

Scottish Procurement

Buyer Guide

Requirements Reserved for Supported Businesses Dynamic Purchasing System (DPS)

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1. Foreword and acknowledgements

Scottish Procurement aims to deliver benefits to the people of Scotland through improved value for money for taxpayers, improved goods, and services for all our citizens and economic opportunities for Scotland. This is achievable through effective collaboration throughout the procurement cycle.

Scottish Procurement would like to acknowledge the work, support, and contribution from all sector representatives. Their input has helped to shape the direction of this Requirements Reserved for Supported Businesses project to a successful outcome.

2. Introduction

This buyer guide aims to assist Scottish public sector bodies in selecting the most suitable and cost-effective goods and services to suit their individual requirements from a range of supported business suppliers. This document is designed to guide organisations through the selection process and provide confidence regarding the goods and services purchased through this - Dynamic Purchasing System (DPS).

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3. Aim of the DPS

The key aim of the Requirements Reserved for Supported Businesses DPS is to provide Scottish Public Sector and Third Sector Bodies (Framework Public Bodies) with a clear path for the purchase of goods and services from Supported Businesses and in doing so, support the integration of disabled and disadvantaged citizens into the mainstream workforce.

Supported businesses are organisations whose main aim is to integrate disabled or disadvantaged people socially and professionally.

The aim of the DPS is also to provide a wide range of supported business suppliers who can deliver goods and services for Scottish public sector bodies. In this context, Scottish Procurement has been working collaboratively with cross sectoral colleagues and key stakeholders in developing the DPS. The ambition for the DPS is to offer a straightforward, flexible, and quick route to market for all Scottish public sector bodies and to have a proportionate entry barrier for Supported Businesses suppliers who meet the minimum criteria to gain entry.

4. Scope of the DPS

The Requirements Reserved for Supported Businesses DPS is intended to deliver a range of goods and services which can be provided by supported businesses. Supported businesses are organisations whose main aim is to integrate disabled or disadvantaged people socially and professionally.

The scope of goods and services will be identified during the Tendering process.

5. DPS Overview

Scottish Procurement has established a DPS for Requirements Reserved for Supported Businesses which replaces the current framework which expired on 10 July 2023.

The DPS will be for an initial two-year period from 07 September 2023 to 08 September 2025. Call off contracts awarded via the DPS will have no constraints on their duration, meaning there will be no minimum/maximum call-off period.

6. What is a DPS?

A DPS is an electronic system of pre-qualified suppliers, for commonly used purchases which are generally available on the market, from which Scottish public sector bodies can invite tenders. As a procurement process, it has some aspects that are similar to a framework agreement, however, it is an electronic process and new suppliers can apply to join at any time during the period of the DPS.

7. How does a DPS Operate?

A DPS is a two-stage process:

Stage 1 - Suppliers can apply to participate by completing the Single Procurement Document (SPD) via the Public Contracts Scotland Tender (PSC-T) portal. Suppliers are required to complete the SPD and meet the minimum selection criteria stated. Included within this SPD is minimum criteria that defines a supported business for the purposes of public procurement legislation.

The definition of a Supported Business is twofold and is known widely as the 'two-part test.' Firstly, a bidding organisation must have the social and professional integration of disabled and disadvantaged persons as its main aim. This may be evidenced in the organisation's Articles of Association (in the case of companies) or such other constitutional documentation that governs the organisation. It is within the discretion of individual public bodies to determine whether a bidding organisation has demonstrated the requirement that it has as its main aim the social and professional integration of disabled and disadvantaged persons.

Secondly, the definition requires that at least 30% of the employees of the organisation are disabled or disadvantaged. Regulation 2 of the Public Contracts (Scotland) Regulations 2015 states "disabled", in relation to a person, means a disabled person within the meaning of the Equality Act 2010 and, in relation to a worker, means a disabled person who is a worker.

NOTE: Stage 1 has already been undertaken by Scottish Procurement whilst establishing the DPS. However, new suppliers can still apply to join at any time during its term and Scottish Procurement will continue to process these applications.

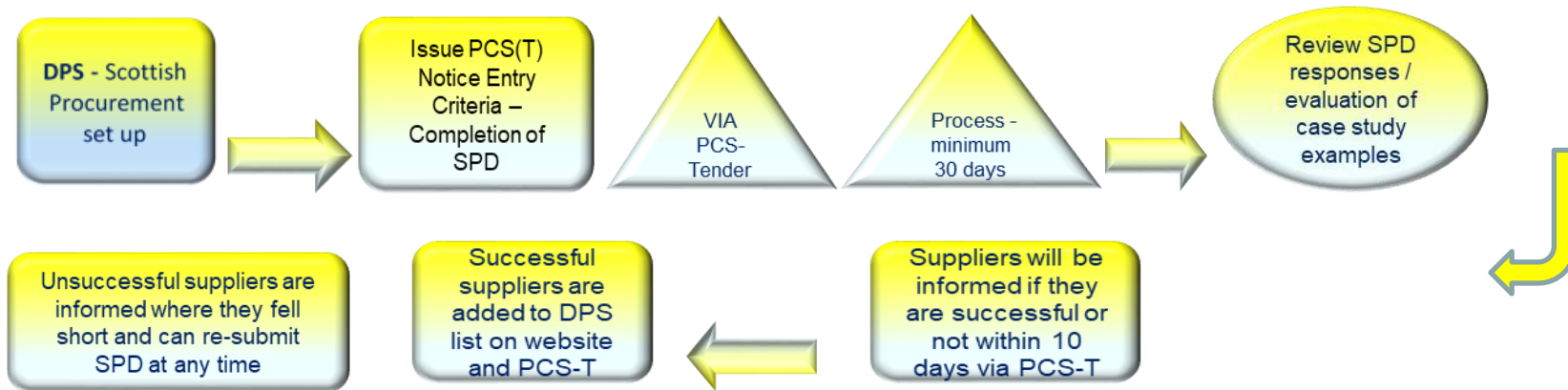
The PCS notice is held here for the duration of the DPS [View Notice - Public Contracts Scotland](#)

Stage 2 - Scottish public sector organisations will issue their Invitations to Tender (ITT) via the DPS and all suppliers will be notified that there is an opportunity which they can view and determine if they wish to submit a tender for each individual ITT.

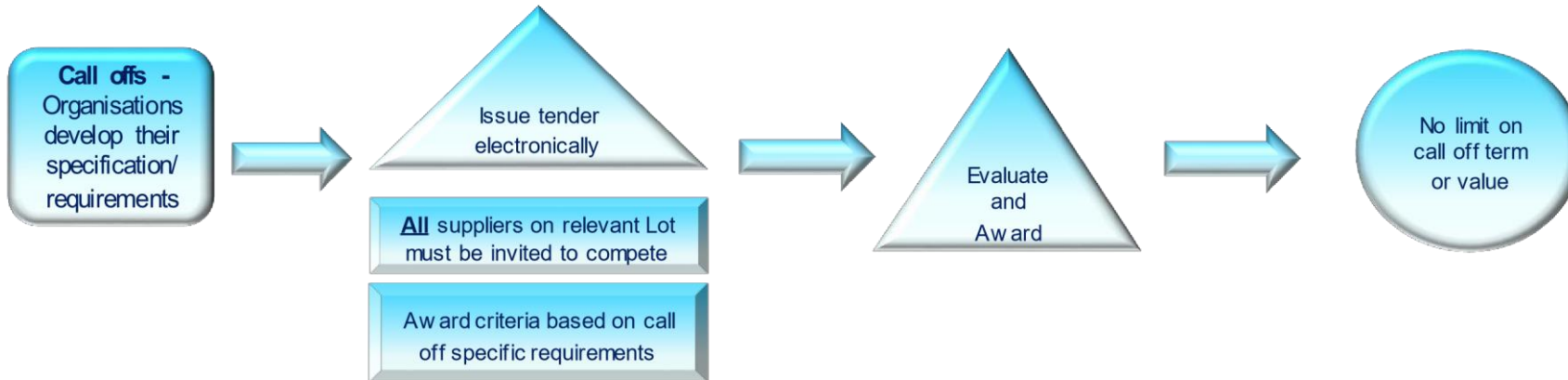
Public Contracts Scotland – Tender (PCS-T) has been created (itt_53609) specifically for buyers to call off from the DPS.

The diagram below offers a simple high-level illustration of how the DPS operates.

Stage 1



Stage 2



Throughout its term, suppliers can join (subject to meeting the entry criteria) or remove themselves from the DPS at any time.

8. Benefits

A DPS is an effective and efficient procurement procedure that can benefit both suppliers and buyers alike. Below are just some of the benefits you can expect to find when using the system:

- Easy route to market for organisations without going through the onerous OJEU.
- Wide range of goods and services available from supported businesses.
- Streamlined process for buyers and suppliers.
- Continued access to a wide range of supported business suppliers.
- SPD evaluation already carried out.
- No limit to size, value and duration of call-off contracts awarded under a DPS.
- Electronic process where supplier details are held centrally.

9. Using the DPS for tenders

The DPS is for Requirements Reserved for Supported Businesses that are commonly available in the market. It provides a list of pre-qualified supported business suppliers that have met the minimum entry criteria. It is a simple route to market which will enable organisations to procure their requirements, meaning buyers need only issue and evaluate their individual tenders.

Successful suppliers must be given the opportunity to submit an ITT when there is a requirement for the goods and/or services they provide. Buyers should note that where there is more than one supplier for a particular requirement either Goods or Services, competition will be mandated. There is **NO** direct award procedure under a DPS where mini competition is available. The exact format of the mini competition however will be a matter for the DPS public body and their own governance procedures.

In our experience of other DPS,' it is unlikely that all suppliers will bid for all opportunities as they will "self-select" the tenders they bid for on a case-by-case basis.

It is important that you ensure that all suppliers are included in all communications in relation to your tender as the process you adopt must be transparent.

Once the tenders are returned to you, the evaluation would be conducted and a call-off contract awarded to the successful supplier. There is no requirement to conduct a standstill exercise.

10. Calls for Competition

Scottish public sector bodies should develop their tender documents as they would for any tender, including how and when to respond, along with details of the evaluation criteria to be used. Responses received by the deadline should then be evaluated and the tenderer that offers the most economically advantageous tender should be awarded the call-off contract.

You must give suppliers a minimum of 10 days to respond to any tenders issued via the DPS. However, buyers should take into account the complexity of their requirement when deciding the duration, a tender is open for.

The award criteria must include both cost and quality of service.

All DPS call off transactions must be conducted electronically.

To help buyers use the DPS, a dedicated area within Public Contracts Scotland – Tender (PCS-T) has been created (itt_53609) specifically for buyers to call off from the DPS. There is no need to undertake the two-day PCS-T training course to get access to this dedicated area within PCS-T. Once you gain access, there is a template which contains information that will help you run your call for competition where applicable.

Prior to issuing your full ITT documentation, you have the option to engage with all the suppliers who can provide your requirement, about your potential opportunity. This can be helpful to gauge interest and views from suppliers on your requirement.

For example, you may wish to issue a project summary document highlighting the key aspects of your requirement which will allow suppliers to review before the full ITT documentation is issued.

Should you choose to issue this via the dedicated DPS area of the PCS-T system, please clearly identify this as an 'Expression of Interest' (or similar wording) in the title to avoid confusion with actual ITT documentation.

To be added to this dedicated area you need to access PCS-T at (itt_53609).

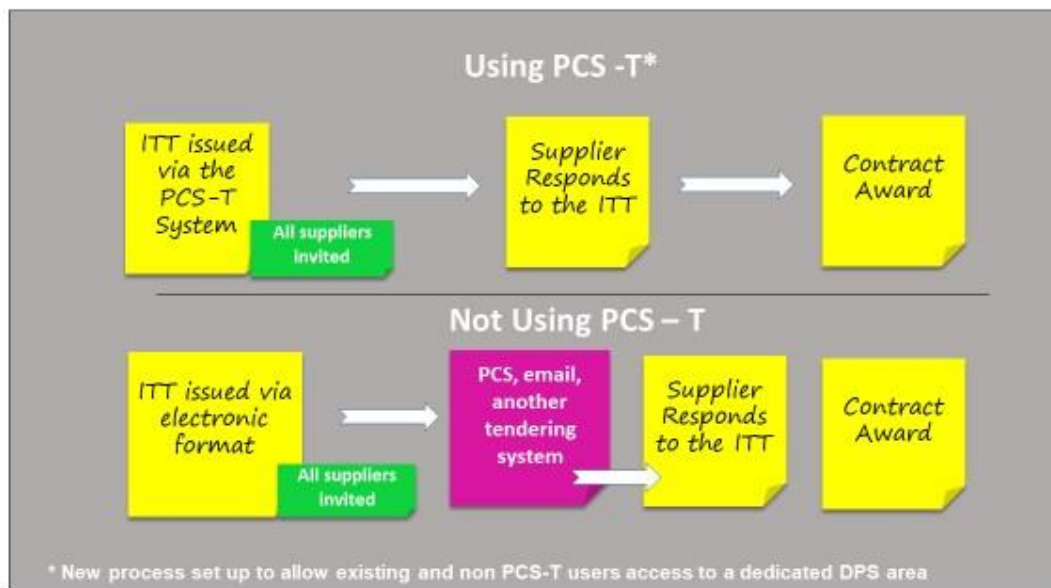
Please Contact scott.mccrindle@gov.scot if you have any questions or queries on the DPS.

- When you receive confirmation, you have been added, you will also receive the PCS-Tender 'DPS Call-off User Guide.'

When you are running a call off contract through PCS-T, you need to create the ITT from the DPS template.

Buyers that do not wish to use the dedicated PCS-T area can run the DPS call off by any electronic means, e.g., email or any electronic portal. To do so you can obtain a copy of the supplier contact list(s) by emailing scott.mccrindle@gov.scot.

A copy of this suppliers contact list is also held on the Scottish Government's 'Procurement Contracts Directory for Central government and the Public sector' at Procurement: Scottish Government frameworks and contracts - gov.scot (www.gov.scot).



11. Terms and Conditions

A template set of Terms and Conditions (T&C's) have been created that may be used. The T&C's are not mandated but have been created to assist you if you wish to consider them.

You may wish to use your own T&C's when calling off from the DPS.

Regardless of whether you choose to use the template T&C's or your own then you should include them as part of your tender documents and subsequent call-off contract.

The template T&C's can be found as an attachment on PCS-Tender (within the DPS).

12. Awarding Contracts

Contracts should be awarded in an open, fair, and transparent manner at all times and you should ensure that winning contractor offers the Most Economically Advantageous Tender (MEAT). There is no obligation for you to undertake a standstill period.

In all regulated procurements, i.e., those valued in excess of £50,000, including a DPS call-off, the Scottish public sector bodies must publish an appropriate contract award notice.

Contract call-off award notices may be grouped on a quarterly basis. Grouped notices must be sent for publication within 30 days of the end of each quarter.

13. Additional Information on Supported Businesses

The key aim of the Requirements Reserved for Supported Businesses DPS is to provide Scottish Public Sector and Third Sector Bodies (Framework Public Bodies) with a clear path for the purchase of goods and services from Supported Businesses and in doing so, support the integration of disabled and disadvantaged citizens into the mainstream workforce.

The sustainable procurement duty, outlined in Procurement Reform (Scotland) Act 2014, aligns with our purpose to create a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth.

It is underpinned by the National Performance Framework and Scotland's Economic Strategy.

The sustainable procurement duty requires that before a public sector contracting authority buys anything, it must think about how it can improve the social, environmental and economic wellbeing of the area in which it operates, with a particular focus on reducing inequality.

It also requires a public sector contracting authority to consider how its procurement processes can facilitate the involvement of SMEs, third sector bodies and supported businesses, and how public procurement can be used to promote innovation.

Public bodies are encouraged to use the Reserved Contracts process where it is appropriate to do so. They should familiarise themselves with the goods and services provided by Supported Businesses and consider, when planning a procurement exercise, if a contract or framework agreement should be 'reserved'.

It is in the interest of public bodies to monitor how they are facilitating supported businesses in their procurement activities as it will help bodies evidence their compliance with the sustainable procurement duty and annual reporting requirements set out in the 2014 Act.

Irrespective of the processes described in this DPS for Requirements Reserved for Supported Businesses Buyers guide.

All public sector procurement buyers have the ability to “reserve” any procurement exercise so that the contract or part of it e.g., a lot or lots, can only be supplied by a Supported Business or Businesses.

The Public Contracts (Scotland) Regulations 2015, Section 2, Regulation 21 states

21.—(1) A contracting authority may—

- (a) reserve the right to participate in procurement for the award of a public contract or framework agreement to a supported business; or
- (b) provide for such a contract or framework agreement to be performed in the context of a supported employment programme.

For a Reserved Contract all the normal procurement rules apply, including being subject to all procurement legislation.

If a contract is to be a Reserved Contract, then this must be stated within the Contract Notice.

It is worthy of note that Supported Business suppliers are encouraged when they interact with public sector procurement buyers to remind them of [Public Contracts \(Scotland\) Regulations 2015, Section 2, Regulation 21](#) and their ability to choose to reserve the right to participate in procurement for the award of a public contract or framework agreement to a supported business and the direction given in [the sustainable procurement duty](#), outlined in Procurement Reform (Scotland) Act 2014.

14. Frequently asked questions

1. Who can use the DPS?

It is the responsibility of any buying organisation wishing to use the framework agreement to satisfy itself that it is eligible to do so.

The Dynamic Purchasing System will be available for use by the Scottish Ministers (including Agencies), Scottish Non-Departmental Public Bodies, offices in the Scottish Administration which are not ministerial offices, cross border public authorities within the meaning of Section 88(5) of the Scotland Act 1998, the Scotland Office, the Scottish Parliamentary Corporate Body, councils constituted under Section 2 of the Local Government etc. (Scotland) Act 1994, Scottish Fire and Rescue Service, the Scottish Police Authority, Scottish health boards or special health boards, all NHS Scotland, The Integrated Joint Boards established further to the Public Bodies (Joint Working) Act 2014, bodies registered as social landlords under the Housing (Scotland) Act 2001, Student Loans Company Limited, the Forestry Commission, the Commissioner of Northern Lighthouse operating as the

Northern Lighthouse Board, Equality and Human Rights Commission, Business Stream Ltd, the Business Gateway National Unit at the Convention of Scottish Local Authorities, further or higher education institutions being fundable bodies within the meaning of Section 6 of the further and Higher Education (Scotland) Act 2005, any public body established by or under the Scotland Act 1998 or any Act of the Scottish Parliament, any association of or formed by 1 or more of the foregoing, bodies financed wholly or mainly by 1 or more of the foregoing, bodies subject to management supervision by one or more of the foregoing and bodies more than half of the board of directors or members of which, or, in the case of a group of individuals, more than half of those individuals, being appointed by one or more of the foregoing. In addition to the Scottish public sector bodies listed, the Dynamic Purchasing System will be available to charities entered on the Scottish Charity Register and voluntary organisations entered on the Membership Database of the Scottish Council for Voluntary Organisations.

Information about Scottish Public Bodies is available at:

<http://www.gov.scot/Topics/Government/public-bodies/about>

Information about the Review of Public Procurement in Scotland and links to the other Centres of Expertise are available at:

<http://www.gov.scot/Topics/Government/Procurement>

2. Are the standard terms and conditions available on the DPS subject to Scots law?

Yes – if you use the terms made available by Scottish Government, they are subject to Scots law. However, if using your own terms and conditions, or in circumstances where you use the supplier terms, these will be subject to the specified legal jurisdiction in those terms.

3. Is there a process for providing feedback back into Scottish Procurement on issues relating to the DPS and the contractor's performance?

For any issues or feedback then please contact

scott.mccrindle@gov.scot

4. Does the DPS allow for community benefits?

'Community benefits' are social considerations which include not only targeted recruitment and training, but also equal opportunities, training for the existing workforce, supply chain initiatives, community consultation, 'considerate contractor' schemes, contributions to education, the promotion of social enterprises, and resources for community initiatives.

It is strongly recommended that you include details of any community benefits you want to be delivered as part of the service - you should include these at tender stage of your call-off.

5. Does the DPS consider Fair Work?

For more information on Fair Work practices please see the Scottish Procurement Policy Note SPPN 6/2021 - Fair Work First implementation.

When establishing the DPS, Scottish Procurement sought details from Suppliers whether they intend to pay staff involved with the delivery of call-offs the [Real Living Wage](#).

Upon establishment of the DPS, Scottish Procurement positively encouraged Fair Work and the suppliers were notified that Fair Work practices may be included within call-offs. As such, buyers are encouraged to incorporate Fair Work practises within their individual call offs and build this it into their tenders.

6. Can the DPS be used for “direct awards”, perhaps for low-value contracts?

Only where mini competition is unavailable i.e., there is only one supplier of the goods or services required.

7. Does the standstill period apply to contracts under the DPS?

No. The standstill period is not obligatory for individual contracts awarded under a DPS.

8. Do I need to provide suppliers with a minimum time period to respond to tenders?

Yes. The minimum time period for receipt of tenders is 10 days from the date on which the call for competition was sent. However, an appropriate timescale should be provided to allow Suppliers a reasonable time to respond.

9. Does the DPS encourage SME access to public contracts?

The DPS has many aspects that make it “SME friendly.” Getting onto the DPS is less onerous for SMEs. Also, suppliers can join the DPS at any time. Most supported businesses are SME or micro-SME.

10. If there are a large number of suppliers on the DPS for a specific requirement, how will we effectively resource and undertake competitions for individual contracts?

The DPS is no more onerous than the Open Procedure for individual contracts; in fact, it is easier, as you will only have to examine tenders received and not assess supplier's exclusion and selection status for every contract (SPD). We also know from experience that suppliers will "self-select" what tenders they bid for and it is unlikely that all suppliers will bid for all tenders. As the DPS is for goods and services commonly available on the market, it may also be possible in many cases to run relatively straightforward award evaluation criteria, which will help to keep resource requirements in check.

The process you adopt must be fully transparent to the suppliers and must clearly layout your evaluation process.

11. Do I need to provide a debrief to unsuccessful suppliers?

There is no requirement for a "standstill" period under a DPS. However, you are not prohibited from either proactively providing feedback or offering to provide feedback on request which also can be seen as being good practice. Where you do provide or offer feedback you should treat all suppliers equally.

12. Are there any minimum/maximum durations to the contract call-offs and can contracts overhang the DPS period?

There is no minimum/maximum duration for the contract call-offs but the duration should be proportionate. As the "new" procurement rules specifically allow "overhang" in frameworks there is no reason to consider that proportionate overhang would be impermissible in DPS. As with all procedures, the DPS should not be used in a way which will distort or prevent competition.

13. How do I issue calls for competition / ITT?

The best option for conducting your tender process is through PCS-T. The option to use PCS-T is now available to any buyer (even if you are not a current PCS-T user) for tenders via the DPS. There is no need to undertake the two-day PCS-T training course. A straightforward and easy to follow guide is available when you register to access the DPS area. To access PCS-T then please contact scott.mccrindle@gov.scot

Those buyers that choose not to use PCS-T can still make use of any electronic process such as Public Contracts Scotland, e-mail, existing procurement systems etc. If not using PCS-T though please ensure you

have the full list and contact details of suppliers and this can be found by contacting scott.mccrindle@gov.scot.

A copy of this suppliers contact list is also held on the Scottish Government's 'Procurement Contracts Directory for Central government and the Public sector' at Procurement: Scottish Government frameworks and contracts - gov.scot (www.gov.scot).

14. What is a supported business?

Supported businesses are businesses/organisations whose main aim is to integrate disabled or disadvantaged people socially and professionally.

Regulation 21 of the Public Contracts (Scotland) Regulations 2015 ("the Regulations"), defines a supported business as an organisation which must have the social and professional integration of disabled and disadvantaged persons as its main aim and least 30% of the employees of the organisation are disabled or disadvantaged.

This may be evidenced in the organisation's Articles of Association (in the case of companies) or such other constitutional documentation that governs the organisation. It is within the discretion of individual public bodies to determine whether a bidding organisation has demonstrated the requirement that it has as its main aim the social and professional integration of disabled and disadvantaged persons.

Regulation 2 of the [Public Contracts \(Scotland\) Regulations 2015](#) states "disabled", in relation to a person, means a disabled person within the meaning of the [Equality Act 2010](#) and, in relation to a worker, means a disabled person who is a worker.

15. Why should public bodies use a supported business?

Legal Procurement

Supported businesses are organisations whose main aim is to integrate disabled or disadvantaged people socially and professionally into work.

This intent is supported by the Procurement Reform (Scotland) Act 2014 which includes a provision allowing public bodies to restrict participation in the tendering process to Supported Businesses only.

[The Procurement Reform \(Scotland\) Act 2014](#) ("the 2014 Act") similarly includes a provision (Section 9 -sustainable procurement duty) allowing public bodies to restrict participation in the tendering process to Supported Businesses only. It also places a requirement on a public body to:

- consider, before starting a procurement competition, how, by the way in which it conducts the procurement process, it might facilitate the involvement of Supported Businesses and
- (assuming the public body considers it may facilitate involvement of Supported Businesses) then to act in a way to best bring that about.

Under the 2014 Act, the definition of a Supported Business and supported employment programme is the same as under the Regulations.

The [Sustainable Procurement Duty](#) outlined in the [Procurement Reform \(Scotland\) Act 2014](#) requires that an Organisation must think about how they can improve the Social, Environmental and Economic wellbeing of the area in which they operate, with a particular focus on reducing inequality.

Public bodies are encouraged to use the Reserved Contracts process where it is appropriate to do so. They should familiarise themselves with the goods and services provided by Supported Businesses and consider, when planning a procurement exercise, if a contract or framework agreement should be 'reserved'.

It is in the interest of public bodies to monitor how they are facilitating supported businesses in their procurement activities as it will help bodies evidence their compliance with the sustainable procurement duty and annual reporting requirements set out in the 2014 Act.

Societal / Economic

The key aim of the Requirements Reserved for Supported Businesses National Dynamic Purchasing System is to provide Scottish public sector and third sector bodies (framework public bodies) with a clear path for the purchase of goods and services from Supported Businesses in Scotland and in so doing support the integration of disabled and disadvantaged citizens into the mainstream workforce.

Supported businesses help narrow the disability employment gap by employing disabled (and disadvantaged) people and helping them to

- Increase their financial independence and security
- Improve their mental and physical health
- Provide greater social connection and belonging, Increased sense of purpose and self-worth

Supported businesses help provide Benefits for society and public sector organisations by helping to:

- Increase economic productivity and growth in the local areas supported business operate in. (When disabled and disadvantaged people are

employed, they spend money on goods and services locally, which boosts the local economy. This can create jobs and opportunities for everyone).

- Reduce Local and Central Government spending on welfare programmes (When disabled and disadvantaged people are employed, they are less likely to need to rely on government benefits). This can save taxpayers money in the long run.
- Increase tax revenue (When disabled and disadvantaged people are employed, they spend money on goods and services, which boosts the national and local economy. This can create jobs and opportunities for everyone.)
- Help provide a more diverse and inclusive workforce.
- Reduced stigma and discrimination against people with disabilities and disadvantage.