

# Procurement

---

If you have difficulty with sight or hearing, or if you require a translated copy of this document, we would be pleased to provide this information in a form that suits your needs.

	<b>Policy number:</b>	<b>T10</b>
	<b>Policy approved:</b>	June 2019
	<b>Due for review:</b>	June 2022

<b>Section</b>		<b>Page</b>
1.0	Introduction	2
2.0	Policy Objectives	2
3.0	Equality & Diversity Statement	2
4.0	Legislative & Regulatory Context	3
5.0	Link to other Policies & Scottish Social Housing Charter	3
6.0	Management Responsibilities	4
7.0	Application of Policy	4
8.0	Exclusions	8
9.0	Procurement Routes & Framework Agreements	8
10.0	Review	8
Appendix 1: Procurement Thresholds		
Appendix 2: Internal Thresholds as per Financial Regulations		

## **1.0 INTRODUCTION**

- 1.1** Procurement is a high value activity for the Association that has a critical impact on its performance and success. The organisation can spend over £2 million per annum on revenue goods, works and services and a further £2 million on capital investment. For most of the past 10 years the Association has also had a development programme, currently spending c. £6 million over a period of 3 years on a 48 unit development.
- 1.2** The Association has generally been following the spirit and process of the new Procurement Regulations and using Public Contracts Scotland (PCS) website for all contracts of a value greater than £50,000. Obtaining best value through its procurement processes has been and continues to be of paramount importance to the Association and its customers.
- 1.3** This policy outlines the principals which will be used by the Association in the procurement of Works, Goods and Supplies. As a body governed by public law, the Association must comply with [EU Directive 2004/18/EC](#) which has been enshrined in Scots Law by the [Procurement Reform \(Scotland\) Act 2014](#) and [Public Contracts \(Scotland\) Regulations 2015](#).

## **2.0 POLICY OBJECTIVES**

- 2.1** This document seeks to ensure that procurement planning reflects the Association's aims and objectives and provide an opportunity to co-ordinate current procurement processes for all goods, works and services bought in by the Association, not just Asset Management activities as is required under Procurement Rules.
- 2.2** The document seeks to ensure that best value is being obtained consistently when goods, services and works are purchased, taking account of wider considerations than lowest cost. Where required to do so, the document will show how the Association can comply fully with obligations laid down by EU Procurement Rules and subordinate legislation and regulation, in particular the Procurement Reform (Scotland) Act 2014, in carrying out its procurement activities and contributing to the achievement of the [National Outcomes](#) set out by the Scottish Government.

## **3.0 EQUALITY & DIVERSITY STATEMENT**

- 3.1** The Association is intent on ensuring people or communities do not face discrimination or social exclusion due to any of the following protected

characteristics: age; disability; sex; marriage & civil partnership; race; religion or belief; sexual orientation; gender reassignment; pregnancy & maternity.

**3.2** This policy complies with the Association's Equality & Diversity policy.

**3.3** The Association will regularly review this policy for equal opportunities implications and take the necessary action to address any inequalities that result from the implementation of the policy.

#### **4.0 LEGISLATIVE & REGULATORY CONTEXT**

**4.1** As a public body governed by public law, in implementing this Policy the Association will seek compliance with the legal framework which governs public procurement, and in particular the following measures:

- EU Treaty obligations
- EU Procurement Directives, specifically [EU Directive 2004/18/EC](#)
- European Court of Justice and National Case Law
- [Public Contracts \(Scotland\) Regulations 2012](#)
- [The Procurement Reform \(Scotland\) Act 2014](#)
- [Public Contracts \(Scotland\) Regulations 2015](#)
- [Procurement \(Scotland\) Regulations 2016](#)
- [Statutory Guidance under the Procurement Reform \(Scotland\) Act 2014](#)
- [Construction Procurement Handbook](#)

#### **5.0 LINK TO OTHER POLICIES & SCOTTISH SOCIAL HOUSING CHARTER**

**5.1** This policy seeks to comply with the following policies and strategy documents:

- Business Plan: Asset Management, Financial Viability and Community Regeneration Strategic Objectives
- Risk Management Strategy: policy complements the strategy by addressing and minimising risks arising from fraud, dishonest or bribery involving competitor organisations or contractors/consultants performance or charges, also contributes to protecting the Group's good reputation.
- Entitlements, Payments & Benefits Policy
- Financial Regulations
- Fraud, Bribery and Money Laundering Policy
- Whistleblowing Policy

**5.2** This policy statement supports Glen Oaks Housing Association in achieving the

following relevant Charter Outcomes and Standards:

*Indicator 13: Value for money*

*Social landlords manage all aspects of their businesses so that:*

*Tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay.*

*This standard covers the efficient and effective management of services. It includes minimising the time houses are empty; managing arrears and all resources effectively; controlling costs; getting value out of contracts; and giving better value for money by increasing the quality of services with minimum extra cost to tenants, owners and other customers.*

## **6.0 MANAGEMENT RESPONSIBILITIES**

**6.1** It is the overall responsibility of the Chief Executive and Board to ensure that the Association complies with all statutory duties placed on it by Procurement Legislation.

**6.2** The Association's Finance and Technical Directors' duties and responsibilities, whose roles include a high degree of procurement, include:

- Implementation and the continuing review of this policy;
- Ensuring that all staff who have a responsibility in implementing this policy are kept fully informed of developments in legislation and good practices relating to the management of procurement;
- Ensuring competent staff is employed in delivering the policy in compliance with legislation, regulation and best practice; &
- Ensuring stakeholder engagement in procurement processes, as appropriate.

## **7.0 APPLICATION OF POLICY**

**7.1** The Procurement Reform (Scotland) Act 2014 (the Act) has now been enacted into law through three separate sets of regulations:

- Public Contracts (Scotland) Regulations 2015
- Procurement (Scotland) Regulations 2016
- Statutory Guidance under the Procurement Reform (Scotland) Act 2014

**7.2** The Act enshrines in Scots Law the following key principles:

- To treat contractors equally and without discrimination;
- To act in a transparent and proportionate manner; and
- To comply with the Sustainable Procurement Duty.

**7.3** The Act covers contracts for services, suppliers and works over certain thresholds, reviewed annually. Thresholds for the current financial year are contained in Appendix 1. Statutory Guidance under the Act published in March 2016 places duties on Association to ensure it is in compliance with the following:

- Procurement Strategy;
- Annual Procurement Reports;
- Sustainable Procurement Duty;
- Community Benefit Requirements in Major Contracts; &
- Publication of Contract Notices and Award Notices on Public Contracts Scotland (PCS) website.

**7.4** This is explained in more detail below:

#### **7.4.1 Procurement Strategy**

**7.4.2** Whilst the requirement to produce Procurement Strategies applies only to bodies whose value of contracts covered under the Act is expected to be £5 million (excl. VAT) or more, the Association will from time to time reach this amount. Advice received suggests that public bodies will be “encouraged” by the Scottish Government to produce a Procurement Strategy even if projected expenditure is below the £5 million threshold. It is proposed therefore that the Association, in accordance with best practice, produce a Procurement Strategy to be completed and published by 31<sup>st</sup> December 2016 to cover the period 1<sup>st</sup> January 2017 to 31<sup>st</sup> March 2018. Thereafter, the Strategy Document will be reviewed annually and submitted for publication by 31<sup>st</sup> December of subsequent financial years starting on 1<sup>st</sup> April.

**7.4.3** The Strategy is intended to demonstrate that contracts awarded by the Association deliver value for money and comply with the Sustainable Procurement Duty (see section 7.6). The strategy should also show how the Association’s procurement processes contribute to achievement of

its aims and objectives. In preparing and reviewing the document, it should include explanation how it took account of the following items:

- Community Benefits
- Engagement with Stakeholders;
- Minimum and/or Living Wage;
- Health & Safety;
- Fairly/ethically traded goods;
- Improving the health and well-being of the community; &
- Ensuring that suppliers are paid within 30 days.

**7.4.4** The Procurement Strategy will be prepared for the attention and approval of the Board at its November meeting. Upon approval, the Strategy will be published online together with a list all current contracts covered by the Act.

#### **7.5.1 Annual Procurement Reports**

**7.5.2** The Association is will produce an Annual Procurement Report at the end of the financial year, the first being due at the end of 2016-17. This is mandatory if a Procurement Strategy has been produced. Again, in the interests of best practice the Association undertakes to produce and submit this document annually. The Report will cover the following:

- A summary of the last year's contracts covered by the Act;
- A review of how the Association has complied with its Procurement Strategy and how it will ensure future compliance;
- A summary of the Community Benefit requirements (see section 7.6) it included in its contracts and any steps taken to support "supported businesses";
- Contracts covered by the Act in the next two years.

#### **7.6.1 Sustainable Procurement Duty**

**7.6.2** The Sustainable Procurement Duty requires the Association to consider the social, environmental and economic well-being of the area in which it operates when carrying out procurement exercises, with a particular focus on reducing inequality.

**7.6.3** It also requires the Association to consider how it can involve Small and Medium-Sized Enterprises (SMEs – businesses with less than 250

employees), third sector bodies (which includes community groups, voluntary organisations, charities, social enterprises, co-operatives and individual volunteers that exist wholly or mainly to provide benefits for society or the environment) and supported businesses in the process and how it can promote innovation. In addition, there is a duty to adopt a sustainable approach to waste-handling and recycling.

**7.6.4** The Association will utilise the following four key processes/tools provided by the Scottish Government in meeting its obligations under the Sustainable Procurement Duty. These are the:

- [Scottish Public Procurement Prioritisation Tool](#);
- [Sustainability Test](#);
- [Life Cycle Mapping](#); &
- [Flexible Framework Assessment Tool](#)

#### **7.7.1 Community Benefit Requirements in Major Contracts**

**7.7.2** Where the contract value exceeds £4 million (excl. VAT), there is a mandatory requirement to include Community Benefit Clauses to promote training and employment opportunities for local residents; educational initiatives with local schools and colleges; and promote sub-contracting opportunities with main contractors for local SMEs. This is likely to apply to any sizeable development contracts. In the event that no community benefit clauses are included in contracts of this value, reasons have to be given.

**7.7.3** In practice, the Association will seek to include Community Benefit Clauses within works contracts below the £4 million threshold as it has done within its current Gas Servicing, Reactive and Void Term Maintenance Contracts.

#### **7.8.1 Publication of Contract Notices and Award Notices on Public Contracts Scotland Website**

**7.8.2** The Association, as is already regular practice, will advertise and award all tenders for contracts covered by the Act on the Public Contracts Scotland (PCS) website. In selecting contractors at the pre-qualification stage for procurement exercises, the Association will be required to use the [European Single Procurement Document](#) (ESPD) for all two-stage procurement exercises above the EU threshold levels.

7.8.3 All contracts covered by the Act will have to be awarded on the basis of the most economically advantageous tender (MEAT), which as is already common practice within the Association is the award of contracts on a Quality:Price basis, generally at a ratio of 60:40 but can be reviewed as each procurement dictates.

7.8.4 For minor works, if the contract sum is likely to be below £50,000, invite a minimum of 3 and maximum of 6 contractors to tender for a contract on a price only basis. In general, dependent on value the Association adopt the following procurement routes as appropriate:

<b>Estimated value of contract</b>	<b>Procedure to be followed</b>
Below £1,000 works and services / supplies*	Work may be authorised within individual officer limits and contractor/supplier may be directly engaged without any form of public procurement exercise.
Between £1,000 and £5,000 works and services / supplies*	Minimum of three competitive quotations to be invited via Quick Quote (QQ). Lowest priced contractor/supplier to be appointed.
Between £5,000 and £50,000 works and Between £5,000 and £50,000 services / supplies*	Minimum of three competitive quotations to be invited via Quick Quote (QQ) using standardised documentation and processes (for example, a specification, Quality document (if appropriate) and return date to be sent to all contractor/supplier being asked to provide costs). Lowest priced contractor or Most Economically Advantageous Tender (MEAT) can be used and to appoint.
Between £50,000 and £2m works*	Best Practice tender process to be followed with at least three competitive tenders invited via Scottish Contract Notice via PCS tendering procedure. Contractor evaluated as being the Most Economically Advantageous Tender (MEAT) to be appointed.

Between £2m and £4,551,413 works and Between £50,000 and £181,302 services / supplies*	Formal Scottish tender process to be followed with at least three/five competitive tenders invited via Scottish Regulated Contract Notice via PCS full tendering procedure. Contractor/supplier evaluated as being the Most Economically Advantageous Tender (MEAT) to be appointed.
Over £4,551,413 works and Over £181,302 services / supplies*	Formal OJEU tender process to be followed with at least three/five competitive tenders invited via EU Regulated Contract Notice via PCS full tendering procedure. Contractor/supplier evaluated as being the Most Economically Advantageous Tender (MEAT) to be appointed.

7.8.5 In terms of cost analysis, the Association will for EU regulated procurement exercises require to take account of whole life costing of goods, services and works and not just the initial purchase price. The Association will also ensure sustainable pricing in contract tenders and will be able to include clauses in tenders which disqualify tender prices thought to be unsustainably low (see [Construction Procurement Handbook](#) – Chapter 8)

7.8.6 All tender communication will be handled electronically.

## 8.0 EXCLUSIONS

8.1 It should be noted that the procurement by acquisition or rental of land, existing buildings or other immovable property or of any estate, right, servitude or other interest in or over such land, buildings or property is not covered by the Procurement Rules, as per 11 (1) of the [Public Contracts \(Scotland\) Regulations 2015](#). In these circumstances it may be appropriate to issue a Voluntary Ex Ante Transparency (VEAT) Notice via Public Contracts Scotland prior to the conclusion of the acquisition in order to minimise the risk of a later procurement challenge from a third party.

8.2 In circumstances where works have already been procured through an open and transparent exercise and the scope of the contract works has been increased it is appropriate to issue a Modification Notice under Regulation 72 of the [Public Contracts \(Scotland\) Regulations 2015](#) if the following conditions are met:

- i) the need for modification has been brought about by circumstances which a diligent contracting authority could not have foreseen;*
- ii) the modification does not alter the overall nature of the contract or framework;*
- iii) any increase in price does not exceed 50 % of the initial contract value or framework agreement*

## **9.0 PROCUREMENT ROUTES & FRAMEWORK AGREEMENTS**

**9.1** In assessing the most appropriate procurement route, the Association will utilise the [Scottish Procurement Journey](#) provided by the Scottish Government. This provides guidance on procurement exercises and incorporates template documents to assist buyers such as the Association. The assessment will take account of the level of specialism associated with the project works and timescales, particularly where an accelerated process may have to be adopted to meet external funding requirements.

**9.2** The Association will consider using existing Framework Agreements where appropriate, whether national like the Scottish Procurement Alliance or in collaboration with other RSLs, for contractor (including Design & Build contracts), consultant and consultant consortia appointments, assuming this satisfies all the criteria set out in Section 7 above, which may assist it in accelerating the procurement process providing pre-qualified parties, procured under an open, transparent and legally compliant process to tender for contracts.

## **10.0 REVIEW**

**10.1** This Policy will be reviewed every 3 years but can be brought forward to reflect any changes in Regulations or Procurement Thresholds.

*Summary of thresholds from 1 January 2018 (net of VAT)***Public Contracts (Scotland) Regulations 2015**

	<b>Supplies</b>	<b>Services</b>	<b>Works</b>
Entities listed in Schedule 1(a)	£118,133 (€144,000)	£118,133 (€144,000)	£4,551,413 (€5,548,000)
Other contracting authorities	£181,302 (€221,000)	£181,302 (€221,000)	£4,551,413 (€5,548,000)
Contracts subsidised by a contracting authority(b)	N/A	£181,302 (€221,000)	£4,551,413 (€5,548,000)
Small lots	£65,630 (€80,000)	£65,630 (€80,000)	£820,370 (€1,000,000)
Social and other specified	N/A	£615,278 (€750,000)	N/A

(1) Schedule 1 of the Public Contracts (Scotland) Regulations 2015 lists central government bodies. These thresholds will also apply to any successor bodies

(2) Regulation 14 of the Public Contracts (Scotland) Regulations 2015 specifies what constitutes a subsidised contract