



Scottish Government  
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# Scottish Government Procurement Strategy

April 2021 to March 2023

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# 1. Introduction

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This document sets out the Scottish Government's updated procurement strategy for 2021-23. It describes how we plan to carry out our procurements for the period 1 April 2021 to 31 March 2023.

In this strategy we reflect on the commitments described in the [Economic Recovery Implementation Plan](#) that was published in August 2020 and the Government's [Programme for Scotland](#) published in September 2020. This includes using the £12.6 billion annual Scottish public procurement spend to boost inclusive economic recovery, support longer term economic wellbeing and to support our climate emergency response. In doing so, we will work collaboratively across the public sector. Also, our tools and guidance are intended to influence and empower buyer, supplier and key stakeholder communities to use public procurement to support an inclusive and green economic recovery.

Overall, this strategy outlines how we will use the power of procurement to deliver and influence outcomes that are good for businesses and their employees, good for places and communities, good for society, and that are open and connected with the communities we serve.

The broad principles and policies described in this renewed strategy are expected to remain relevant until at least 31 March 2023. We will, however, continue to review our strategy at least once a year and make changes to it if these are needed to ensure that it remains current. We will publish any new versions on our website.

## Scottish public procurement rules and scope of this procurement strategy

Legislation governs how Scottish public bodies buy their goods, services or works. One of the things that it requires us to do is to publish a procurement strategy, or to review an existing one, to set out how we plan to carry out our regulated procurements for a set period. Regulated procurements are contracts of values of £50,000 and above for goods and services and of £2 million and above for works. Our procurement strategy must include statements about how our procurements contribute to the following themes:

- the carrying out of our organisational functions and purpose;
- the delivery of value for money; and
- how our procurements will be carried out in accordance with our general duties which include the sustainable procurement duty ([see section 4 for a description of the sustainable procurement duty](#)).

These statements are in [Part 1](#) of this procurement strategy.

Our procurement strategy must also include statements about our general policy on:

- community benefit requirements in our contracts;
- consulting and involving people affected by our procurements;
- Fair Work practices including paying the 'real' Living Wage to people involved in the delivery of our contracts;
- how we will promote compliance by contractors and subcontractors with the Health and Safety at Work etc. Act 1974;
- the procurement of fairly and ethically traded goods and services;
- how our procurements, involving the provision of food, will improve the health, wellbeing and education of communities and promote the highest standards of animal welfare;
- paying our invoices (or a similar claim) to contractors and subcontractors in 30 days or less; and
- how we will prioritise and take account of climate and circular economy in our procurement activity and as described in our Scottish Procurement Policy Note [SPPN 1/2021: Taking account of climate and circular economy considerations in public procurement](#).

These statements are in [Part 2](#) of the document and are the principal areas that we will monitor in our annual procurement report of our performance against this strategy.

## Public Procurement in Scotland

The Scottish Government is responsible for developing public procurement policy and legislation in Scotland and, like all public bodies, its own procurement activity. These functions are managed through our Scottish Procurement and Property Directorate (SPPD). There has been a substantial programme of activity across the public sector in Scotland to help improve procurement since 2006. We have moved from a centrally led programme to a more collaborative landscape with a shared common vision, underpinned by the [Procurement Reform \(Scotland\) Act 2014](#) ('the 2014 Act'). The 2014 Act provides clear direction to public bodies and sets out clear procurement responsibilities and accountabilities, promoting local decision making.

We remain committed to doing more to continually improve procurement approaches and outcomes, assessing the effectiveness of steps already taken. For example, we recently published external research on the impact and value of the sustainable procurement duty and have undertaken a survey of suppliers. The outcomes from these, and other forms of engagement and assessment, will help us to identify where there are opportunities for further improvement and which we will take forward.

We promote early engagement with our stakeholders and clients to improve commercial outcomes. Our role within this landscape has expanded:

- from leading processes and procedures to one where we strive for even greater impact and influence;
- from having a focus on contracting and compliance to being a critical friend and trusted adviser;
- from approving and endorsing to stimulating and challenging approaches; and
- from central resourcing to flexible resourcing models.

The following groups help to drive activity that supports our ambition to maximize the impact of procurement:

- **The Public Procurement Group (PPG)** is the leadership group for public procurement across Scotland. It is made up of the heads of Procurement Centres of Expertise and senior Scottish Government procurement officials, who work together to set the strategic direction for public procurement in Scotland.
- **The Procurement Supply Group (PSG)** includes representation from the Scottish Government and representative bodies for business and the third sector. It meets regularly to discuss and influence public procurement policy and practices as these affect suppliers, in particular, small and medium sized enterprises (SMEs)<sup>1</sup>, the third sector<sup>2</sup> and supported businesses<sup>3</sup>. The PSG is consulted on key policy developments, live issues and priorities and helps to inform improvement opportunities.
- **The Collaborative Leads Group, the Policy Forum, The Climate and Procurement Forum, the Construction Leadership Forum and the Professional Practice and Development Forum** provide other means of collaborative, cross-sector engagement on policy, practice and information sharing.

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1 SME generally means a company with fewer than 250 employees.

2 The third sector, which includes charities, social enterprises and voluntary groups, delivers essential services, helps to improve people's wellbeing and contributes to economic growth. It plays a vital role in supporting communities at a local level.

3 Supported businesses mean those businesses for which the core purpose is the social and professional integration of disabled or disadvantaged persons and where at least 30% of the employees of those businesses are disabled or disadvantaged persons.

More information about some of these groups and SPPD's vision, mission and aims is available on our [website](#).

SPPD also provides a range of commercial, property, and capability development services for the Scottish Government and the wider Scottish public sector.

### eCommerce and Procurement Best Practice

We provide an eCommerce and Procurement Best Practice Shared Service that allows public bodies to carry out procurements and business transactions electronically. eCommerce brings efficiencies and savings to public organisations by reducing the time it takes to get the goods, services and works needed to deliver public services. It brings benefits to suppliers such as providing access to contract opportunities and more efficient ordering and payment processes. These solutions are regularly upgraded and developed to ensure that they continue to meet user requirements and deliver additional efficiencies and benefits. We also provide a number of procurement best practice tools to improve and enhance procurement capability across Scotland. Our eCommerce solutions and procurement best practice tools are described below:

- **Public Contracts Scotland (PCS)** is a one stop shop for suppliers looking for Scottish public sector contract opportunities. PCS has enabled stronger communication links between buyers and suppliers. The use of it by Scottish public bodies to advertise their regulated contract opportunities is mandatory.

- [PCS - Tender](#) is the national e-tendering service that allows suppliers to submit tenders for a public contract in electronic format. It also enables public bodies to manage their contracts and suppliers electronically.
- [The Procurement Journey](#) provides an online single source of procurement guidance and documentation for the Scottish public sector. After significant stakeholder engagement it was upgraded and relaunched in March 2020 with improvements to both its functionality and content. Its purpose is to communicate and drive best practice and compliance throughout the Scottish public sector from simple purchases to complex procurement exercises. The Procurement Journey is kept up to date to reflect current legislation and policy.
- The [Supplier Journey](#) provides online guidance to suppliers to make it easier for them to bid for public goods and services. It was updated in March 2020 with improved functionality to support businesses when bidding for public contracts.
- The [Sustainable Procurement Tools](#) provide a range of online assessments. These include the **Flexible Framework** which allows public bodies to assess their progress, with respect to the sustainable procurement duty, and which will generate an action plan to enable further progress; the **prioritisation methodology**, a tool that can be used at an organisational, and at a category, level to identify risks and opportunities associated with planned procurement activity and to help plan resource allocation to address these; the **sustainability test and Life Cycle Impact Map**, that identify risks and options

at an individual procurement level; and an extensive suite of guidance to help public bodies to achieve positive economic, social and environmental outcomes.

- **The Procurement and Commercial Improvement Programme (PCIP)** can also be found within the Procurement Journey. This continuous improvement programme focuses on the culture, scope and approach of the organisation which manages, supports and enables procurement activity from the identification of a need through to contract delivery. It is based around set questions and other evaluation methods with a detailed examination of activities such as contract management, ensuring that procurements are conducted sustainably, and some other indirect areas such as continuous professional development. Organisations can then, based on the outcome of the assessment, develop an action plan to achieve maximum value for money and improve their ability when buying goods, services and works. The PCIP assessment tool and process is regularly reviewed to ensure it continues to reflect current legislation and best practice.
- **The Scottish Procurement Information Hub** is a sophisticated spend analysis tool that provides reporting capability on procurement spend by key public bodies. It enables public bodies to see their spend, identify who their key suppliers are, highlight spend with SMEs and local suppliers and identify potential collaborative opportunities.
- **PECOS (Professional Electronic Commerce Online System)** automates the purchase to pay process from

creating shopping baskets, raising orders and presenting valid invoices for payment. It also embeds standard and consistent business workflows and audited approval processes to ensure compliance with procurement and finance guidelines.

- **eInvoicing** is delivered through PECOS and enables the receipt of electronic invoices from suppliers. These are then automatically passed quickly to public bodies for matching and payment in their finance systems.
- **Catalogue Management** is also delivered through PECOS. It manages catalogues that are made available as a result of national, sectoral or local contracts. It allows catalogues to be published in a number of ways that can easily be accessed by purchase to pay systems (including PECOS) that are in use across the Scottish public sector.
- **The Single Procurement Document (SPD) (Scotland)** must be used in Scotland for procurements regulated under the Public Contracts (Scotland) Regulations 2015 and is recommended for all other procurements. The SPD helps reduce the administrative burden on bidders and removes some of the barriers to participation in public procurements especially for SMEs. It allows buyers to identify suitably qualified and experienced bidders and replaces the requirement for suppliers to provide up-front evidence or certificates by allowing them to self-declare that they meet the relevant criteria. Bidders are also able to store and reuse their information for future use. We continue to update the SPD in response to feedback from suppliers.

We invest in the capability and skills of our procurement and property teams and others involved in procurement and commercial activity. Our professionalisation strategy includes local and national talent creation, development and retention programmes to help us achieve professional excellence against national policy and standards. This includes:

- **The Procurement People of Tomorrow programme**, which focuses on encouraging, enabling and developing new entrants in our profession across Scotland and embedding diversity within our teams.
- **Setting professional standards** for procurement and commercial practice across Scotland, underpinned by our [National Procurement Development Framework](#), facilitating effective recruitment, continuous professional development and career paths.
- Our **People Capability Strategy**, which embeds a supportive and learning culture, assessing and addressing evolving learning priorities.
- **The Scottish Government Delegated Purchasing Officer Scheme**, ensuring that those authorised to award contracts within the Scottish Government have the necessary qualifications, training or experience for their level of delegated responsibility.

- **The Scottish Government Contract and Supplier Management programme**, which ensures that those accountable for managing contracts within the Scottish Government have the necessary training and tools to drive the delivery of those contracts.
- **The Commercial Capability programme**, which seeks to improve commercial outcomes through targeted training and earlier engagement with clients and commissioners. This is underpinned by our National Procurement Development Framework, which sets out procurement and commercial standards and facilitates continuous professional development and career paths.

### EU-Exit and COVID-19

We continue to monitor the level of any impact associated with EU-Exit and COVID-19. Engagement with key suppliers focuses on preparedness and contingencies to minimise disruption and/or adverse commercial outcomes. We are working collaboratively with sectoral procurement Centres of Expertise and UK Government commercial colleagues to share knowledge to ensure an aligned approach.



Last year we updated Scottish procurement legislation as the UK's Transition Period on exiting the EU ended. The changes to legislation are technical and do not fundamentally change the procedures and processes of advertising and awarding public contracts. Our systems and guidance were also updated to support this change.

We are continuing to support our suppliers through the pandemic, with supplier relief initiatives. We are taking the opportunity of this update to our corporate procurement strategy to reinforce our commitment to inclusive economic recovery. In doing so, we outline some high priority policies that we aim to support through procurement, like building resilient and responsive supply chains and our climate emergency response. We will also continue to promote and deliver market-friendly approaches to procurement in support of sectors restarting post COVID-19.

## PART 1

# 2. Carrying out our functions and purpose

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In this first part of our procurement strategy we describe our key strategic priorities and describe how our procurements will contribute to the delivery of those priorities by reference to some examples.

The Scottish public sector spends over £12 billion a year buying goods, services and works. We use this spend to achieve improvements to what we buy and how we buy it. For example, simplifications that can be made to improve supplier access to public contracts can help to support economic growth.

The [National Performance Framework](#) sets an overall **purpose** and vision for Scotland focused on creating a more successful country, with opportunities for all of Scotland to flourish, through increased wellbeing and sustainable and inclusive economic growth. This is underpinned by [Scotland's Economic Strategy](#) and our annual Programme for Government which sets out our plan for policy delivery and legislation over the next year. The whole of the public sector in Scotland is expected to contribute to the purpose. Different organisations are working towards shared outcomes, which are defined in terms of benefits to the people of Scotland rather than simple efficient service delivery.

For example, we have set out procurement commitments in the current Programme for Government and in the Economic Action Plan which include responding to the climate emergency, a continued focus on promoting Fair Work practices, supporting small businesses and local supply chains and mainstreaming sustainable procurement.

To meet our ambitions, the sustainable procurement duty has been aligned with the National Performance Framework which includes a set of National Outcomes and National Indicators. These are embedded in the [sustainable procurement duty tools](#) which provide a structured approach to what we procure. They help to identify opportunities to include economic, social and environmental considerations in contracts and show how our procurement activity contributes to the National Outcomes. In consultation with buyers from across the public sector, the tools were updated and have been re-launched on a more accessible platform.

We have also published two Scottish Procurement Policy Notes to reinforce the outcomes-focused approach and to clarify policy relating to [Measuring social impact in public procurement](#) and [Taking account of climate and circular economy considerations in public procurement](#).

Using the [prioritisation methodology](#) at an organisational and category level, and the [sustainability test](#) in our individual procurement projects, we identify sustainable and inclusive outcomes covering a wide range of areas including those related to climate change, Fair Work, employability, equality and seeking opportunities for SMEs, the third sector and supported businesses to access procurement.

The prioritisation methodology allows us to see where there is the most scope to do things differently and where we have the most influence on the market so that we recognise the best opportunities in our procurement activity.

Compliance with the sustainable procurement duty is the recommended mechanism through which public procurement contributes to, and tracks its contribution to, the overall purpose and vision for Scotland as set out in the National Performance Framework. Scotland's Economic Strategy has four key priorities:

- promoting **inclusive growth** and creating opportunity through a fair and inclusive jobs market and regional cohesion;
- **investment** in our people and our infrastructure in a sustainable way;
- fostering a culture of **innovation** and research and development; and
- promoting Scotland on the **international stage** to boost our trade and investment, influence and networks.

Our vision for Scotland is to create a wellbeing economy – that is, a society that is thriving across economic, social and environmental dimensions, and that delivers sustainable and inclusive growth for the

people of Scotland. This means creating an economy that is environmentally sustainable, where businesses can thrive and innovate, and that supports all of our communities across Scotland to access opportunities that deliver local growth and wellbeing.

The COVID-19 pandemic has highlighted the interconnectedness of social, economic and environmental outcomes, and the need to think about a holistic approach to the recovery and policy development going forward. The recovery is an opportunity to actively shape the future of Scotland's economy in a way that supports and prioritises the economic, social and environmental prosperity of current and future generations. The scale of our ambition and the change required will require collaboration between national and local government, and between the public, private business and third sectors.

We are committed to maximising the contribution that public authorities make to the four capitals of People, Environment, Communities and Business, through strategic interpretation of procurement, continuing to play our part as one of the pillars of Community Wealth Building.

We design our contract and procurement processes to contribute to these priorities as far as is practical. We do so in a way that achieves value for money and makes contracts accessible to businesses, including SMEs, the third sector and supported businesses. This is in line with our ambition for a Just Transition to a net-zero society, recognising that this offers wide-ranging economic and social opportunities for workers, communities and places and that we must leave no one behind.

Some examples of how we contribute to the priorities described in Scotland's Economic Strategy are described below.

### **Inclusive Growth**

Inclusive growth is 'growth that combines increased prosperity with tackling inequality; that creates opportunities for all and distributes the dividends of increased prosperity fairly'. Inclusive growth incorporates the traditional growth policies of investment, innovation and internationalisation, while tackling inequalities in outcomes and inequalities in opportunity. Inclusive growth is multi-dimensional and includes social inclusion, wellbeing, participation, as well as the environment. It promotes growth in Scotland's cities, regions and rural areas recognising the importance of place and community to the delivery of inclusive growth across Scotland.

Scotland's Economic Strategy states that Scotland aims to be:

**'a society that promotes inclusive growth and creates opportunity through a fair and inclusive jobs market and regional cohesion to provide economic opportunities across all of Scotland.'**

Scotland's Economic Strategy

Ways in which public procurement contributes to inclusive growth include:

- providing training and employment opportunities;
- driving Fair Work practices;
- promoting equality and tackling inequality; and
- contributing to the Just Transition to net-zero.

The second [Fair Start Scotland Annual Report](#) was published on 9 November 2020 and provided an update on the range of activities and initiatives undertaken by suppliers to continue to deliver sustainable procurement outcomes.

### **Investment**

Procurement underpins our investment in people, infrastructure and assets. For example, our ambitious infrastructure plans will rely on a construction industry that is both well positioned to deliver and understands the wider social and economic wellbeing priorities associated with that delivery. Our collaborative procurement team for construction is working to establish a portfolio of frameworks which will deliver a range of construction activity across the Scottish public sector. In doing so we will consider the economic impact of the construction industry and the requirement for inclusive growth and climate change targets.

As outlined in previous Economic Action Plans, the Construction Leadership Forum was created in March 2019 with a membership comprising senior players from the government, the construction industry and the client side. There is a clear shared sense of ambition and vision with a desire to move away from the traditional transactional relationship to an increased collaborative enterprise between government and industry which will deliver a more sustainable, productive and innovative industry.

The Construction Leadership Forum is a conduit whereby issues of concern can be discussed and resolved. Some of the issues currently being progressed include sustainable pricing (where the introduction of a revised tender pricing assessment mechanism is under development); payment performance throughout the supply chain; and a review of the mechanism to identify abnormally low tender prices. We are also progressing a Scottish Government Civil Engineering Framework which will be tendered during summer 2021 and which will encourage the use of local supply chains by providing regional lotting for smaller value works.

Also, the Client Guide to Construction Projects consists of three handbooks: the Project Initiation and Business Case Handbook, the Construction Procurement Handbook and the Construction Phase Handbook. The guidance is primarily to help public sector clients better manage their construction projects but should also be of assistance to contractors and consultants in developing their understanding of how the public sector delivers construction projects.

### **Innovation**

Public procurement has a key role to play in supporting and promoting innovation in the way public sector services are provided in Scotland. The sustainable procurement duty requires public bodies to consider innovation for regulated procurements. The procurement rules also encourage innovation in public procurement. For example, through the work of the Procurement Innovation

Leadership Group, established by the Scottish Government, two new innovative services have been created for cancer diagnostics. Colon Capsule Endoscopy is being used to diagnose bowel cancer in five health boards using a small pill camera. Cytosponge is currently being used in ten health boards across Scotland to diagnose oesophageal cancer using non-invasive technology. Both programmes are being expanded across NHS Scotland as part of its endoscopy recovery programme.

In addition, we continue to develop and implement our innovative and flexible approach to the procurement of Digital Services. Within our collaborative ICT team we have now established four Dynamic Purchasing Systems (DPS) covering Digital Technology Services, Telephony Services, Network Advice and Internet of Things<sup>4</sup>.

With each iteration we are learning and improving on the process. This innovative and completely electronic approach encourages SME participation and drives wider competition for digital projects. Also, our More Powers Implementation Team has established the first DPS for the purchase of services which support the development of the benefits system used by Social Security Scotland.

Some other examples of how procurement can support innovation include our [Non-Domestic Energy Efficiency Framework](#) and also [CivTech®](#) which are described in more detail below.

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<sup>4</sup> The Internet of Things broadly means a network of connected devices which have sensors, software, network connectivity and the necessary electronics to enable them to collect and exchange data. Examples that can fall into the scope of Internet of Things include: connected security systems, thermostats, cars, electronic appliances, lights, speaker systems, vending machines amongst others.

### **Non-Domestic Energy Efficiency Framework**

In 2020, the Scottish Government launched second generation Non-Domestic Energy Efficiency (NDEE) frameworks, consisting of the NDEE over £1 million projects framework, the NDEE sub £1 million projects framework and an NDEE project support unit framework.

These frameworks will continue to support public and third sector bodies in Scotland to accelerate energy efficiency retrofit projects across their estates. The NDEE Frameworks are innovative in the way that they support a diverse range of energy efficiency and renewable energy solutions. The framework aims to cover environmental, community and Fair Work benefits as part of any energy efficiency projects supported. The approach to market also helped ensure that we encouraged and delivered an economic footprint in Scotland.

Benefits include:

- a direct contribution to the Scottish Government's target to reduce climate emissions;
- savings in energy and maintenance costs;
- reduced costs to the public and third sectors; and
- delivery of energy efficiency work to meet the [Assessment of Non-Domestic Buildings \(Scotland\) Regulations 2016](#).

By using key performance indicators developed specifically for this framework, public organisations can track and report progress across a range of environmental and socio-economic outcomes. There are 11 contractors on the NDEE over £1 million projects framework and 5 suppliers on the NDEE sub £1 million projects framework, all of whom are able to deliver retrofit projects

to meet the requirements of individual public bodies with an energy cost performance guarantee.

### **CivTech®**

Our CivTech® programme also addresses public service challenges in innovative ways. The programme involves public organisations setting civic challenges which demand solutions. Anyone, any team or business may submit potential solutions and smaller businesses are particularly encouraged to apply with innovative solutions. It enables the rapid development of creative, cost-effective solutions delivered by businesses. CivTech® is providing pathways for tech SMEs and start-up businesses to secure public sector contracts. It offers real opportunities to develop even better services for people and even better value for service providers. The CivTech® approach is valued in procurement because of the innovative way it finds solutions to challenges.

New elements to the CivTech® approach have been introduced as a response to the COVID-19 pandemic. CivTech® Sprints are CivTech® Challenges that go through the same multi-stage process that standard Challenges go through, but sit outside the normal timetable. This allows for independent start and finish dates that fit with the Challenge Sponsor requirements and which are essential in emergency situations.

The CivTech® Alliance has been developed as a global network of public and private organisations at the leading edge of innovation. Its role is to empower innovation programmes around the world to deliver better outcomes for citizens by transforming governments through entrepreneurial

collaboration. It now comprises 20 participant teams from North and South America, Europe, Middle East and Australia. This has opened up opportunities for collaboration, trade and shared best practice.

This activity builds on recommendations to enable international collaboration and benchmarking with similar programmes across the world. Working in partnership with the Digital Commercial Service (DCS), and drawing on the experiences and results of the network, we will also create a series of best practice publications on the successful creation, development and implementation of innovative public services to support local practice across Scotland.

Our key aim is to deliver innovation in procurement to address public sector challenges and we will continue to work with our partners and use the flexibilities in the public procurement rules that enable us to do this. We will continue to support innovative and agile ways of working to deliver digital public services and public service reform with this commitment reflected in the [Scottish Government's Digital Strategy](#).

This will be supported through the DCS which will maximise the spending power of the Scottish Government and its delivery bodies to allow organisations to benefit from new and innovative technologies.

It will implement a range of alternative commercial models based on a small number of key strategic alliances and an open inclusive approach to procurement which provides meaningful commercial opportunities for small businesses and start-ups.

The DCS uses a “test and learn” approach to the implementation of different commercial models through the major, strategic digital procurements it carries out. The DCS will build on the success of the COVID-19 Digital Triage Service and continue to engage widely with the market to ensure that we are responsive to technology change and innovation.

The DCS will engage widely with the market and representative bodies on a range of topics, including specific programmes and procurements. This will:

- Increase the potential supplier pool for competition.
- Improve the quality of submissions received.
- Allow suppliers to better understand the requirements and outcomes for the engagements in order to make informed decisions.
- Provide suppliers with a feedback mechanism on our approaches and practices.

### **Internationalisation**

We value Scotland's trading relationships with other nations and believe that fair competition supports economic growth. Our involvement with suppliers and supply chains is aimed at developing their potential to bid for public contracts whether these are advertised in Scotland, the UK or further afield. To achieve our vision of being ‘world leaders in innovative public procurement’, we work with UK, European and global networks to set standards and share best practice. Our innovative approaches continue to be cited in European and global case studies.

Scotland is a **subnational pioneer country** as part of an international initiative under the **Open Government Partnership**. This is aimed at government and civil society working together to develop and implement ambitious open government reforms, one of which is public procurement. In 2018, a second [Open Government National Action Plan 2018-2020](#) was published with actions delivered.

We continue to publish even more coherent and consistent procurement information and in a format that is useful and easily understood. This information can be found in [a new section of PCS under 'Transparency'](#).

We also take cyber security matters very seriously and have published a new [Cyber Resilient Scotland Strategic Framework](#) (February 2021) which further highlights the importance of the cyber security of our supply chains. On 15 January 2020 the Scottish Government published a Scottish Public Sector Supplier Cyber Security Guidance Note and released the cyber security decision making support tool, to help facilitate a consistent approach to cyber security, specifically in supply chains across the Scottish public sector. Information about the guidance and the support tool is signposted in our Scottish Procurement Policy Note [SPPN 2/2020: Scottish public sector supplier cyber security guidance](#). Public bodies are encouraged to follow the key steps and principles in the guidance wherever possible. They are also encouraged to familiarise themselves with the guidance before making use of the optional support tool.

There are a number of other cyber-focused supports in place for use by public sector buyers and suppliers:

- the Procurement and Supplier Journeys have examples of model text and clauses focused on cyber security for use in tenders and contracts;
- we have also put in place a [Digital Technology Services Dynamic Purchasing System](#) which is a one-stop shop for use by purchasing bodies that are looking to buy cyber security services and resources;
- we continue to work with the Supplier Development Programme to provide training and support for suppliers including on cyber security matters; and
- more generally, we provide digital support through the Digital Development Loan which offers interest-free amounts from £5,000 to £100,000 to invest in digital capabilities, processes, skills and capacity.

Overall, we help to deliver our key priorities through what we buy and how we buy, which includes considerations of the wider economic and social impact of our contracts and how we manage our supply chains.

Our new Supply Chains Development Programme was announced in the September 2020 Programme for Government. It is a key part of our economic recovery approach and will support the work on the National Mission for Jobs by improving the capacity, capability and development of Scottish supply chains. The Programme brings together economic development and procurement. It will align strategic enterprise and innovation support with significant public sector procurement to build resilient strategic supply chains and deliver better economic outcomes.



## 3. How our procurement activity contributes to value for money

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Procurement is a key enabler in delivering Scotland's Economic Strategy and contributing to sustainable and inclusive economic growth. We will continue to work together with the public, private and third sectors to deliver maximum value through public procurement activity.

Our involvement in public procurement is far broader than buying on behalf of Scottish Ministers. We also buy for the wider public sector in Scotland and provide procurement support to Scottish Government agencies and Non-Departmental Public Bodies (NDPBs). Our contracts deliver a wide range of economic, social and environmental benefits as well as significant financial savings for the public sector, which totalled £160 million in financial year 2019-2020, against an annual spend of £1.35 billion. Our contracting activity covers three main areas:

- Contracts for Scottish Government use only.
- Sectoral collaborative frameworks. These are let by the Scottish Government for use by the central government family of organisations which includes agencies and NDPBs.
- National collaborative frameworks and contracts. We provide framework agreements and contracts for commonly purchased goods and services which are used across the public sector.

Details of the contracts that we have placed can be found on [PCS](#). More information about national and sectoral collaborative frameworks is included below.

### Collaborative frameworks and contracts

Collaborative procurement is about achieving value for money for the Scottish public sector by working in partnership with buying organisations, the [centres of expertise](#) and suppliers. Our three established collaborative procurement portfolio teams cover Utilities, Information and Communication Technology and Corporate and Professional Services. They award framework agreements for the whole of the Scottish public sector and for the central government sector. We also have a collaborative team that is developing a portfolio strategy for construction. The national contracts and frameworks awarded by our buying teams can be used by public organisations across Scotland and cover a range of goods and services. Details of our current [Collaborative Agreements](#) can be found on our website.

### Forward plan of our collaborative contracts

We publish a [forward plan](#) of our national and central government sector collaborative opportunities along with those covering the health, higher education and local authority sectors in Scotland and which may be advertised over the next 12 to 18 months.

## Scottish Government core contracts

Contracting for Scottish Government directorates is about delivering the services and goods required to enable government policy and support corporate functions. We place contracts that are key to delivering the Programme for Government. Typically we place around 200 contracts per year. Examples of current and planned procurements include:

- Payments Platform;
- ISD (Information Systems Division) Delivery Partner for Maintenance and Modernisation of Rural Payments Systems;
- Energy Efficiency Scotland Programme;
- Scotland's Baby Box;
- Digital Evidence Sharing Capability Platform;
- Administration and Management of the Community and Renewable Energy Scheme (CARES);
- Climate Challenge Fund Management and Administration Services;
- Tech Scalars;
- IT (Information Technology) Managed Service for Level of Service (LS) Case Management Inventory (CMI) system, Community Justice;
- Centres of Specialist Expertise;
- Open Market Shared Equity Scheme;
- Equality and Human Rights Fund Manager;
- Farm Advisory Service.

Effective contract management is critical to delivering outcomes through procurement. We are using the national electronic contract management system to support our strategic contract management in Scottish Government. Also, we have developed and are mandating training for Contract Managers to build local understanding and commercial capability.

## More Powers Procurement Implementation Team (MPIP)

The More Powers Procurement Implementation Team delivers contracts and provides commercial support to fulfil obligations under the Scotland Act 2016 which transferred a wide range of powers to Scottish Ministers, most significantly the powers over social security and employment support. Examples of procurement related activities include:

- Fair Start Scotland Employability Provision.
- Technology – IT Platforms and Support, Hosting, Testing, Telephony.
- Facilities – Estates, Accommodation, Furniture, Fleet.
- People – Advocacy, Recruitment, Interim Managers.

## Value for money

In delivering the vision set out in the Programme for Government, we are working within a climate of uncertainty from the effects of, for example, COVID-19 and EU-Exit and ongoing budget constraint. It is vital therefore that buying organisations understand and mitigate risks and continue to think commercially, spend wisely and deliver real value for money. We aim to achieve this by:

- working closely with the people who use the goods, services and works we buy to help understand their requirements;
- understanding the markets we work in;
- awarding contracts on the basis of fair, open and transparent competition which is in proportion to the contract in question and which keeps to our legal obligations; and
- making sure that our contracts are effective and managed efficiently.

Also, we removed the option in our Scottish procurement legislation for regulated contracts to be awarded on the basis of lowest cost or price only, recognising that value for money is rarely achieved by simply accepting the lowest-priced bid. We also encourage public sector organisations in Scotland to take part in the Procurement and Commercial Improvement Programme to help them to measure and improve their levels of procurement capability.

## 4. Some other key policies and principles linked to public procurement

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### Sustainable procurement duty

The 2014 Act describes the sustainable procurement duty as ‘the duty of a contracting authority –

- (a) before carrying out a regulated procurement, to consider how in conducting the procurement process it can –
  - (i) improve the economic, social and environmental wellbeing of the authority’s area,
  - (ii) facilitate the involvement of small and medium enterprises, third sector bodies and supported businesses in the process
  - (iii) promote innovation; and
- (b) in carrying out the procurement, to act with a view to securing such improvements identified as a result of paragraph (a)(i).’

This means that public bodies need to think about, and act on, how each regulated procurement process carried out by them can improve the economic, social and environmental wellbeing of their area as well as facilitating the involvement of SMEs, third sector bodies and supported businesses, supporting innovation and acting on their findings.

Compliance with the sustainable procurement duty ensures that procurement activity is aligned to a range of policy priorities that are described in the National Performance Framework. The relationship between Scottish Government priorities and the sustainable procurement duty is described in more detail at [section 2](#) of this document. Compliance with the duty also helps us to meet other legal obligations on procurement including climate change, human rights and equality obligations.

### Climate change targets

Our procurements contribute towards delivering climate change targets – i.e. net-zero greenhouse gas emissions nationally by 2045 in response to the global climate emergency. A core component of sustainable procurement is the reinforcement of other Scottish Government policies such as the Circular Economy Strategy, ‘Making Things Last’. The sustainable procurement tools help identify opportunities to make appropriate use of and to protect Scotland’s natural resources in the following areas:

- climate change including low carbon initiatives;
- people and nature – including animals and plants – in the form of biodiversity, landscapes and natural heritage initiatives; and

- consumption and production in the form of waste reduction, material scarcity and energy efficiency initiatives.

As part of our commitment to mainstreaming sustainable public procurement, our new [sustainable procurement tools](#) platform was launched in June 2020, and we continue to promote its role as a central source of tools and guidance. The tools also house the recently launched [climate literacy e-learning](#) which is accessible and free of charge to every buyer in Scotland to help build their understanding and confidence in driving the climate agenda. This reflects the importance of using public procurement to support our climate aspirations. We are exploring with partners how we might further develop this training to make it available for SMEs and the third sector. Further information about our specific work in procurement to help address the global climate emergency is described at [section 7](#).

### Human rights

The Scottish Government is committed to ensuring that everyone in Scottish society can enjoy their human rights in full. That includes being able to live with dignity and being treated fairly and without discrimination. We should all be able to make properly informed choices. That includes participating in making decisions which affect our rights, whether services are delivered directly or are procured from third parties.

The [Scotland Act 1998](#) and the [Human Rights Act 1998](#) ensure that Scottish legislation and the actions of public bodies have to comply with core human rights standards derived from the [European Convention on Human Rights](#). Public bodies are also expected to support implementation of other international

human rights treaties ratified by the UK, such as the [International Covenant on Economic, Social and Cultural Rights](#) and the [European Social Charter](#).

We are also working to implement the [UN Guiding Principles on Business and Human Rights \(UNGPs\)](#). These provide good practice guidelines for the private sector, including where the state either contracts with, or legislates for, business enterprises to provide services that may impact upon the enjoyment of human rights.

The Scottish Government's annual Programme for Government highlights further commitments to enhance and develop human rights protections in Scotland. Proposals developed by the National Taskforce for Human Rights Leadership are expected to result in new legislation to incorporate United Nations and other international human rights treaties into domestic law.

The United Nations Convention on the Rights of the Child (Incorporation)(Scotland) Bill was passed by the Scottish Parliament on 16 March 2021. The legislation, once commenced, will require public authorities to act compatibly with the UNCRC requirements defined in the bill. Children's rights should be built into all aspects of service delivery and planning including budgeting and relevant procurements. These rights will be enforceable in the courts.

### Equality

The sustainable procurement duty provides a mechanism for the Scottish Government and other public bodies to comply with the general equality duty set out (section 149) in the [Equality Act 2010](#) ("the 2010 Act") and with the specific duties in the [Equality Act](#)

### [2010 \(Specific Duties\) \(Scotland\) Regulations](#)

[2012](#). In essence, the specific legislation requires the Scottish Government, when delivering policy, to have due regard to the need to:

- eliminate discrimination;
- advance equality of opportunity; and
- foster good relations between people who share protected characteristics<sup>5</sup> and people who do not.

The Fairer Scotland Duty, Part 1 of the Equality Act 2010 (also known as the socio-economic duty), came into force in Scotland in April 2018. It requires public bodies including the Scottish Government to have due regard to how they can reduce inequalities caused by socio-economic disadvantage when making strategic decisions.

### **Fair Work First**

We are clear that Fair Work is central to achieving the Scottish Government's priority for sustainable and inclusive growth, and as we transition out of the COVID-19 pandemic and into a period of economic recovery and renewal, Fair Work is more important than ever and must be at the heart of employment practices, funding and procurements.

The public sector can lead the way by applying the targeted Fair Work First criteria in public contracts. We are committed to continuing to roll-out the Fair Work Action Plan commitments which touch on procurement policy and practice across many sectors including social care and procurement.

Public buyers can use the national sustainable procurement tools to tackle a wide range of socio-economic and environmental outcomes through procurement (e.g. encouraging a diverse workforce, asking bidders to adopt 'Fair Work First' practices, including closing the gender pay gap) and to address inequality (e.g. training and recruitment activities targeted at disadvantaged groups) through their procurements. See [section 6.3](#) for more information.

In common with human rights obligations, the responsibilities imposed by the Equality Act 2010 cannot be transferred or delegated. More information about how equality considerations apply in our procurement process is available on our [website](#). The Equality and Human Rights Commission (EHRC) has also produced guidance for Scottish public authorities.

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<sup>5</sup> Under equality legislation, the protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

## 5. Sustainable procurement and our approach to engaging SMEs, the third sector and supported businesses

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The sustainable procurement duty compels us to think about how our regulated procurements will improve Scotland's social, environmental and economic wellbeing, with a particular focus on reducing inequality. It also requires us to facilitate the involvement of SMEs, third sector bodies and supported businesses in our procurements which are designed in a way that encourages them to be involved. We also want to use procurement to encourage innovation.

Our 2019 [Small Business Survey Scotland](#) was published in August 2020 and showed that 68% of SMEs with employees were looking to grow their sales over the next three years. Also, the [Social Enterprise Census](#) was published in 2019 and showed that 53% of the social enterprises surveyed describe the public sector as customers.

We have taken a number of significant steps to improve our processes to encourage a range of organisations to bid for public contracts including:

- easier access to public contracts;
- reserving contracts for supported businesses;
- improved ways for suppliers to give and receive feedback; and
- removal of the option in our procurement legislation for public contracts to be awarded on the basis of lowest cost or price only.

These opportunities are described in more detail on the next page.

### Easier access to public contracts

We have a comprehensive and joined-up set of tools, policy support and guidance which together help simplify our processes and enable buyers and suppliers to access procurement information and opportunities more easily. These include our PCS portal and the Procurement and Supplier Journeys which are summarised earlier in the document.

To facilitate the involvement of SMEs, the third sector and supported businesses and to make it easier for them to find and bid for contracts, opportunities are advertised through PCS cementing the portal's role as the 'one-stop shop' for procurement opportunities in Scotland.

Public bodies must use PCS to advertise all regulated procurements. It also facilitates Quick Quote, which is a simple competitive process for procurements below the regulated thresholds. PCS can also be used by suppliers of higher value contracts to advertise subcontracting opportunities, making it easier for SMEs, third sector and supported businesses to find such opportunities. We know that 63% of the suppliers awarded contracts through PCS in 2019-20 were SMEs located in Scotland.

We continue to develop our collaborative procurement strategies, engaging extensively, to take account of the potential economic impact on and ease of access for SMEs and third sector organisations. As a result, we split national requirements into specialist or geographical lots and provide supply chain opportunities wherever possible. The use of lots is a conscious decision by purchasers to split large requirements into a number of smaller ones with the intention being that smaller firms that might not be able to bid for the overall large requirement may be able

to bid for a small 'lot'. We apply lot-limiting strategies in some cases to ensure a fairer share of business and that a single supplier does not dominate frameworks by being successful on all lots.

Currently, more than 50% of our collaborative suppliers are SMEs. A notable example is the collaborative framework agreement for Print and Associated Services which commenced on 1 April 2019 and can be accessed by the whole of the public sector in Scotland. As a result of the competitive tender exercise we awarded a total of 16 contracts to 14 suppliers. All 14 suppliers appointed to the framework agreement are SMEs and 11 of these suppliers are Scottish SMEs.

Our Scottish Procurement Information Hub identifies that approximately £5.2 billion of public sector spend went to SMEs (where business size is known) and approximately £3.4 billion went to SMEs with a Scottish address in 2018-19 (where business size and postcode is known).

Our legislation requires that suppliers receive feedback on their bids for regulated procurements. We also provide the Single Point of Enquiry service which aims to provide an impartial service to help suppliers who are having issues or concerns about a procurement exercise carried out by any Scottish public sector organisation.

We fund the Supplier Development Programme (SDP) in partnership with local authorities and other public bodies to help organisations compete for public contracts. This delivers a comprehensive range of free training, guidance and supplier focused events to help SMEs, third sector organisations and supported businesses to grow their business.



As well as providing funding to the SDP we also fund support for third sector organisations. This recognises the crucial role they play in driving inclusive economic growth and helping to advance equality and supporting communities most impacted by discrimination and disadvantage. We also deliver support and training for third sector organisations through the Just Enterprise contract.

The 2020-21 Programme for Government committed us to roll out Supply Chain Development Programmes across key sectors of the economy, where we see genuine sustainable economic potential. These will be targeted at existing and prospective suppliers based in Scotland, and enhance their ability to compete for public contracts, help to secure best value for taxpayers and help Scottish suppliers to grow and compete globally. An immediate priority will be the analysis of existing supply chains and identification of opportunities for increased local capability and resilience.

We will make use of our data and procurement networks to help meet this commitment. For example, by supporting a range of public bodies to maximise the contribution their procurement spend makes in their area through the intelligent use of procurement data from the procurement Information Hub. This includes working with Scotland Excel, and other Centres of Expertise, to extend the support, we have already provided to the Ayrshire Regions, to other parts of Scotland. We will then share learning with others across the country.

More widely we continue to play our part to support local economic wellbeing by promoting the use of community benefit requirements and Fair Work First criteria in

public contracts to deliver wider benefits for local communities and wider society. This may include local supply chains, new jobs, apprenticeships, work placements, training and wider fair pay and conditions of employment.

In 2016 we also removed the option in our procurement legislation for higher value public contracts to be awarded on the basis of lowest cost or price only. This means that, in awarding a contract, Scottish public bodies must consider factors associated with the quality of products and services and that can result in wider economic benefits. Our 2016 statutory guidance [Selection of Tenderers and Award of Contracts](#) makes it clear that this approach should also be applied to award criteria for lower-value regulated contracts.

### **Reserving contracts for supported businesses**

Procurement legislation defines supported businesses as businesses for which the core purpose is the social and professional integration of disabled or disadvantaged persons and where at least 30% of the employees of those businesses are disabled or disadvantaged persons.

Public bodies can choose to limit participation in a competition, to supported businesses, only where there are enough suitable suppliers. This approach recognises that supported businesses have a valuable role both as a stepping stone into mainstream employment for disabled and disadvantaged persons as well as for those who are unable to progress on to the open labour market.

That is why we committed, in action plans that underpin [Scotland's Social Enterprise Strategy 2016-2026](#), to continue to work with supported businesses across Scotland,

seeking creative ways to enable them to flourish commercially and sustain employment for disabled and disadvantaged people. This underlines our commitment to make it easier for public bodies to identify and reserve contracts for a wider range of social enterprises covered by the definition of a supported business for the purposes of public procurement legislation. An online register comprising social enterprises and supported businesses across Scotland was established in October 2017 and is embedded within the Partnership for Procurement ([P4P](#)) website.

Also, the supported business framework provides an easier route for public bodies to contract with supported businesses on that framework for the following goods and services:

- personal protective equipment (PPE) and uniforms;
- furniture and associated products;
- signage; and
- document management services.

The framework runs until 9 December 2021 but there is an option for a further one year extension.

We continue to take the engagement of SMEs, the third sector and supported businesses in public contracts very seriously, including when we are considering how our contracts are advertised and awarded in Scotland. We recognise the link between this and local economic, social and environmental wellbeing. There is always more to do and we are committed to ongoing improvement in our procurement approaches to support a stronger economy and the ongoing support of a range of commercial organisations across Scotland.

## PART 2

# 6. Our policies

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**This second part of our procurement strategy describes those specific policies that we aim to support through public procurement.**

The Scottish public sector spends over £12 billion each year buying goods, services and works. This is a significant sum and it is right that people expect it to be spent in a way that aims to deliver the most benefits possible to society. We design our procurement policies with that aim in mind while also carrying out procurements that are transparent and fair.

Our procurement policies shape and support public procurement activity across Scotland. The last substantial update to our domestic legislation occurred between 2014 and 2016. As part of that process we carried out a public consultation about the policy options available to us. Taking account of the views expressed in that consultation, we have reflected a number of policies which have wider benefits (e.g. social, environmental) in our procurement law and in statutory guidance which public bodies must comply with. We developed statutory guidance on Fair Work practices, for example, for use by public bodies when buying goods, services and works.

In this part of our strategy we set out our general policies and a statement on how we will monitor those policies over the period of the strategy and reflect on them in our annual procurement report. This includes how we are responding to the global climate emergency.

### 6.1 Applying community benefit requirements in our contracts

#### Background

The 2014 Act describes a community benefit as:

- ‘a contractual requirement imposed by a contracting authority –
- (a) relating to –
    - (i) training and recruitment, or
    - (ii) the availability of sub-contracting opportunities, or
  - (b) which is otherwise intended to improve the economic, social or environmental wellbeing of the authority’s area in a way additional to the main purpose of the contract in which the requirement is included’.

We continue to mainstream the use of community benefit requirements in public contracts to deliver wider benefits for local communities and wider society. This complements our aim to facilitate access to procurement for SMEs, the third sector and supported businesses and helps us to deliver wider social and economic benefits as part of our public spending decisions.

### Our policy

We use community benefits in our public contracts where possible. Community benefits help to deliver, for example, better employment opportunities and we have achieved a range of recruitment, training and other opportunities for SMEs, the third sector and supported businesses as a result of the use of these. We consider community benefit opportunities at the development stage of our regulated procurements and handle these in one of two ways:

1. **Mandatory** – In this scenario we ask bidders to deliver community benefits (for example, targeted training, recruitment and other opportunities in the supply chain) as part of a contract specification. These requirements then form part of the tender evaluation and will be scored.

We use this approach if:

- the contract is of high value;
- it is of medium to long term; and
- where it is clear that including a community benefit in a contract could add to its social or economic effect.

2. **Voluntary** – We use this approach in cases where it is not appropriate to make community benefits a mandatory requirement. We ask that voluntary community benefits are only offered where these do not place too much of a burden on the bidder but may result in the contract delivering extra value. We ask bidders to consider what community benefits they can offer as part of their bid.

In this scenario community benefits are not part of the tender evaluation. Where a bid, that voluntarily offers a community benefit is accepted, any offer of community benefits is contractually binding.

### Monitoring

Our contract notices for regulated procurements record whether contractors must deliver any community benefits. We also record any community benefits that have been delivered as part of our contract management arrangements. Contract notices for our regulated procurements are published on our national public procurement advertising portal, [PCS](#). We collect information about benefits delivered and will report on these in our annual procurement report of our performance against this procurement strategy.

### Impact of Scottish Government policy

For over a decade, Scotland has been recognised as a leader in promoting social and economic benefits to communities through its public procurements<sup>6</sup>. Community benefit requirements have been used increasingly in public contracts across the Scottish public sector. These have delivered thousands of targeted training and recruitment opportunities and opened up opportunities for local organisations (including the supported employment sector, community and social enterprises) in the supply chain.

As a result of our procurement legislation, all Scottish public bodies must consider the use of community benefit requirements for

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<sup>6</sup> <https://www.webarchive.org.uk/wayback/archive/20150218122009http://www.gov.scot/Topics/Government/Procurement/casestudies>

regulated procurements. They must also explain in the contract notice why community benefits have not been included in any contracts valued at £4 million or more.

They must produce annual procurement reports and include a summary in those of any community benefits delivered that year through their procurements.

In December 2020 we published Scottish Procurement Policy Note [SPPN 10/2020: Measuring social impact in public procurement](#). It clarifies Scottish Government policy on social impact and includes a range of case studies to demonstrate how positive social impacts are being achieved across the public sector in Scotland.

More information about [community benefits](#) is available on our website.

## 6.2 Consulting and involving people affected by our procurements

### Background

We consult with and involve people from all sectors with an interest in our work in many ways. For example, the private sector, third sector and trade unions are represented on our Procurement Supply Group and the public sector is represented on our Public Procurement Group. The construction industry is represented on the Construction Leadership Forum. A brief description of the functions of these groups is described at [section 1](#).

### Our policy

Where appropriate we work with people who use services, potential suppliers and others to help us design procurements. This can vary from market research, Requests for Information (RFI) exercises, to supplier engagement days or the design and piloting of services. For national contracts we may involve people who use services through ‘user intelligence groups’, for example, and for other contracts we match the involvement of people to the specific circumstances.

### Monitoring

We record any complaints about failure to consult on any of our contracts and our annual procurement report on our performance will look at these. It will include information about any conclusions we reach and any measures taken in response to complaints.

### Impact of Scottish Government policy

It is particularly important to involve people in social care procurements. This is because the quality or availability of these services can have a significant impact on the quality of life and health of people who might use them. Also services are becoming increasingly personalised to better meet people’s needs which, in turn, can have implications for how support is planned and purchased. We will carefully consider relevant recommendations about this in the report following the Independent Review of Adult Social Care.

As an organisation, we do not buy many of these services directly, as these are often bought by local authorities and sometimes health boards, but we do recognise the importance of these services to people who use them. For that reason we have set out in our procurement guidance that where public bodies do buy these services they should involve people who use them. They may also take account of the following issues among other things:

- the quality, continuity, affordability, availability, comprehensiveness and accessibility of the service;
- the needs of different types of people who use services and their carers; and
- innovation.

Our Procurement Journey includes specific guidance about the procurement of health or social care services. This helps public sector buyers and suppliers take account of these issues when they are either placing or bidding for these contracts. Our approach is to encourage the involvement of people in public procurements more generally.

Our approach is also in line with wider Scottish Government guidance on strategic commissioning. One of the key principles of that guidance is that the commissioning process should be equitable and transparent and open to influence from all stakeholders via ongoing dialogue with people who use services, their carers and providers.

### **6.3 Fair Work practices including paying the ‘real’ Living Wage to people involved in delivering our contracts**

#### **Background**

Fair Work is work that offers effective voice, opportunity, security, fulfilment and respect; that balances the rights and responsibilities of

employers and workers and that can generate benefits for individuals, organisations and society. We believe that fair working practices are central to supporting sustainable and inclusive growth and a wellbeing economy.

Addressing Fair Work specifically in procurement processes can impact on the way the contract is delivered and have a meaningful impact on those working on the contract.

The COVID-19 pandemic has affected all of our daily lives, including our workplaces, and the challenges faced by workers, employers and businesses cannot be overstated. These challenges have made clear that adopting a Fair Work approach is now more important than ever.

The strategic ambitions for Fair Work are set out in the [Fair Work Convention's Framework](#) and Scottish Government has set out actions, in its [Fair Work Action Plan](#). That Action Plan prioritises Fair Work First (FWF), which is the Scottish Government's flagship policy for driving high quality and fair work across the labour market in Scotland by applying Fair Work criteria to public funding. FWF asks businesses bidding for a public contract to commit to meeting all five FWF criteria, which are:

- appropriate channels for effective voice, such as trade union recognition;
- investment in workforce development;
- no inappropriate use of zero hours contracts;
- action to tackle the gender pay gap and create a more diverse and inclusive workplace; and
- providing fair pay for workers (for example, payment of the ‘real’ Living Wage).

To support this agenda through procurement, in October 2015, the Scottish Government published statutory guidance on [Addressing Fair Work Practices](#) including the Living Wage in procurement. To support the practical application of the statutory guidance, we also published [Best Practice Guidance](#) and a [Toolkit](#) in July 2018 for public bodies and suppliers.

On 29 January 2021 the Scottish Government published [Fair Work First: guidance to support implementation](#). In line with the 2018-19 Programme for Government procurement commitment to extend the range of public contracts that Fair Work criteria will apply to and to implement Fair Work First, we published a Scottish Procurement Policy Note [SPPN 3/2021 Implementation of Fair Work First in Scottish Public Procurement](#). This advises public bodies how to implement, appropriately, the targeted focus on Fair Work First in their procurements from 1 April 2021.

In the coming year our suite of published guidance and tools will be reviewed and, where necessary, will be updated to reflect updates in line with the Fair Work First policy. These changes will be reflected in the [Procurement Journey](#).

We are also encouraging Scottish businesses to commit to fair work and wider productivity and competitiveness ambitions across the whole of their business through the refreshed [Scottish Business Pledge](#) criteria, launched in October 2019 and due to be reviewed in 2021. More information about [addressing Fair Work practices in procurement](#) is available on our website.

### Our policy

Our policy is to consider Fair Work practices as early as possible in all of our procurements and to target this by including award criteria in contracts, where proportionate and relevant to the contract.

We became an Accredited Living Wage employer on 1 June 2015. This requires us to commit to paying at least the 'real' Living Wage to all of our directly employed staff and to address the payment of the 'real' Living Wage to contractors working on our premises. We also ask if bidders are Accredited as Living Wage employers and whether they have signed up to the Scottish Business Pledge.

As a result of this robust approach we have secured a range of Fair Work practices in a number of our significant contracts. We have updated our procurement processes to ensure Fair Work First criteria are included in all relevant procurements. Early examples include:

- the Fair Start Scotland contracts, designed to help people into work;
- a ten-year Facilities Management contract, for Scottish Government premises and several public sector partners;
- the procurement for Electronic Monitoring of Offenders; and
- The Electronic Counting of Votes contract.

### Monitoring

We record any commitments made by suppliers to pay the 'real' Living Wage<sup>7</sup> in our contract award notices, which are published on [PCS](#). These will be included in the annual procurement report of our performance against this strategy.

Robust procedures have been introduced to help all those involved in procurement across the organisation to consider our policy on Fair Work practices and Fair Work First in all relevant contracts. We aim to ensure a consistent approach across the wider central government sector by offering support and guidance as part of our responsibility to increase procurement capability in the sector.

### Impact of Scottish Government policy

Procurement policy and practice is enabling the wider delivery of the Fair Work agenda through national policies.

The Scottish Government continues to provide funding to enable adult social care workers to be paid the 'real' Living Wage. Guidance to support the delivery of the Living Wage commitment includes advice on how this can be implemented where services are outsourced through public contracts. We will continue to progress work in this sector and will reflect on the recommendations from the Independent Review of Adult Social Care and continue with the immediate actions identified by the Fair Work in Social Care Group.

The Scottish Government has committed to the funding to enable payment of the 'real' Living Wage to all childcare staff delivering the expansion of 1,140 funded Early Learning and Childcare entitlement. [Guidance](#) was published in April 2019 to support local authorities to reflect this commitment in their procurement processes. The COVID-19 pandemic has impacted on the pace of this expansion and [interim guidance on Funding Follows the Child](#) was published in July 2020.

We will carefully consider the recommendations of the Fair Work Convention's Construction Inquiry, which is due to report later in 2021. Where appropriate, we will develop our Client Guide to construction projects to include guidance for public bodies to help them further deliver on Fair Work First obligations.

We are committed to supporting the work of the Fair Work Convention which shares the Scottish Government's vision that by 2025 people in Scotland will have a world-leading working life where fair work drives success, wellbeing and prosperity for individuals, businesses, organisations and society. The Scottish Government will be including Fair Work First in all contracts awarded from April 2021, wherever it is appropriate and relevant to do so, and we will support the wider implementation of Fair Work First, as it applies to procurement, across the wider public sector.

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<sup>7</sup> The 'real' Living Wage is an hourly rate set independently and updated annually by the Living Wage Foundation.

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## 6.4 Making sure our contractors and subcontractors comply with the Health and Safety at Work etc. Act 1974 and any provision made under that Act

### Background

Our aim is to be a leading employer in the delivery of health and safety and to ensure the wellbeing of our staff and those that deliver our contracts. Guidance is included within the Procurement Journey to support buyers in effectively incorporating appropriate health and safety considerations within procurement exercises.

### Our policy

We want to prevent or reduce any workplace factors that may cause ill health and injury by managing risk proportionately, sensibly and practically. We believe that it is important that those bidding for our contracts are also able to show that they are responsible and respect any health and safety obligations. That is why it is a standard condition of our contracts that the contractor must keep to all laws that apply, all requirements of regulatory organisations and industry good practice. This includes any relevant health and safety law. Also, whenever a contractor's staff are on our premises, under the terms of our standard contracts, they must keep to our own health and safety requirements.

### Monitoring

We revise our contract management arrangements to make sure that we include information about health and safety incidents related to delivering our contracts and any measures that we take to put things right. This information will be included in the annual procurement report of our performance against this strategy.

### Impact of Scottish Government policy

The Single Procurement Document (SPD) is a document that is used by bidders to self-declare that they have the capability and capacity to deliver a contract. More detail about the SPD can be found in [section 1](#) of this document. Our SPD guidance gives all public sector buyers advice about how to apply selection criteria about, amongst other things, a bidder's approach to health and safety.

## 6.5 Procuring fairly and ethically traded goods and services

### Background

The sustainable procurement duty requires public bodies to consider how they can improve their area's economic, social and environmental wellbeing with a particular focus on reducing inequality and to act in a way to secure these improvements.

This includes taking a robust approach in procurement processes to tackling criminal activity, including human trafficking and exploitation, modern slavery, corruption and fraud and also promoting positive practices. Respecting human rights, for example, can have business benefits such as enhancing reputation and brand value, increasing the customer base, attracting and retaining a diverse skilled workforce (which can in turn increase innovation and productivity) and reducing risk of court proceedings.

### Our policy

Considering the risks and opportunities at an early stage in a procurement process enables us to take account of ethical issues when assessing a bidder's overall suitability and reliability to be awarded a contract. This includes considering whether the bidder has been convicted of certain criminal offences or has committed any acts of professional misconduct while running their business.

Early consideration during the procurement process of ethical issues also enables us to consider opportunities to promote positive outcomes. For example, we use contract criteria to encourage transparency in the supply chain which, in turn, supports positive practices and is in line with our

Fair Trade Nation status to promote the use of fairly traded goods and services.

Contract and supplier management are key, and appropriate measures are adopted on a case-by-case basis. Our collaborative procurement teams were early adopters of the [sustainable procurement tools](#) for our collaborative ICT products framework agreements with a developing focus on ethically traded supply chains. The ICT team continues to focus on ensuring that suppliers on our frameworks for IT products conduct appropriate due diligence in relation to supply chain activities and provide transparency of business and supply chain operations. This is to ensure that legislative obligations and best practice are applied and adopted.

Also, in line with our legislative requirements, we have updated our standard contract terms and conditions to allow for contract termination in the event of failure by a contractor to comply with its legal obligations in the fields of environmental, social or employment law. Our approach is described in Scottish Procurement Policy Note [SPPN 9/2016: Ensuring compliance with environmental, social and labour laws](#), which encourages all public bodies to consider a similar approach.

### Monitoring

Our annual procurement report will include a statement about the effectiveness of our selection procedures and we are keeping a central record of the value of fairly-traded products bought or sold under our catering contract.

## Impact of Scottish Government policy

Our [International Development Strategy](#) includes a ‘do no harm’ approach to sustainable development. It requires all government, local government, public bodies, private sector, communities and individuals to adapt their behaviour in support of UN Sustainable Development Goals. We are committed to helping deliver those goals and our National Performance Framework is Scotland’s way of localising these global goals, putting human rights at the heart of how we assess national performance. We are updating our [sustainable procurement tools](#) to ensure, amongst other things, that our procurement decisions align with this benchmark.

The sustainable procurement tools enable public buyers to take an ethical approach in their procurements. This includes taking account of human trafficking considerations. For example, we check whether existing, relevant contractors have published a Slavery and Human Trafficking Statement to ensure compliance with section 54 of the Modern Slavery Act 2015. The tools are being used widely across the public sector to consider ethical issues systematically alongside other socio-economic and environmental factors. Considering ethical issues early in the procurement process, through use of the tools, enables relevant requirements to be included in contracts and frameworks leading to improved supply chain transparency.

Scottish Procurement Policy Note [SPPN 3/2020: Reducing the risk of human trafficking and exploitation in the performance of public contracts](#) is aimed at helping to reduce the risk of human trafficking and exploitation in the performance of public contracts. Consistent with our [Trafficking and Exploitation Strategy](#),

the approach we are taking recognises that, by buying fairly and ethically-traded goods and services, our choices and actions can have positive outcomes for people and communities locally, nationally and internationally.

## 6.6 Contracts involving food to improve the health, wellbeing and education of communities in Scotland and promote the highest standards of animal welfare

### Background

We recognise that buying healthy food and drink can have major social, economic and environmental impacts. It can have benefits on community health, wellbeing and social justice through access to good nutrition including fresh and seasonal produce and training opportunities.

### Our policy

As an organisation we seldom buy food directly but we do use our catering framework to achieve a range of benefits. Our approach is to make sure that this keeps to government policies on healthy eating and nutrition, promoting fresh, seasonal, fairly traded and local produce and to UK buying standards. These standards take account of factors including production, traceability, authenticity, origin, ethical trading, animal welfare, environmental standards and health and waste.

Leading by example, the Scottish Government’s catering contractor was accredited with the Soil Association, Food for Life Catering Mark Silver Award across the four main Scottish Government sites. The service provider also holds the Healthy Living Plus award within all of

its Scottish Government restaurants. Our catering contractor also works with local communities to provide work placements and is committed to paying its staff at least the 'real' Living Wage.

Our catering contract provides that:

- the majority of fresh beef, lamb, pork (not including bacon) and baked goods is Scottish;
- all fresh fish is accredited by the Marine Stewardship Council (MSC);
- all eggs are free-range;
- almost all milk and cream used in food preparation is organic and Scottish;
- chickens are from the UK to keep to the Red Tractor assurance scheme and our Soil Association Food for Life award;
- all hospitality tea, coffee and sugar is fair trade accredited; and
- coffee grounds are recycled as compost for customers to use.

### Monitoring

Keeping to our policy requirements is a major part of the contract management arrangements for our catering contract.

### Impact of Scottish Government policy

Our national food and drink policy: Good Food Nation promotes buying and use of healthy, fresh and environmentally sustainable food for catering. Our January 2011 guidance '[Catering for Change: Buying food sustainably in the public sector](#)' is for use by public sector organisations when buying food or catering services. The welfare of farm animals reared in Scotland for products used in food in our catering contract and other public contracts is safeguarded under legislation we have

introduced to protect animals on farm and at slaughter.

We are also working to increase the sourcing of Scottish products further through public sector contracts. Our Programme for Government outlines a number of commitments that put local sourcing at the heart of public sector supply chains. This includes expanding the Food for Life programme to increase the amount of locally sourced and produced food in Scotland's schools.

### 6.7 Paying invoices in 30 days or less to our contractors and subcontractors

#### Background

Our late payment legislation requires all public bodies to pay invoices within 30 days. There is also specific [guidance](#) on late payment legislation.

#### Our policy

We are committed to prompt payment of invoices both to and by our contractors and their subcontractors. We commit to pay valid invoices within 30 days of receipt and, as a condition of contract, we require this commitment to apply through the supply chain relating to the contract. This condition, when applied throughout the supply chain, must also make clear that if a subcontractor believes that invoices are not being paid within 30 days they can raise the issue directly with us.

Also, as part of our plan to support economic recovery and sustainable economic growth in Scotland, we announced in October 2008 that we would aspire to a ten day target for paying bills to businesses in Scotland. This is a key objective and an

important expression of our commitment to support businesses and goes beyond our commitment to pay suppliers within 30 days. So while valid invoices must be paid within 30 days, we pay as many as possible within ten days. In the financial year 2019-20 we paid 98.7% of valid invoices in ten days or less and 99.7% within 30 days.

### Monitoring

Through our contract management arrangements, we monitor the percentage of our valid, Scottish Government invoices paid on time, our average payment performance and any complaints from contractors and subcontractors about late payment and we take action if appropriate.

We keep our prompt payment policy under review and will act on the results of a Supplier Survey which was published in March 2021. This will include a particular focus on payments in the supply chain.

### Impact of Scottish Government policy

Public bodies are major buyers of goods and services within their local economies and across the Scottish economy as a whole. While other public bodies are responsible for their own procurements we asked them in Scottish Procurement Policy Note [SPPN 8/2009: Payment of Invoices in Public Contract Supply Chains Within 30 Days](#) to follow our example by including 30-day payment terms in their contracts and to extend these down the supply chain. This is because we believe that all public bodies should treat their suppliers fairly including by paying them promptly.

Councils, for example, are independent bodies and so are not subject to our own policy on prompt payment. However they are subject to prompt payment legislation and are also under a legal duty of Best Value. This includes ensuring that suppliers are paid promptly. The Local Government Benchmarking Framework (LGBF) operated by the Society of Local Authority Chief Executives (SOLACE) and also the Improvement Service, through which council performance against a wide range of indicators is collated and published, includes information on payment performance for each of Scotland's 32 councils. The most recent LGBF report for 2019-20 showed that overall the percentage of invoices paid within 30 days by councils increased from 89.5% to 91.7% since 2010-11.

The construction sector can suffer from late and extended payment terms from business to business. As a result we rolled out our project bank account policy in September 2016 under Scottish Procurement Policy Note [SPPN 10/2016: Implementation of project bank accounts in construction contracts](#).

This creates a bank account, usually for a construction project, out of which a public body can pay supply chain firms directly as well as making payments to the main contractor. It protects participants' cash from upstream insolvency with payments received within five days of deposit. By speeding up cash flow project bank accounts can transform the process and ensure the ongoing solvency of businesses. This particularly applies to smaller firms at tiers two and three, which are more vulnerable to the effects of late payment.

In 2019 we delivered on our Economic Action Plan pledge to increase the number of projects to which project bank accounts apply. As a result project bank accounts are now available

to more small businesses after we brought more Scottish Government construction contracts into scope: infrastructure projects over £5 million, replacing the previous £10 million threshold and building projects over £2 million instead of £4 million. Prompt payment is good for businesses and their employees and the additional protections project bank accounts have against the effects of upstream insolvency also make them good for the economy and society. We regularly engage with partners outside Scottish Government and urge others to follow our lead by implementing project bank accounts on their construction contracts.

As a result of this policy, around £700 million of public works projects have been awarded to date with project bank account requirements for subcontractors.

Also, in the forthcoming Scottish Government Civil Engineering Framework, there will be a requirement for suppliers to report monthly on their payment performance covering their supply chain for works contracts awarded under the framework.

We also invite Scottish businesses to make a voluntary commitment to the Scottish Business Pledge which was first launched in May 2015 and was refreshed in October 2019. This recognises that businesses play a key part in creating a strong inclusive economy. The Business Pledge involves ten individual strands of business improvement activity which many companies across Scotland have already adopted because they deliver substantive business benefits and contribute to inclusive growth.

In addition to the other elements, those businesses that make a commitment to the Scottish Business Pledge can commit to work towards ensuring the prompt payment of their subcontractors or suppliers. By agreeing to pay invoices on time businesses set in motion a 'supply chain reaction' which can boost companies' competitiveness, which is a key element of Scotland's Economic Strategy.

The response from businesses in Scotland has been positive and the number of Business Pledge companies is growing. Further detail is available from the quarterly published [statistical overview](#) of the Scottish Business Pledge.

## 7. Climate change and circular economy

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### Background

Scotland is committed to a target of net-zero greenhouse gas emissions nationally by 2045 in response to the global climate emergency and the world is looking to Scotland as the United Nations COP26 climate summit takes place in Glasgow in November 2021.

The Programme for Government highlights several high profile commitments which includes the public sector fleet, heat and other key infrastructure considerations and the Infrastructure Investment Plan for Scotland sets out further clarity on our aspirations, targets and associated activity. While these commitments are not owned by procurement, we are working to facilitate targets and milestones set by the business areas on behalf of whom we procure.

We will invest £1.6 billion in heat in buildings over the next Parliament, improving energy efficiency and decarbonising heating, and helping tackle fuel poverty.

We contributed to the Construction Industry Recovery Plan which has several climate-related actions to help deliver a net-zero built environment.

We are working with Transport Scotland to phase out the need for new petrol and diesel cars and vans by 2030. Also, we are

supporting a project to help secure value for money in the investment required to enable Scotland's public sector to decarbonize its fleets through better procurement practices.

We are working with public bodies to lead the way by phasing out the need for new petrol and diesel light commercial vehicles by 2025.

From a Scottish Government perspective environmental considerations are already at the heart of the sustainable procurement duty and are routinely considered as part of individual procurement exercises. There is much more that we can and need to do through our procurements to reduce emissions and to achieve resource efficiency. In response to the First Minister declaring a Global Climate Emergency in April 2019, public bodies across Scotland have been collaborating to address the Climate Emergency through their procurement activity.

Our aim is to make the best use of our resources to provide a consistent and robust approach to addressing climate issues through procurement. Early products include key messages for all those involved in public sector procurement, Scottish Procurement Policy Note [SPPN 1/2021: Taking account of climate and circular economy considerations in public procurement](#) and Climate Literacy for Buyers e-learning that is available through our sustainable procurement

tools. Over time this activity will enable procurement to contribute to other net-zero related commitments including heat and Ultra Low Emission Vehicles.

To allow us to use our networks and influence with the market, suppliers and wider public bodies to promote a collaborative and proportionate approach to tackling the climate emergency we have established a cross-sector Climate and Procurement Forum to drive this work.

### Our policy

Existing procurement duties under the 2014 Act already require public bodies to consider and act on opportunities to improve the economic, social and environmental wellbeing of their areas through their procurements. The Scottish Government's sustainable procurement tools, available to all public bodies, include indicators and guidance to support Scottish public sector buyers to consider and act on a number of climate change considerations. Examples of where benefits are already being seen in respect to reducing emissions include:

- The 2nd generation Non-Domestic Energy Efficiency (NDEE) frameworks launched in 2020. These frameworks will continue to support public and third sector bodies in Scotland to accelerate energy efficiency retrofit projects across their estates. The frameworks aim to cover environmental, community and Fair Work benefits, as part of any energy efficiency projects supported.

- The award-winning frameworks for IT Products, open to the whole of the Scottish public sector, which have been recognised by the Green Electronics Council as demonstrating excellence in the sustainable procurement of IT products that are manufactured to reduce energy consumption and greenhouse gas emissions; reduce hazardous waste and use of primary materials.
- The contract for Warmer Homes Scotland, where the average Standard Assessment Procedure (SAP) rating per household on the scheme has increased.

### Monitoring

As reflected in the key messages that we have communicated around Climate and Procurement – including a joint Ministerial letter to local leaders – we recognise that whether we buy, what we buy and how much we buy can have a much greater impact on our climate aspirations than how we buy. Specifically, we are committed to helping to tackle the climate emergency by buying goods and services which reduce emissions, minimise waste and allow for re-use or recycling wherever appropriate. We are looking for ways to reduce how much we buy as that will impact directly on the emissions and waste involved in manufacturing, logistics, distribution and servicing. Given we routinely buy on behalf of others many of these decisions are influenced by our stakeholders and budget holders. We are exploring a range of ways to influence, support and track progress.



Our policy calls for public bodies to set out in their corporate procurement strategies their approach to embedding climate and circular economy considerations within procurement, with progress against their commitments tracked in their published annual reports.

### **Impact of Scottish Government policy**

We will continue to use our influence with the market, suppliers and public bodies to promote a collaborative approach to tackling the climate emergency working with colleagues across the public sector.

## 8. Annual procurement report

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Under the 2014 Act we also have to prepare an annual procurement report to reflect on our performance against our procurement strategy.

The reports include:

- information on regulated procurements that we have completed during the period;
- a review of whether those procurements kept to our procurement strategy;
- if any procurements do not comply with our strategy, a statement of how we intend to make sure that future regulated procurements do;
- a summary of community benefit requirements set as part of a regulated procurement that were met during the financial year covered by the report;
- a summary of any steps we have taken to involve supported businesses in regulated procurements during the year; and
- a summary of regulated procurements we expect to begin in the next two financial years.

We publish our reports online and make sure these are accessible in a variety of formats.

## **9. Strategy ownership and contact details**

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The owner of this procurement strategy, on behalf of the Scottish Government, is the Director of Procurement and Property. It covers the period 1 April 2021 to 31 March 2023. Our strategy will be reviewed again at least once a year with changes made to it if appropriate. We will publish any new versions online.



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