee, except that:</p> <ul style="list-style-type: none"> <li>The Head of Corporate Services, in consultation with the Chief Solicitor, may make minor administrative changes required from time to time to any part of this document without reference to committee (arising from, for example, changes in legislation or changes in management structures)</li> <li>The Head of Corporate Services, in consultation with the Chief Solicitor, may revise and amend this Introduction section (A), and the documents comprised in the Appendices.</li> </ul>	<p>Now Paragraph A14: Amendment or replacement of these Standing Orders requires a decision of full council or committee, except that:</p> <ul style="list-style-type: none"> <li>The Head of Corporate Services, in consultation with the Chief Solicitor, may make minor administrative changes required from time to time to any part of this document without reference to committee (arising from, for example, changes in legislation or changes in management structures); or</li> <li>The Head of Corporate Services, in consultation with the Chief Solicitor, may revise and amend this section "(A) – Extent and Interpretation", and the documents comprised in the Appendices.</li> </ul>
10	-	-	<p>New Paragraph A4: These Standing Orders apply to all contracts made by or on behalf of the Council, on or after 6 October 2020, for the procurement of the execution of works, the supply of goods and materials to the Council, and/or for the provision of services, including health and social care services. Where the tender process to make the contracts began prior to the 6 October 2020, the previous Standing Orders will apply.</p>
11	-	-	<p>New Paragraph A5: The Standing Orders are subject to the over-riding provisions of public procurement legislation. Officers must also have regard to statutory guidance when using the Standing Orders.</p>
12	-	-	<p>New Paragraph A7: The Standing Orders must be read in conjunction with (and all Council staff must comply with) the Scheme of Delegation, the Council's Financial Regulations and Corporate Procurement Procedures.</p>
13	-	-	<p>New Paragraph A11: The Responsible Officer will:-</p> <ul style="list-style-type: none"> <li>ensure compliance with these Standing Orders;</li> <li>determine disputes amongst officers engaged in the procurement and contracting process and procedures in accordance with Paragraph A.15, below;</li> <li>ensure that the award of any regulated contract applying to services is advertised within the relevant legislative timescales</li> </ul>

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
			<ul style="list-style-type: none"> <li>and contract award notices published;</li> <li>include the details of regulated contract awards in the annual statistical returns and Annual Procurement Report to the Scottish Government;</li> <li>add details of the contract awards into the council's corporate contract register; and</li> <li>comply with provisions of Standing Orders in relation to delegation and training of officers, procurement strategies, use of standard terms of contract, use of the Corporate Contract Register, use of framework agreements and collaborative arrangements, contract monitoring, and reporting to committee and Policy Development and Scrutiny Panel.</li> </ul>
14	-	-	New Paragraph A15: Any dispute arising from the application, operation or interpretation of these Standing Orders and Corporate Procurement Procedures shall be resolved by a decision of the Responsible Officer after discussion with the appropriate Head of Service and after consultation with the Chief Solicitor, Head of Finance & Property Services or Governance Manager, as appropriate to the nature of the dispute.
15	-	-	New Paragraph A15: Any dispute arising from the application, operation or interpretation of these Standing Orders and Corporate Procurement Procedures shall be resolved by a decision of the Responsible Officer after discussion with the appropriate Head of Service and after consultation with the Chief Solicitor, Head of Finance & Property Services or Governance Manager, as appropriate to the nature of the dispute.
16	B - Definitions	-	Alphabetical and numerical order.
17	B - Definitions	<b>Current:</b>	<b>New or Updated</b>
		Contract Strategy Template	Contract Strategy
		Contract Value	Estimated Contract Value
		Social and Other Specific Services	Health and Social Care Services
		Corporate Procurement Strategy 2019/23	Corporate Procurement Strategy
		Responsible Officer	Responsible Officer (Amended wording only)
		-	Service Provider
		-	Standstill Period
		Health and Social Care Advisory Group (CAG)	Health and Social Care Advisory Group (CAG) (Amended wording only)
		-	2016 Regulations
		-	Annual Procurement Report
		-	Contract
		-	Contracting Authority
		-	Contractor
		-	Contract Strategy
		-	Corporate Contract Management System
		-	Corporate Contract Register
		-	Corporate Procurement Procedures
		-	Grant
		-	International Legislation
		-	Public Procurement Legislation
		-	Supplier

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
18	B - Definitions	Current: Cross Border Interest OJEU or Official Journal	New: Removed Removed
19	Paragraph C1.6	All staff engaged in the procurement and contracting process must act in accordance with these Standing Orders, with the relevant Procurement Procedures made from time to time by the Head of Corporate Services, and with the council's Best Value Framework, and must have regard to the Corporate Procurement Strategy 2019/23.	All staff engaged in the procurement and contracting process must act in accordance with these Standing Orders, with the relevant Corporate Procurement Procedures made from time to time by the Responsible Officer, and with the council's Best Value Framework, and must have regard to the Corporate Procurement Strategy.
20	Paragraph C2.1	These Standing Orders shall apply to the placing of any contract. All such contracts, and extensions to contracts, must be made within the terms of the relevant legislative framework and statutory guidance, the EU procurement rules, these Standing Orders and the council's Procurement Procedures issued by the Head of Corporate Services. The council's duty at all times will be to achieve best value.	These Standing Orders shall apply to the placing of any contract. All such contracts, and extensions to contracts, must be made within the terms of all applicable public procurement legislation and statutory guidance, these Standing Orders and the council's Corporate Procurement Procedures issued by the Responsible Officer. The council's duty at all times will be to achieve best value.
21	Paragraph C2.2.	Except where prohibited by legislation, committee may decide that these Standing Orders, or parts of them, shall not apply to a specific contract or to a specific class or category of contract, if it is satisfied that there are circumstances, such as arising from geographical, sole provider, technical, artistic or urgency factors, to justify the exemption. Certain officers may grant such exemptions where the contract value is less than £50,000 (SO2.3) but exemptions where the contract value is £50,000 or more may only be granted by the relevant council committee.	Except where prohibited by legislation, committee may decide that these Standing Orders, or parts of them, shall not apply to a specific contract or to a specific class or category of contract, if it is satisfied that there are circumstances, such as arising from geographical, sole provider, technical, artistic or urgency factors, to justify the exemption. For supplies/materials and services certain officers may grant such exemptions where the estimated contract value is less than £50,000 (SO2.3) but exemptions where the estimated contract value is £50,000 or more may only be granted by the council committee. For Works certain officers may grant such exemptions where the estimated contract value is less than £250,000 (SO2.3) but exemptions where the estimated contract value is £250,000 or more may only be granted by the council committee. The Responsible Officer, with advice and guidance from The Health and Social Care Partnership Contracts Advisory Group (CAG), will grant any exemption for contracts for health and social care services with an estimated value of £50,000 or more.
22	Paragraph C2.3	In exceptional circumstances, such as arising from geographical, sole provider, technical, artistic or urgency factors, where the contract value is less than £50,000 certain officers may decide that the provisions of Standing Order 4.4 to 4.8 in relation to the obtaining of estimates, quotations or tenders shall not apply. Such exemptions may only be granted as follows:-  a) For a contract value of less than £1,000 (Standing Order 4.4), no exemption is required or available b) For a contract value of between £1,000 and £4,999, by the relevant Head of Service (and by no other officer on his or her behalf, except in his or her absence from the service, the appropriate Depute Chief Executive) on completion of a	In exceptional circumstances, such as arising from geographical, sole provider, technical, artistic or urgency factors, where the estimated contract value is less than £50,000 for Supplies/Materials (including health and social care services) and Services, and £250,000 for Works, certain officers may decide that the provisions of Standing Order 4.4 to 4.9 in relation to the obtaining of estimates, quotations or tenders shall not apply. Such exemptions may only be granted as follows:  a) For an estimated contract value of less than £1,000 (Standing Order 4.5), no exemption is required or available; b) For an estimated contract value of between £1,000 and £4,999,

			by the relevant Head of Service (and by no other officer on his or
		<p>c) Head of Service Business Case Exemption form and compliance with Corporate Procurement Procedures (Standing Order 4.5)</p> <p>d) For a contract value of between £5,000 and £49,999, by the Head of Corporate Services (and by no other officer on his or her behalf, except in his or her absence from the service, the appropriate Depute Chief Executive ) on completion of the Head of Corporate Services Business Case Exemption form and compliance with Corporate Procurement Procedures (Standing Order 4.6)</p> <p>e) For a contract value of £50,000 or more, by the relevant council committee on a recommendation from the Head of Corporate Services (Standing Order 2.2)</p> <p>The officer granting such an exemption shall ensure that a record is kept.</p>	<p>her behalf, except in his or her absence from the service, the appropriate Depute Chief Executive) on completion of a Head of Service Business Case Exemption and compliance with Corporate Procurement Procedures (Standing Order 4.6)</p> <p>c) For an estimated contract value of between £5,000 and £49,999 for supplies/materials and services, by the Responsible Officer (and by no other officer on his or her behalf, except in his or her absence from the service, the appropriate Depute Chief Executive) on completion of the Responsible Officer (Head of Corporate Services) Business Case Exemption and compliance with Corporate Procurement Procedures (Standing Order 4.7)</p> <p>d) For an estimated contract value of between £5,000 and £249,999 for Works, by the Responsible Officer (and by no other officer on his or her behalf, except in his or her absence from the service, the appropriate Depute Chief Executive) on completion of the Responsible Officer Business Case Exemption and compliance with Corporate Procurement Procedures (Standing Order 4.7)</p> <p>e) For an estimated contract value of £50,000 or more, for supplies/materials and services (excluding Health and Social Care Services), by the council committee on a recommendation from the Responsible Officer (Standing Order 2.2)</p> <p>f) For an Estimated Contract Value of £50,000 or more, for health and social care services, by the Responsible Officer, with advice and guidance from The Health and Social Care Partnership Contracts Advisory Group (CAG) (Standing Order 2.2)</p> <p>g) For an estimated contract value of £250,000 or more, for Works, by the council committee on a recommendation from the Responsible Officer (Standing Order 2.2)</p> <p>The officer granting such an exemption shall ensure that a record is kept.</p>
23	Paragraph C2.4	External Framework Agreements may only be used with the prior written approval of the Responsible Officer (except for Health & Social Care Partnership Contracts Advisory Group Contracts) and as required in accordance with the council's Procurement Procedures.	For spend of £50,000 or more, except where Scottish Government and Scotland Excel Frameworks for Category A and B spend are utilised, external Framework Agreements may only be used with the prior written approval of the Responsible Officer and as required in accordance with

			the council's Corporate Procurement Procedures.
24	Paragraph C3.1	<p>The Responsible Officer shall ensure compliance with the council's Best Value Framework in relation to the procurement strategy and decision, and shall determine:-</p> <ul style="list-style-type: none"> <li>• The nature of the contract (wholly works, wholly supplies/materials and services, or, where the contact shall include both, the category into which it falls)</li> <li>•</li> </ul>	<p>Heads of Service shall, subject to advice and guidance from the Responsible Officer, ensure compliance with the council's Best Value Framework in relation to the contract strategy and decision, and shall determine:</p> <ul style="list-style-type: none"> <li>• The nature of the contract (wholly works, wholly supplies/materials and services, wholly Health and Social</li> </ul>

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
		<ul style="list-style-type: none"> <li>• Where the contract is for supplies/materials and services, the type of services (whether or not within the category of social and other specific services, or, where the contact shall include both, the category into which it falls)</li> <li>• Where the contract is for social or health care services, whether or not it is a Health &amp; Social Care Partnership Contracts Advisory Group Contract</li> <li>• Whether or not the Contract Value will be less than £1,000</li> <li>• Whether or not the Contract Value will be greater than £1,000 but less than £5,000</li> <li>• Whether or not the Contract Value will be greater than £5,000 but less than £50,000</li> <li>• Whether or not the Contract Value will be greater than £50,000 but less than a relevant threshold</li> <li>• Whether or not the Contract Value will be greater than the relevant threshold</li> <li>• Whether there is Cross Border Interest (Appendix 3) which indicates a wider advertising is needed despite the value of the contract being below the relevant EU threshold</li> </ul> <p>Whether there are any existing, forthcoming or potential Collaborative Contracts or Framework Agreements, internal or external, which may be utilised</p>	<p>Care Services or, where the contact shall include a mix, the category into which it falls);</p> <ul style="list-style-type: none"> <li>• Where the contract is for supplies/materials and services, the type of services (whether or not within the category of Health and Social Care Services or, where the contact shall include both, the category into which it falls);</li> <li>• Whether or not the estimated Contract Value will be less than £1,000;</li> <li>• Whether or not the estimated Contract Value will be greater than £1,000 but less than £5,000;</li> <li>• Whether or not the estimated Contract Value will be greater than £5,000 but less than £50,000;</li> <li>• Whether or not the estimated Contract Value will be greater than £50,000 but less than the relevant regulated threshold;</li> <li>• Whether or not the estimated Contract Value will fall within the regulated threshold;</li> <li>• Whether or not the estimated Contract Value will be greater than the relevant regulated threshold;</li> <li>• Whether the estimated contract value is within the regulated threshold which indicates that wider advertising is needed;</li> <li>• Whether there are any existing, forthcoming or potential Collaborative Contracts or Framework Agreements, internal or external, which may be utilised.</li> </ul> <p>Regardless of any delegations, the final responsibility for ensuring compliance with all applicable public procurement legislation rests with the "Responsible Officer". The Responsible Officer for all types of procurement by the council is currently the Head of Corporate Services.</p>
25	Paragraph C3.2	<p>Where the Responsible Officer identifies an existing Collaborative Contract or Framework Agreement (Internal or External) which may be utilised then (except for Health &amp; Social Care Partnership Contracts Advisory Group Contracts) that must be used unless the</p>	<p>For Works, Supplies/Materials and Services contracts (including health and social care contracts), where the Responsible Officer identifies an existing Collaborative Contract or Framework Agreement (Internal or External) this may</p>

		Responsible Officer obtains committee approval to proceed in another way.	be utilised provided it is compliant with public procurement legislation and presents best value.
26	Paragraph C3.3	Committee approval must be obtained for the tender award criteria and the proposed strategy for the proposed procurement for all contracts where the contract value is over the relevant threshold (other than those which are Health & Social Care Partnership Contract Advisory Group Contracts).	The Responsible Officer shall determine the quotation or tender award criteria and the proposed contract strategy for the proposed procurement but the Responsible Officer may ask committee to do so if they believe there is good reason.

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
27	Paragraph C3.4	In all other cases, the Responsible Officer shall determine the quotation or tender award criteria and the proposed strategy for the proposed procurement but the Responsible Officer may ask committee to do so if he believes there is good reason.	See Paragraph C3.3: The Responsible Officer shall determine the quotation or tender award criteria and the proposed contract strategy for the proposed procurement but the Responsible Officer may ask committee to do so if they believe there is good reason.
28	Paragraph C3.5	The tender award criteria may include price, period for completion, running costs, profitability, technical merit, health and safety competence, and social, economic and environmental sustainability, community benefits or any other permitted criteria which committee or the Responsible Officer choose to adopt.	See Paragraph 3.3 The Responsible Officer shall determine the quotation or tender award criteria and the proposed contract strategy for the proposed procurement but the Responsible Officer may ask committee to do so if they believe there is good reason.
29	Paragraph C3.6	The Responsible Officer shall prepare such documentation as is necessary to obtain competitive quotations or tenders for all contracts. The documentation shall be prepared and issued in accordance with the council's Corporate Procurement Procedures.	This wording has been moved to Paragraph C3.4
30	-	-	New Paragraph C4.1: Officers shall ensure compliance with public procurement legislation and the Sustainable Procurement Duty and shall have regard to guidance relating to the extent of advertising and publicity required which is proportionate to the estimated contract value, under reference to the thresholds in Appendix 1.
31	Paragraph C4.1	The Responsible Officer shall issue contract documents and invitations to quote and to tender for all contracts in accordance with the council's Corporate Procurement Procedures.	This wording has been moved to Paragraph 4.2
32	Paragraph C4.2	Contract documentation shall utilise the relevant set of the council's standard Terms and Conditions of Contract, and any departure from them must be approved in writing by the Responsible Officer.	This wording has been moved to Paragraph 4.3
33	Paragraph C4.3	The Responsible Officer may utilise electronic tendering and electronic auction techniques where appropriate and as required in accordance with the council's Procurement Procedures.	This wording has been moved to Paragraph 4.4
34	Paragraph C4.4	Where the estimated contract value is less than £1,000 the procurement shall be carried out in such manner as the relevant Head of Service may determine, subject to the requirements to demonstrate best value and retain adequate records to substantiate the decision.	This wording has been moved to Paragraph 4.5
35	Paragraph 4.5	Where the estimated Contract Value is £1,000 or more but less than £5,000, the procurement shall be carried out in such manner as the relevant Head of Service may determine, subject to the requirement to obtain at least two competitive quotations.	This wording has been moved to Paragraph 4.6
36	Paragraph 4.6	Where the Contract Value is £5,000 or more but less than £50,000, the procurement shall	Now Paragraph 4.7: Where the estimated Contract Value is £5,000 or more but less than £50,000 for

		be carried out by using Quick Quote and a minimum of three quotations must be sought.	Supplies/Materials and Services, the procurement shall be carried out by using Quick Quote and a minimum of three quotations must be sought. For Works, where the value is £5,000 or more but less than £250,000, the procurement shall be carried out by using Quick Quote and a minimum of three quotes must be sought.
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Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
37	Paragraph C4.7	Where the Contract Value is £50,000 or more but below the relevant threshold the procurement (except for Health & Social Care Partnership Contracts Advisory Group Contracts) must be carried out through Public Contracts Scotland, seeking a minimum of three tenders, but the Responsible Officer shall in addition consider and arrange for such additional advertising or publicity as may be required to secure compliance with the law in relation to Cross Border Interest (Appendix 3).	Now Paragraph 4.8: Quick Quotes must be carried out through Public Contracts Scotland (PCS) and, except where exempted by public procurement legislation, regulated tenders must be carried out through Public Contracts Scotland Tender (PCS-Tender) but the Responsible Officer shall, in addition, consider and arrange for such additional advertising or publicity as may be required to secure compliance with public procurement legislation.
38	Paragraph C4.8	Except for CHCP Health, Care and Support Services Contracts Advisory Group contracts, where the Contract Value is over the relevant threshold), the procurement must be carried out through Public Contracts Scotland, seeking a minimum of five tenders for use of the open and restricted procedures and three for use of the negotiated procedure and the competitive dialogue procedure. By using Public Contracts Scotland or otherwise, the Responsible Officer shall advertise the commission in the Official Journal and ensure that the procurement process complies with the appropriate EU procurement rules and the council's Procurement Procedures.	Now Paragraph 4.9: (a) For spend up to £999 there is no requirement to seek quotes. However, there is a requirement to ensure best value. (b) For spend between £1,000 and £4,999 a minimum of 2 quotations must be sought. (c) For Supplies/Materials and Services (including Health and Social Care) for spend between £5,000 and £49,999 a minimum of 3 quotes must be sought. (d) For Works spend between £5,000 and £250,000 a minimum of 3 quotes must be sought. (e) Except where exempted by public procurement legislation, for spend over £50,000 to £189,329 for regulated contracts for supplies/materials and services (including Health and Social Care), the procurement must be carried out through Public Contracts Scotland-Tender and, where there is a high level of bidders, selecting a minimum of 3 tenders (f) A minimum of 5 tenders should be selected, where there is a high level of bidders, for spend of £189,330 and above. (g) For Works spend between £250,000 to £3.99m, the procurement must be carried out through Public Contracts Scotland-Tender and, where there is a high level of bidders, select a minimum of 3 tenders. (h) For Works spend over £4m, where there is a high level of bidders, a minimum of 5 tenders must be sought.
39	Paragraph C4.9	If the estimated cost of carrying out work under any one Works Contract is more than £1,000,000 the council shall ask for security for completing the contract, and the tender and conditions of contract shall set out the nature and amount of the security.	Now Paragraph C4.10: If the estimated cost of carrying out work under any one Works Contract is more than £1,000,000 the council shall ask for security for completing the contract. The Head of Service, subject to advice and guidance from the Responsible Officer, shall ensure that the tender and conditions of contract shall set out the nature and amount of the security.

40	Paragraph C4.10	The council may ask for security on any other contract where considered appropriate and the tender and conditions of contract shall set out the nature and amount of the security.	The council may ask for security on any other contract where considered appropriate and the Head of Service, subject to advice and guidance from the Responsible Officer, shall ensure that the tender and conditions of contract shall set out the nature and amount of the security.
41	Paragraph C4.11	After due consideration, but only where permitted by law, committee may decide that a tenderer or a contractor shall not be invited to or be allowed to quote or tender for any future contract for any part of the council.	This wording has moved to Paragraph C4.12.

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
42	Paragraph C5.2	In the event that Public Contracts Scotland has not been utilised, all quotations and tenders not received at the specified return address by the specified closing date and time will not be considered, and shall be returned unopened. Quotations and tenders must be submitted in the form specified.	In the event that Public Contracts Scotland or Public Contracts Scotland-Tender has not been utilised, all quotations and tenders not received at the specified return address by the specified closing date and time will not be considered, and shall be returned unopened. Quotations and tenders must be submitted in the form specified.
43	Paragraph C5.3	In the case of unsatisfactory performance or conduct by any person submitting a quotation or tender before a decision is made as to which should be accepted, the Responsible Officer may, in consultation with the Chief Solicitor, disqualify that person from further participation or reject the quotation or tender, after considering any representations made.	In the case of unsatisfactory performance or conduct by any person submitting a quotation or tender before a decision is made as to which should be accepted, the Responsible Officer may, in consultation with the Chief Solicitor, as far as permitted by law, disqualify that person from further participation or reject the quotation or tender, after considering any representations made.
44	Paragraph C6.1	Quotations and tenders shall be evaluated by the Responsible Officer in accordance with relevant Procurement Procedure.	Quotations and tenders shall be evaluated by the Head of Service, in consultation with the Responsible Officer, in accordance with the Scheme of Delegation and the Corporate Procurement Procedures.
45	Paragraph C6.2	Quotations and tenders shall be evaluated in accordance with the quotation or tender award criteria and the agreed strategy for the proposed procurement, and on the basis of establishing which offer is the most economically advantageous and provides Best Value to the council.	Quotations and tenders shall be evaluated in accordance with the quotation or tender award criteria and the agreed contract strategy for the proposed procurement, and on the basis of establishing which offer is the most economically advantageous and provides Best Value to the council.
46	Paragraph C7.1	The decision as to which quotation or tender to accept shall be taken by the Responsible Officer, unless the Responsible Officer is required by a decision of the council to refer the decision to committee, or in any other case in which the Responsible Officer decides that committee approval is desirable.	The decision as to which quotation or tender to accept shall be taken by Heads of Service, after consultation with the Responsible Officer, in accordance with the Scheme of Delegation and the Corporate Procurement Procedures, unless the Responsible Officer is required by a decision of the council to refer the decision to committee, or in any other case in which the Responsible Officer decides that committee approval is desirable.
47	Paragraph C7.2	Quotations and tenders shall thereafter be accepted by the Responsible Officer, in accordance with EU rules, Procurement Legislation in Scotland and the relevant Procurement Procedure. In particular, the Responsible Officer shall observe any standstill period required before acceptance of a quotation or tender.	Quotations and tenders shall thereafter be accepted by Heads of Service, after consultation with the Responsible Officer, in accordance with the Scheme of Delegation and the Corporate Procurement Procedures. In particular, Heads of Service, with advice and guidance from the Responsible Officer, shall observe any standstill period required before acceptance of a quotation or tender.
48	Paragraph C8.2	In a case of unsatisfactory performance or conduct by a contractor following the award	In a case of unsatisfactory performance or conduct by a contractor following the

		of a contract, the Responsible Officer may, in consultation with the Chief Solicitor, take action in terms of the contract to terminate the contract.	award of a contract, the Responsible Officer may, in consultation with the Chief Solicitor, and subject to any failure to implement any applicable improvement action by the contractor, take action in terms of the contract to terminate the contract.
49	Paragraph C9.1	Subject always to compliance with EU procurement rules, Procurement Legislation in Scotland and the relevant Procurement Procedures, the Responsible Officer may vary, alter, extend (but only where the contract allows the council those options) or renegotiate any part of a contract to achieve best value for the council.	Subject always to compliance with public procurement legislation and the relevant Corporate Procurement Procedures, the Responsible Officer may vary, alter, extend (but only where the contract allows the council those options) or re-negotiate any part of a contract to achieve best value for the council.

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
50	Paragraph C9.2	A written business case (Appendix 2) justifying the reasons for this course of action together must be prepared and retained before proceeding.	A Responsible Officer business case, in compliance with the relevant renewal/extension procedure documented in the Corporate Procurement Procedures, justifying the reasons for this course of action together must be prepared and retained before proceeding.
51	Paragraph C10.2	Unless an exception is made by the council for any class or value of contracts, the Responsible Officer shall ensure that reports are brought to committee in months 4, 6, 9 and 12 of each financial year on those matters specified in the Corporate Procurement Strategy and otherwise as required by the Council Executive or the Corporate Procurement Board. The Responsible Officer shall maintain a contracts register, comply with the statutory requirements for annual procurement reports, and comply with publication duties, all in accordance with the 2014 Act.	Unless an exception is made by the council for any class or value of contracts, the Responsible Officer shall ensure that reports are brought to the Corporate Procurement Board, on a quarterly basis, on those matters specified in the Corporate Procurement Strategy and otherwise as required by the Council Executive or the Corporate Procurement Board.
52	-	-	New Paragraph C10.3: An annual Procurement Strategy review will be conducted and reported annually to the Policy Development and Scrutiny Panel.
53	-	-	New Paragraph C10.4 The Annual Procurement Report, as required by the Procurement Reform (Scotland) Act 2014 will be brought to the Council Executive prior to publication. An update, reporting on the first 6 month of the financial year, will also be reported to Council Executive.
54	-	-	New Paragraph C10.5 As well as ensuring amendments and updates are made as required, the Responsible Officer shall carry out a review of these Standing Orders at least once in each administrative term and shall report the outcome to PDSP and Council Executive.
55	-	-	New Paragraph C10.6 Reporting on H&SCP contract activity will be carried out as follows:-  <ul style="list-style-type: none"> <li>Annually to the Council Executive on the regulated contracts awarded, extended or renewed as a result of recommendations from the Health and Social Care Partnership Contract Advisory Group.</li> </ul>

			<ul style="list-style-type: none"> <li>• Biannually to Social Policy Policy Development and Scrutiny Panel on the regulated contracts awarded, extended or renewed as a result of recommendations from the Health and Social Care Partnership Contract Advisory Group.</li> </ul>
56	-	-	<p>New Paragraph C10.7</p> <p>The Responsible Officer shall maintain a corporate contract register, comply with the statutory requirements for annual procurement reports, and comply with publication duties, all in accordance with the 2014 Act.</p>

Ref	Current Document Reference	Current Wording	Proposed Wording/Amendments
57	Paragraph C11.1	The Head of Finance and Estates is responsible for disposing of assets and materials (including land and buildings) which are not needed on behalf of all council services, except for the disposal of IT hardware and software which is the responsibility of the Depute Chief Executive (Corporate, Operational & Housing Services).	The Head of Finance and Property is responsible for disposing of assets and materials (including land and buildings) which are not needed on behalf of all council services, except for the disposal of IT hardware and software which is the responsibility of the Depute Chief Executive (Corporate, Operational & Housing Services).
58	Paragraph 11.2	All disposals of assets and materials except for IT hardware and software shall be undertaken in accordance with procedures approved by committee or issued by the Head of Finance and Estates under delegated powers.	All disposals of assets and materials except for IT hardware and software shall be undertaken in accordance with procedures approved by committee or issued by the Head of Finance and Property under delegated powers.
59	Appendix 1	Contract Strategy Template	Include in Corporate Procurement Procedures
60	Appendix 2	Business Case Template for Renewal or Extension	Include in Corporate Procurement Procedures
61	Appendix 3	Cross Border Interest and Adequate Advertising and Publicity	Removed
62	Appendix 4	Remit and Scope of the Health and Social Care Partnership Contracts Advisory Group	Some wording merged into main standing order Paragraphs. Include relevant information in Corporate Procurement Procedures, as applicable.
63	-	-	New Appendix 1 – West Lothian Council Tender Thresholds