

## ABERDEEN CITY COUNCIL

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<b>COMMITTEE</b>	Audit, Risk and Scrutiny Committee
<b>DATE</b>	26 September 2024
<b>EXEMPT</b>	No
<b>CONFIDENTIAL</b>	No
<b>REPORT TITLE</b>	Internal Audit Report AC2412 – Procurement Compliance
<b>REPORT NUMBER</b>	IA/AC2412
<b>DIRECTOR</b>	N/A
<b>REPORT AUTHOR</b>	Jamie Dale
<b>TERMS OF REFERENCE</b>	2.2

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### **1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to present the planned Internal Audit report on Procurement Compliance.

### **2. RECOMMENDATION**

- 2.1 It is recommended that the Committee review, discuss and comment on the issues raised within this report and the attached appendix.

### **3. CURRENT SITUATION**

- 3.1 Internal Audit has completed the attached report which relates to an audit of Procurement Compliance.

### **4. FINANCIAL IMPLICATIONS**

- 4.1 There are no direct financial implications arising from the recommendations of this report.

### **5. LEGAL IMPLICATIONS**

- 5.1 There are no direct legal implications arising from the recommendations of this report.

### **6. ENVIRONMENTAL IMPLICATIONS**

- 6.1 There are no direct environmental implications arising from the recommendations of this report.

### **7. RISK**

7.1 The Internal Audit process considers risks involved in the areas subject to review. Any risk implications identified through the Internal Audit process are detailed in the resultant Internal Audit reports. Recommendations, consistent with the Council's Risk Appetite Statement, are made to address the identified risks and Internal Audit follows up progress with implementing those that are agreed with management. Those not implemented by their agreed due date are detailed in the attached appendices.

## 8. OUTCOMES

8.1 There are no direct impacts, as a result of this report, in relation to the Council Delivery Plan, or the Local Outcome Improvement Plan Themes of Prosperous Economy, People or Place.

8.2 However, Internal Audit plays a key role in providing assurance over, and helping to improve, the Council's framework of governance, risk management and control. These arrangements, put in place by the Council, help ensure that the Council achieves its strategic objectives in a well-managed and controlled environment.

## 9. IMPACT ASSESSMENTS

Assessment	Outcome
Impact Assessment	An assessment is not required because the reason for this report is for Committee to review, discuss and comment on the outcome of an internal audit. As a result, there will be no differential impact, as a result of the proposals in this report, on people with protected characteristics.
Privacy Impact Assessment	Not required

## 10. BACKGROUND PAPERS

10.1 There are no relevant background papers related directly to this report.

## 11. APPENDICES

11.1 Internal Audit report AC2412 – Procurement Compliance

## 12. REPORT AUTHOR CONTACT DETAILS

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## Internal Audit

### Assurance Review of Procurement Compliance

**Status:** Final

**Date:** 09 August 2024

**Risk Level:** Corporate

**Report No:** AC2412

**Assurance Year:** 2023/24

Net Risk Rating	Description	Assurance Assessment
Major	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.	Limited

Report Tracking	Planned Date	Actual Date
Scope issued	01-Dec-2023	01-Dec-2023
Scope agreed	08-Dec-2023	08-Dec-2023
Fieldwork commenced	18-Dec-2023	15-Jan-2024
Fieldwork completed	22-Jan-2024	03-May-2024
Draft report issued	09-Feb-2024	31-May-2024
Process owner response	01-Mar-2024	11-Jul-2024
Director response	08-Mar-2024	06-Aug-2024
Final report issued	15-Mar-2024	09-Aug-2024
AR&S Committee	26-Sep-2024	

Distribution	
<b>Document type</b>	Assurance Report
<b>Director</b>	Andy MacDonald, Executive Director – Corporate Services
<b>Process Owner</b>	Melanie Mackenzie, Strategic Commercial Manager
<b>Stakeholder</b>	Craig Innes, Head of Commercial & Procurement
	Vikki Cuthbert, Interim Chief Officer – Governance*
	Jonathan Belford, Chief Officer – Finance*
<b>*Final only</b>	External Audit*
<b>Lead auditor</b>	Debbie Steele, Auditor

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# 1 Introduction

## 1.1 Area subject to review

Aberdeen City Council made payments of over £670 million to external bodies in 2022/23. Where this includes the procurement of goods, services and works, legislation and internal rules and regulations set out specific requirements which must be complied with in order to meet the Council's legal obligations, and provide assurance over Best Value in procurement.

The Council's Financial Regulations require that all purchasing and orders for supplies, services and works must be undertaken in accordance with the Council's Procurement Regulations. The Procurement Regulations refer to the Council's Procurement Manual for certain matters including the required procedural detail to ensure Best Value is obtained e.g. quotation and tender requirements.

The Council's Procurement Regulations require workplans with supporting business cases to be submitted by each Function to the Head of Commercial and Procurement Shared Services (C&PSS) for Committee approval, prior to the commencement of each financial year, for all contracts to be procured in the coming year with a Contract Value of £50,000 or more for supplies and services, or £250,000 or more for works. When determining the contract value, the Council's Procurement Regulations require the Delegated Procurer to consider the aggregate value of the requirement for supplies, services or works across the whole Council.

Procurements shall only be undertaken by Delegated Procurers who have been designated as such by the Head of C&PSS and who hold relevant Delegated Procurement Authority (DPA), meaning the officer concerned has completed the necessary DPA training and authority to procure has been granted by the Head of C&PSS as demonstrated by being included on the C&PSS Delegated Procurer register.

## 1.2 Rationale for the review

The objective of this audit is to provide assurance that the Council has appropriate arrangements in place, that are being complied with, to ensure compliance with procurement legislation and internal regulations. In the absence of appropriate controls there is a risk to achieving Best Value in procurement, and to compliance with national procurement regulations.

A full internal audit of procurement compliance was last completed in September 2020 (AC2019). Commitment to action was sought to ensure that: contracts will be subject to appropriate procurement, including public tender where they exceed the relevant thresholds individually and in aggregate; procurement intentions and awards will be appropriately published; adherence to Committee approvals will be monitored to ensure they are adhered to; and purchase orders will be raised in advance unless a specific exemption applies. Actions were agreed with Directors to review Procurement Compliance Reports regularly, and C&PSS agreed to review data, training and guidance.

C&PSS reported to the Risk Board in June 2021 that three major recommendations had been closed off and new monitoring processes and reporting arrangements had been put in place to identify gaps and issues with compliance.

In May 2022 Internal Audit reported on support and consultancy work completed with C&PSS in developing its approach to improving compliance with procurement requirements. C&PSS agreed to further review of data, training and guidance, and development of exception reporting to support targeted intervention where further support or training are required.

## 1.3 How to use this report

This report has several sections and is designed for different stakeholders. The executive summary (section 2) is designed for senior staff and is cross referenced to the more detailed narrative in later sections (3 onwards) of the report should the reader require it. Section 3 contains the detailed narrative for risks and issues we identified in our work.

## 2 Executive Summary

### 2.1 Overall opinion

The full chart of net risk and assurance assessment definitions can be found in Appendix 2 – Assurance Scope and Terms. We have assessed the net risk (risk arising after controls and risk mitigation actions have been applied) as:

Net Risk Rating	Description	Assurance Assessment
Major	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.	Limited

The organisational risk level at which this risk assessment applies is:

Risk Level	Definition
Strategic	This issue/risk level impacts the Council as a whole. Mitigating actions should be taken at the Senior Leadership level.

### 2.2 Assurance assessment

The level of net risk is assessed as **MAJOR**, with the control framework deemed to be providing **LIMITED** assurance that adequate control is being exercised over the Council's compliance with procurement legislation and internal regulations.

Procurement compliance is reviewed by Internal Audit on a rolling basis. The last audit of this nature was carried out in 2020 (Internal audit report AC2019) which identified areas of non-compliance with the Council's Scheme of Governance and breaches of the Council's Financial and Procurement Regulations. This was generally found to be due to a lack of understanding of the requirements of the Scheme of Governance and the processes to ensure Best Value and compliance with Procurement Legislation. Assurance was provided by CPSS, and actions being implemented in response to the identified risks have recently been implemented but will take time to embed. In some instances, points identified as part of this audit may relate to contracts and records which pre-date implementation of these actions. However, the results identified a lack of preventive controls, and risks that are only partially mitigated by the management and detective controls being implemented when their operation is assessed. Further action is therefore being recommended to avoid repeated breaches of Financial Regulations and procurement legislation and to create a control framework in the longer term that will provide the required level of assurance.

Policy, guidance, and training is available to promote compliance, however it is spread across a multitude of documents, not all of which are up to date, complete and consistent in terms of the requirements to be applied. Delegated Procurement Authority is assigned based on training completion, but there is limited assurance that only officers with this authority are involved in specified procurement activities. Chief Officers in particular, whose key role in ensuring procurement compliance is set out in the Scheme of Governance, had limited records of completing the required training. A lack of understanding is evident, due to the complexity and volume of information, and varying levels and frequency of involvement by officers and Procurement staff, leading to inconsistencies in application. A checklist is available to clarify key stages, requirements, checks and approvals, but this is not regularly used. Updating the checklist and mandating its use would improve assurance over compliance.

Full documentation to record the application of governance requirements is rarely being retained on the contracts register system and approvals are not well evidenced within the contract register system. Contracts are being let without formal procurement exercises being undertaken, and there are instances where officer and Committee approvals have been exceeded without formal recorded consent. If records are not consistently retained and accessible, then in addition to reducing assurance over the application of internal controls, there is a risk to compliance with the documentation requirements of the Public Contracts (Scotland) Regulations 2015. However, Management has advised that additional

recording is held through the use of live documents on SharePoint, with version control which allows the tracking of changes made. Teams chat is also used to facilitate virtual reviews on occasion but still within the context of the live SharePoint document.

Whilst procurement is generally being planned in advance, this is being presented for approval via the Demand Management Control Board and Finance and Resources Committee on a phased basis throughout the year, and on a Cluster by Cluster basis. This is intended to facilitate a steadier throughput of procurement activity, avoiding potential bottlenecks, however, is in contrast to the Council's Procurement Regulations which require forward plans to be prepared in advance of each new financial year. There is a risk that requirements are not always being aggregated corporately as a result. This also puts compliance with statutory requirements at risk. Failure to plan effectively and sufficiently in advance of contract expiry for foreseeable and necessary routine procurement presents a risk to supply and service continuity.

Direct awards and non-competitive action make up a substantial proportion of recorded procurement activity (over 69%), including single sourcing, direct awards within frameworks<sup>1</sup>, and exemptions from the requirement to obtain four quotations. Annual contracts are also being let for recurring requirements, reducing the level of procurement governance being applied. Whilst justifications are often recorded, these are not referenced to specific legislative exceptions, and approvals and explicit consideration of risks to compliance and Best Value are not consistently evidenced. Whilst no specific instances of fraud were identified, there is a risk that undue time pressures or other demands on services may be used to justify selection of a specific procurement route, option or supplier, in order to secure business continuity, whether or not that is technically compliant and demonstrates Best Value.

Contract opportunities and awards for regulated procurements must be published on the Public Contracts Scotland website within 30 days. Delays and omissions were identified, in breach of the Procurement (Scotland) Regulations 2015.

Recommendations have been made to address these risks, including reviewing and updating procedures to ensure they are sufficiently clear and concise; establishing a system of control to ensure all procurements are appropriately planned, completed by suitably trained officers and are fully supported with contractual and governance documentation on the contracts database, before they can progress to awarding contracts; and to implement reviews of the continued suitability and propriety of non-competitive action.

### 2.3 Severe or major issues / risks

Issues and risks identified are categorised according to their impact on the Council. The following are summaries of higher rated issues / risks that have been identified as part of this review:

Ref	Severe or Major Issues / Risks	Risk Agreed	Risk Rating	Page No.
1.3	<p><b>Delegated Procurement Authority</b> – The authority to procure is not designated at post level. Training must be completed to the appropriate level and a DPA form must be signed by the officer acknowledging they have read and understood the requirements, approved by their line manager, and then approved by CPSS, following a check that they have completed the necessary training modules. However, there are currently no checks to confirm that officers have the correct level of DPA prior to their taking part in a procurement process.</p> <p>In breach of Financial Regulations, it was identified through review of a sample of 17</p>	Y	Major	17

<sup>1</sup> Direct awards from a framework are still a compliant route to market, which is compliant with legislation.

Ref	Severe or Major Issues / Risks	Risk Agreed	Risk Rating	Page No.
	<p>procurements, that of 28 officers with a significant role in those procurements, only 12 (43%) had a suitable level of Delegated Procurement Authority. Of six Chief Officers included in this sample, only one had a record of completing procurement training, and none had a recorded DPA level. Given their role in approving procurements and exceptions, it is essential that Chief Officers have a full understanding of the regulatory and ACC requirements.</p> <p>There is currently no method by which a user can determine whether someone requesting a Purchase Order has the requisite DPA level – presenting a risk this will be assumed based on job title or seniority of the requestor, which is not automatically the case.</p> <p>The ACC Procurement Regulations require that CPSS review DPA annually. CPSS has previously reviewed data from the Purchase Order System to identify and highlight potential breaches of DPA and areas where training may be required. However, due to the nature of the reports, non-compatibility of systems, and because not all Clusters use the Purchase Order System for every purchase, it was not possible to gain full assurance. Whilst an annual check had been planned, due to variations in recording and data, there remains no efficient method to run checks on DPA training against all employees procuring goods/works/services. There is therefore risk of further non-compliance with ACC Procurement and Financial Regulations</p>			
1.4	<p><b>Procurement Documentation</b> – In line with the Procurement (Scotland) Act 2014 provision 35, the Council is obligated to maintain a Contracts Register. Details of the Council’s contracts, contract related data, and supporting documentation are held in an online Contract Management System. The System has recently been migrated to a new platform with advanced functionality. An extract from this system is used to publish the Council’s official contracts register on the Council’s website.</p> <p>The Act sets out mandatory information to be held on the Contract Register for each contract. Only 10 of the 18 (56%) contracts</p>	Y	<b>Major</b>	18

Ref	Severe or Major Issues / Risks	Risk Agreed	Risk Rating	Page No.
	<p>in our sample were on the published register and fully compliant for data correctness.</p> <p>The Public Contracts (Scotland) Regulations 2015 include specific documentation requirements. The Council's procurement guidance documents reference a requirement to upload documentation to support contracts register entries, but the listed requirements vary, are incomplete (e.g. they omit 'procurement plans') – and in some cases are vague e.g. <i>“other documents relating to the management of the contract”</i>.</p> <p>Records of procurement activity were inconsistently recorded in the contracts register system. Whilst further detail was available from procuring officers, the lack of a structured approach to filing, retaining, and sharing these records was evident. Where procuring officers had left the role in which procurement had been undertaken, their successors often had difficulty locating documentation and explanations for prior decisions. Where contract information is available, it can be difficult to find it where named individuals have changed, or supplier names and details varied, and this has not been reflected in an updated contract record.</p> <p>Whilst it was possible for Internal Audit to source original reports and approvals from the Committees database, this is a time consuming task if officers need to verify the approvals to confirm they are acting in line with delegated authority, and in many cases access is restricted due to commercially sensitive data. Officers noted it was not a straightforward process to source confirmation that contract planning stages had reached approval. Adding these plans to the contracts register system would provide a "one-stop" place to find all information, improve time management and mitigate the risk of procurements progressing without (or exceeding) Committee approvals.</p> <p>In response to previous audit recommendations, CPSS implemented a check process to ensure contracts register entries are complete and up to date. This is however reliant on interrogable data being added to the system in the first instance, and it will be more difficult to identify entries with partially completed supporting</p>			



Ref	Severe or Major Issues / Risks	Risk Agreed	Risk Rating	Page No.
	<p>documentation. Quarterly monitoring reports indicate that more issues are being identified and addressed. Implementation of the new contracts register system may present opportunities to improve compliance and avoid or identify issues more timeously.</p> <p>The Council needs consistent records and filing of procurement documentation, to demonstrate that it is compliant with The Public Contracts (Scotland) Regulations, and internal procurement governance requirements.</p>			
1.7	<p><b>Approvals</b> – Each procurement of £10,000 and over requires formal approval.</p> <p>Where the proposed procurement is between £10,000 and £50,000, Chief Officer approval is required. There is no defined corporate method for recording these approvals. Where there is a departure from the process – e.g. proceeding without four quotations, or a technical exemption, approval from the Head of Commercial and Procurement is also required, and is documented on the relevant forms.</p> <p>Documentation of approvals and delegations could be improved. Consolidating the approval process into one system would streamline the process and lead to efficiencies in the procurement process with added compliance benefits through having robust approval audit trails.</p> <p>Procurements in excess of £50,000 require officers to present a formal business case, in a defined format. The format and content of these changed in 2023. These are further scrutinised by the Demand Management Control Board (DMCB), including Legal, Finance, and CPSS, in advance of submission to the Finance and Resources Committee. Thereafter, a tender evaluation report must be submitted for Chief Officer approval before a contract may be awarded.</p> <p>Generally business cases are being completed and subject to review. However, multiple risks were identified in specific cases:</p> <ul style="list-style-type: none"> <li>In one case officer approvals had not been explicitly recorded prior to Committee approval being sought.</li> </ul>	Y	<b>Major</b>	23

Ref	Severe or Major Issues / Risks	Risk Agreed	Risk Rating	Page No.
	<ul style="list-style-type: none"> <li>• In another case unsuccessful bidders had been notified prior to Chief Officer approval.</li> <li>• In the same case, the contract awarded exceeded the Committee approved value by over £100,000, and there is no evidence of further approval being sought as required by ACC Procurement Regulations.</li> <li>• In another case, although an overarching contract was entered into for £1.8 million, business cases were split by Cluster, with approval only obtained for the first £880,000 in the first instance, and £451,000 thereafter. Formal approval to enter into a contract at this level was not therefore evidenced in advance. The tender evaluation report was also not signed by the Chief Officer. Officers have therefore exceeded their delegated authority.</li> <li>• In another case, Chief Officer approval covered a contract length of one year, plus three potential one-year extensions. Committee was asked to approve a two year contract plus two potential one-year extensions. Committee approval was also exceeded, as the contract awarded exceeded the approved value by more than £100,000, and there is no evidence of further approval being sought as required by ACC Procurement Regulations.</li> <li>• In one case, there is no approval or contract recorded for planned expenditure of over £500,000, with decisions based on only two quotations.</li> <li>• In another two cases, no contract had been entered into, and no approvals obtained. In both cases, whilst in-year spend within 2023/24 was less than £50,000, there were orders over £10,000 individually, and recurring spend with the same suppliers for the same supplies substantially exceeded this figure (£215,000 and £173,000 respectively). Purchase Orders are typically being raised retrospectively for measured services rendered, further diminishing the opportunity</li> </ul>			

Ref	Severe or Major Issues / Risks	Risk Agreed	Risk Rating	Page No.
	<p>to challenge and effectively control this expenditure.</p> <p>Maverick / off-contract spend at this level presents a substantial risk in terms of compliance with procurement legislation, internal governance, and demonstrating Best Value in procurement. There is a substantial risk of exposure to fraud and error</p>			
1.9	<p><b>Tenders and Quotations</b> – In three of five cases (60%) reviewed below £50,000, officers had noted it was not possible to seek quotations due to there being no other suppliers for the goods/service required. If less than four quotations are received, then a "Non-competitive action" form (NCA) is required to be submitted to the Chief Officer and Head of CPSS for consent to proceed. CPSS do not keep records of approvals / dispensations – reliance is placed on procuring officers to retain these. One of the three procurements (33%) was not supported by this form, reducing assurance over planning and agreement to accept the risk of non-compliance with procurement rules. All non-competitive action places the Council at risk of not demonstrating it has fully attempted to achieve Best Value. Limiting the pool of potential bids for a contract also presents an increased fraud risk.</p> <p>For contracts in excess of £50,000, whilst approval may be sought to 'direct award', where tenders are openly invited and a limited number of bids are received there is no specific requirement to obtain CPSS approval to proceed. For example, in four of the cases reviewed, only one or two contractors bid for the work. Whilst limited bids could be representative of market availability and appetite for the contract, they could also indicate issues with the procurement strategy or process e.g. timing, specification, advertising. There is no formal review independent of procuring officers to confirm whether smaller numbers of bids represent best value.</p> <p>Whilst tender bid evaluations had been completed, this had not always been recorded on the contracts register system. In five cases although officers stated that more had been involved, there was no</p>	Y	Major	25

Ref	Severe or Major Issues / Risks	Risk Agreed	Risk Rating	Page No.
	evidence that more than one panel member had completed the tender evaluation. In one case the standard evaluation matrix was not used, and the selection process was less clear as a result. Having more than one evaluator mitigates against the risk of error or bias. To mitigate the risk of legal action against the Council, evaluations require to be robust, and retained as per legislation requirements.			
1.11	<p><b>Direct Awards</b> – In specified circumstances it may be appropriate to single source or ‘direct award’ a contract without competition. Procurement legislation allows this in exceptional circumstances where for specified reasons there is only one suitable source of supply, and that these reasons must be kept under review. The Council’s Procurement Regulations provide for such cases where there is adequate justification, and confirmation from the Head of CPSS that there are grounds for permitting a Direct Award in line with the procurement legislation. The Head of CPSS is required to maintain a register of such approvals. However, there is no such register. Details are however, generally, retained in the contracts register system.</p> <p><u>Directly Awarded Contracts</u></p> <p>As part of the review, the following was identified:</p> <ul style="list-style-type: none"> <li>• 152 of 481 contracts (32%) were directly awarded without competition. <ul style="list-style-type: none"> <li>○ This includes 31 ‘high value’ contracts (over £175,000).</li> <li>○ Due to variations in how contract values are recorded on the system it is not possible to identify the proportion of procurement spend that has been directly awarded.</li> </ul> </li> <li>• 10 of 481 contracts (2%) were awarded under an exemption or dispensation from the requirement to obtain competitive quotations. <ul style="list-style-type: none"> <li>○ As not all contracts are recorded on the register (see 1.4), the actual</li> </ul> </li> </ul>	Y	<b>Major</b>	28

Ref	Severe or Major Issues / Risks	Risk Agreed	Risk Rating	Page No.
	<p>proportion is likely to be higher.</p> <p>Three of the 18 cases reviewed (17%) had contracts which had been directly awarded without competition. Relevant forms and approvals were in place for each. However, the process for determining whether such approval should be granted by CPSS, and specific justifications, are not documented. This weakens assurance that all relevant considerations have been applied, and that such procurement is compliant (or that due regard has been given to the risks of non-compliance).</p> <p><u>Framework Agreements</u></p> <p>Where a framework agreement is in place, this can specify that a Direct Award call off is a compliant procurement route. This was the case for a further three contracts within the audit sample, and the contracts register indicates 28% (134 contracts, 20% 'high value') of contracts are categorised as 'call off' from a framework. Whilst technically compliant, there is limited justification being recorded for selection of a specific supplier within frameworks. The ability to single source within a framework means end users are not having to justify selection at the point of purchase. Without a detailed assessment of whether they offer the most economically advantageous option at the time contracts were entered into, there is a significant risk to demonstrating and delivering Best Value.</p>			

## 2.4 Management response

*Commercial and Procurement welcomes the findings of the audit report and whilst during the audit areas for further improvement and development were identified and recommendations have been made, the report does also highlight areas of progress to support compliance and recognises that where there are processes in place these can take time to embed. The additional recommendations and responses to those will support improvement in compliance.*

*There are areas where preventative controls are difficult to implement due to the number of systems involved across training, approvals, carrying out procurement and ordering and this limits opportunity for automation via the systems themselves. It is planned that procurement will review capabilities of Office 365 tools to understand the potential for utilisation of these to automate areas of the procurement process in future.*

*As highlighted in the report, Procurement are reliant on services to adhere to the processes and guidance set out, to ensure the Council is compliant with legislation and our internal regulations. Across the Council we currently have many delegated procurers who have completed procurement training relevant to the level of procurement activity they are responsible for.*

*Commercial and Procurement will draft a formal communication to Services highlighting the key findings of the audit report and use this as an opportunity for a reminder of key responsibilities, the communication will be shared with Executive Directors, Chief Officers, Service Managers and*

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*Delegated Procurers. Regular engagement with Services takes place regularly and these also present opportunities to use such engagement to further encourage good practice and compliance.*

*Compliance reports are prepared quarterly and these are reviewed by the Risk Board with any instances of non-compliance highlighted, Commercial and Procurement will work with internal audit to further develop these reports to include assurance around active users and level of expenditure and once the assurance process has been agreed build this into future compliance reporting.*

*It should be noted that the report does not constitute a full review against each point of the legislation, there are areas where the Councils compliance rate and performance is above the average for a Public Body in Scotland such as compliance with the Sustainable Procurement duty particularly in relation to Community Benefits and Fair Work Practices.*

## 3 Issues / Risks, Recommendations, and Management Response

### 3.1 Issues / Risks, recommendations, and management response

Ref	Description	Risk Rating	Moderate
1.1	<p><b>Procedures and Governance</b> – The Council has a Scheme of Governance including a Scheme of Delegation, Financial Regulations, and a List of Officers Powers, each of which references powers and duties in respect of procurement. Further information in respect of the Council’s requirements for procurement governance is documented in a detailed Procurement Manual and associated guidance documents, template reports and forms. This information is held across various intranet sites and documents. In total, there are 57 documents that services are required to search through to assist in procurement processes. Rationalising/reducing the extent of documentation could aid understanding and compliance.</p> <p>Many of the Procurement guidance notes, and associated training modules, are out of date or require refreshing. There are invalid email addresses; links and references to old documents and templates; and varying terminology, presenting risks to communication, understanding and compliance.</p> <p>For example:</p> <ul style="list-style-type: none"> <li>• None of six hyperlinks tested for functionality (0%) in the procurement manual led to a useable document</li> <li>• The manual references an “award report”, whereas the closest match within ACC is a “tender evaluation report”.</li> <li>• ACC Procurement Regulations were updated in 2023, but the procurement SharePoint site has an earlier version from 2022.</li> <li>• The content of procurement business case templates changed in December 2023, but the procurement SharePoint site has an earlier version from July 2023 (<i>revised questions and excludes integrated impact assessments</i>).</li> <li>• IR35 guidance is out of date (Eight government updates between 2019 and 2023 are not reflected).</li> <li>• Procurement thresholds are listed as £60,000 in finance training but should be £50,000.</li> <li>• Circular references in respect of the composition of evaluation panels, reverting back to training rather than a procedural document.</li> <li>• The procurement manual states “Evaluators must have level 5 DPA” but there are only three levels.</li> </ul> <p>There is a risk that guidance documentation is incomplete, or is being updated on an ad-hoc basis without consideration of the implications for and need to update other guidance to match when it changes. Officers relying on a particular guidance note may fail to comply with all relevant procedures.</p>		
<b>IA Recommended Mitigating Actions</b>			
CPSS should review and update procurement training, guidance manuals and templates, in consultation with relevant stakeholders, to ensure it is sufficiently clear, concise, consistent, accurate and up to date.			
<b>Management Actions to Address Issues/Risks</b>			
<i>Commercial and Procurement have reviewed the guidance and nearing completion of updating of templates. Revised guidance and templates will be published on the C&amp;PSS SharePoint page with communication to all Delegated Procurers issued on the updates.</i>			

Ref	Description	Risk Rating	Moderate
	<i>The E_Learning modules on ACC Learn will thereafter be updated to reflect changes.</i>		
	<b>Risk Agreed</b>	<b>Person(s)</b>	<b>Due Date</b>
	Yes	Strategic Commercial Manager	December 2024

Ref	Description	Risk Rating	Moderate
1.2	<p><b>Procurement Checklists</b> – Procurement guidance includes a series of high-level flowcharts setting out the key governance requirements, including delegated procurement authority, for each level of procurement. This is supplemented by a procurement checklist, which procuring officers are encouraged to use to guide them through the process and record the completion of each stage.</p> <p>In a sample of 17 procurements reviewed, there were no cases (0%) where the procurement checklist had been used and retained. In a substantial proportion of cases (41%) the Council’s procurement requirements had not been fully completed, evidenced, and recorded on the contracts register system, as described in later sections of this report (see Appendix 1). Use of a checklist would provide self-declaration by procurers that they had met and followed the relevant requirements, and provide an opportunity to hold them to account if this has not been done.</p> <p>As with other elements of procurement guidance (see 1.1) the checklist includes out of date terminology. It also does not cover every detail currently required to complete the procurement process (e.g. there is no reference to obtaining a contract reference and updating the contracts register system, or to issuing letters to unsuccessful bidders for a contract).</p> <p>If the checklist, or a set of checklists, could be updated and made mandatory for every procurement, there would be greater assurance that procurement is being carried out and documented correctly, by officers with appropriate delegated authority. Ideally this would be built in to the procurement system or process rather than a separate manual record keeping exercise, to facilitate greater control and accurate recording. Use of an online form or system could allow checks to be automated (e.g. confirming delegated procurement authority), and for specific requirements (e.g. branching decisions) to be more consistently followed.</p>		
	<b>IA Recommended Mitigating Actions</b>		
	CPSS should mandate and automate use of the procurement checklist.		
	<b>Management Actions to Address Issues/Risks</b>		
	<i>Commercial and Procurement have reviewed the guidance and templates are currently being finalised based on the review, this includes an updated procurement checklist (the checklist template is in word and opportunities for automation will form part of a review on potential processes for automation by Commercial and Procurement)), the revised guidance will include a requirement to utilise the procurement checklist for all procurement activity above quotation threshold.</i>		
	<b>Risk Agreed</b>	<b>Person(s)</b>	<b>Due Date</b>
	Yes	Strategic Commercial Manager	October 2024



Ref	Description	Risk Rating	Major
1.3	<p><b>Delegated Procurement Authority</b> – The Council’s Procurement Regulations, which form part of the Scheme of Governance, state that:</p> <p><i>“4.2.2 - Procurements shall only be carried out by Delegated Procurers who have been designated as such by the Head of Commercial and Procurement and who hold relevant Delegated Procurement Authority (Procurement Manual)”.</i></p> <p>Delegated Procurement Authority or DPA means the authority that permits a Delegated Procurer to conduct a procurement for supplies, services or works on behalf of the Council. A Delegated Procurer is defined as any officer holding Delegated Procurement Authority and authorised to carry out procurement activities. CPSS is required to maintain a register of procuring officers.</p> <p>For a Council officer to be designated a Procuring Officer, Delegated Procurement Authority (DPA) training must be completed to the appropriate level prior to an officer undertaking a procurement or placing orders on behalf of the Council. There are three levels of training split into seven e-learning modules. Modules are self-selected based on the level of authority or elements of procurement practice required to be used in particular roles and circumstances.</p> <p>Prior to the officer being added to the Council’s Procuring Officer register, a DPA form must be signed by the officer acknowledging they have read and understood the requirements, approved by their line manager, and then approved by CPSS, following a check that they have completed the necessary training modules. However, there are currently no checks to confirm that officers have the correct level of DPA prior to their taking part in a procurement process.</p> <p>In breach of Financial Regulations, it was identified through review of a sample of 17 procurements, that of 28 officers with a role in those procurements, only 12 (43%) had a suitable level of Delegated Procurement Authority. Of six Chief officers included in this sample, only one had a record of completing procurement training, and none had a recorded DPA level. Given their role in approving procurements and exceptions, it is essential that Chief Officers have a full understanding of the regulatory and ACC requirements.</p> <p>Guidance in the Procurement Manual sets out that:</p> <p><i>“All staff requiring to purchase goods, works or services on behalf of the Council must undertake Procurement training and receive DPA approval prior to any purchase order being raised”.</i></p> <p>However, conflicting guidance indicates that a non-DPA user may raise orders on behalf of other individuals who do have DPA approval; or from an ‘approved’ framework agreement. There is currently no method by which a user can determine whether someone requesting a Purchase Order has the requisite DPA level – presenting a risk this will be assumed based on job title or seniority of the requestor, which is not automatically the case.</p> <p>In one instance, a Chief Officer (without recorded DPA) had delegated their power to approve awarding contracts (in this case a direct award with no competition) to another officer who did have DPA. Whilst this may be more practical in certain cases, such delegation may not be appropriate if it overrides the required controls intended by the Council’s Procurement Regulations. Clarity is required over which, if any, powers and tasks can be delegated, and how segregation of duties can be maintained.</p> <p>The ACC Procurement Regulations require that CPSS review DPA annually. CPSS has previously reviewed data from the Purchase Order System to identify and highlight potential breaches of DPA and areas where training may be required. However, due to the nature of the reports, non-compatibility of systems, and because not all Clusters use the Purchase Order System for every purchase, it was not possible to gain full assurance. Whilst an annual check had been planned, due to variations in recording and data, there remains no efficient</p>		

Ref	Description	Risk Rating	Major
	method to run checks on DPA training against all employees procuring goods/works/services. There is therefore risk of further non-compliance with ACC Procurement and Financial Regulations.		
	<b>IA Recommended Mitigating Actions</b>		
	<ul style="list-style-type: none"> <li>a) CPSS should explore options for linking training, DPA, and procurement system records to obtain assurance that procurement is only undertaken by those with the appropriate training and delegated authority. This could include use of a common identifier (e.g. payroll reference numbers), or the use and review of self-declarations at the point of procurement (see 1.2).</li> <li>b) In the interim, CPSS should perform regular random checks on Procurement active users and the level of expenditure to ensure users are suitably qualified to undertake that level of procurement activity.</li> <li>c) A specific exercise should be undertaken to ensure all Chief Officers have undertaken the relevant training and obtained DPA.</li> <li>d) The Council should determine whether or not it is an appropriate option to delegate any of the tasks required of Chief Officers under Procurement Regulations, and if so how internal control will be maintained.</li> </ul>		
	<b>Management Actions to Address Issues/Risks</b>		
	<ul style="list-style-type: none"> <li>a) <i>Commercial and Procurement will explore options for linking training and update the delegated procurement authority form and process accordingly.</i></li> <li>b) <i>Along with implementing a process for random checks the delegated procurement authority form will be updated to include a self-declaration and confirmation of understanding that procurement activity can only be completed up to the value of the level of DPA applied for.</i></li> <li>c) <i>Chief Officers will be advised that they are required to undertake the relevant training and obtain DPA Level 3.</i></li> <li>d) <i>Commercial and Procurement will review options for delegation of tasks required of Chief Officers under Procurement Regulations and consider how these would be recorded/internal controls maintained.</i></li> </ul>		
	<b>Risk Agreed</b>	<b>Person(s)</b>	<b>Due Date</b>
	Yes	Strategic Commercial Manager	December 2024

Ref	Description	Risk Rating	Major
1.4	<p><b>Procurement Documentation</b> – In line with the Procurement (Scotland) Act 2014 provision 35, the Council is obligated to maintain a Contracts Register. Details of the Council's contracts, contract related data, and supporting documentation are held in an online Contract Management System. The System has recently been migrated to a new platform with advanced functionality. An extract from this system is used to publish the Council's official contracts register on the Council's website.</p> <p>The Act sets out mandatory information to be held on the Contract Register for each contract. 18 contracts were reviewed for data correctness in line with provision 35 of which five were contracts under £50,000 in value (<i>NB whilst the Act covers 'regulated' procurements over £50,000, the Council's procurement manual requires all contracts over £10,000 to be included</i>). At the time of the audit there were 435 contracts on the public register, covering £2.3 billion of expenditure. 162 of these were below £50,000, and 49 below £10,000. Only 10 of the 18 (56%) contracts in our sample were on the published register and fully compliant for data correctness.</p>		

Ref	Description	Risk Rating	Major
	<ul style="list-style-type: none"> <li>• Four had no contract in place (22%).</li> <li>• One contract had two records, with data transposed incorrectly between them.</li> <li>• Two frameworks were on the contract register but associated call off contracts with relevant data and values had not been recorded (11%).</li> <li>• An option to extend a contract was listed in the register, but this had not been approved by Committee.</li> <li>• One contract end date had passed, but the contract had not finished.</li> <li>• One contract value exceeded the value recorded on the register. (6%)</li> </ul> <p>The Public Contracts (Scotland) Regulations 2015 include specific reporting and documentation requirements. This includes:</p> <p>“83. -</p> <p>7) <i>A contracting authority must document the progress of all procurement procedures, whether or not those are conducted by electronic means.</i></p> <p>8) <i>To that end, a contracting authority must ensure that the authority keeps sufficient documentation to justify decisions taken in all stages of the procurement procedure, such as documentation on—</i></p> <p style="margin-left: 20px;"><i>(a) communications with economic operators and internal deliberations;</i></p> <p style="margin-left: 20px;"><i>(b) preparation of the procurement documents;</i></p> <p style="margin-left: 20px;"><i>(c) dialogue or negotiation (if any);</i></p> <p style="margin-left: 20px;"><i>(d) selection and award of the contract.</i></p> <p>9) <i>The documentation must be kept for a period of at least 3 years from the date of award of the contract.”</i></p> <p>As noted at 1.1, the Council’s procurement guidance documents reference a requirement to upload documentation to support contracts register entries, but the listed requirements vary, are incomplete (e.g. they omit ‘procurement plans’) – and in some cases are vague e.g. “<i>other documents relating to the management of the contract</i>”. Full records of procurement activity were not recorded in the contracts register system.</p> <p>Inconsistencies in respect of governance documentation included:</p> <ul style="list-style-type: none"> <li>• Four out of six contracts requiring a business case (67%) had no record of it on the system.</li> <li>• Three out of four agreed exceptions/non-competitive actions (75%) did not have the relevant form on the system.</li> <li>• Four out of 11 cases (36%) where an award letter had been issued, did not have a copy on the system.</li> <li>• Key contacts had not been kept up to date.</li> <li>• Copies of Committee approvals were generally not held either on the system or by lead officers.</li> </ul> <p>Whilst further detail was available from procuring officers, the lack of a structured approach to filing, retaining, and sharing these records was evident. Where procuring officers had left the role in which procurement had been undertaken, their successors often had difficulty locating documentation and explanations for prior decisions. Where contract information is available, it can be difficult to find it where named individuals have changed, or supplier names and details varied, and this has not been reflected in an updated contract record.</p> <p>Whilst it was possible for Internal Audit to source original reports and approvals from the Committees database, this is a time consuming task if officers need to verify the approvals to confirm they are acting in line with delegated authority, and in many cases access is restricted due to commercially sensitive data. Officers noted it was not a straightforward process to source confirmation that contract planning stages had reached approval. Adding these plans to the contracts register system would provide a "one-stop" place to find all</p>		

Ref	Description	Risk Rating	Major
	<p>information, improve time management and mitigate the risk of procurements progressing without (or exceeding) Committee approvals.</p> <p>In response to previous audit recommendations, CPSS implemented a check process to ensure contracts register entries are complete and up to date. This is however reliant on interrogable data being added to the system in the first instance, and it will be more difficult to identify entries with partially completed supporting documentation. Quarterly monitoring reports indicate that more issues are being identified and addressed. Implementation of the new contracts register system may present opportunities to improve compliance and avoid or identify issues more timeously.</p> <p>The Council needs consistent records and filing of procurement documentation, to demonstrate that it is compliant with The Public Contracts (Scotland) Regulations, and internal procurement governance requirements.</p>		
<b>IA Recommended Mitigating Actions</b>			
<ul style="list-style-type: none"> <li>a) CPSS should clarify the mandatory information and documentation to be uploaded to the contract register system.</li> <li>b) Checks and controls should be put in place to ensure key procurement stages cannot progress until documentation has been completed and uploaded.</li> <li>c) The need to update the system for changes should be reinforced.</li> <li>d) The accuracy of the public contracts register should be reviewed periodically to identify and correct potential anomalies.</li> </ul>			
<b>Management Actions to Address Issues/Risks</b>			
<ul style="list-style-type: none"> <li>a) <i>Commercial and Procurement will update the guidance for the Amelior Contract Register system clarifying the mandatory information/documentation to be uploaded and at which stage documents should be added to the system,</i></li> <li>b) <i>Wording will be added to the procurement checklist to instruct delegated procurers that all steps in each key procurement stage should be completed before moving on the next stage, adhering to the delegated procurer responsibilities.</i></li> <li>c) <i>The Amelior Contract Register system guidance will also seek to reinforce messaging around updating the system with any changes throughout the life of a contract.</i></li> <li>d) <i>The Public Contracts Register will be checked for accuracy before each publication.</i></li> </ul>			
<b>Risk Agreed</b>		<b>Person(s)</b>	<b>Due Date</b>
Yes		Strategic Commercial Manager	September 2024

Ref	Description	Risk Rating	Moderate
1.5	<p><b>Procurement Planning</b> – Effective procurement planning is essential for meeting Council objectives, budget management, and achieving best value whilst remaining compliant with legislation and internal regulations.</p> <p>Section 18(2) of the Procurement Reform (Scotland) Act 2014 requires the Council to produce an annual procurement report, including “a summary of the regulated procurements the authority expects to commence in the next two financial years”.</p> <p>In order to support forward planning, satisfy internal governance and Committee approval requirements, and meet this statutory requirement, the Council's Procurement Regulations 5.2.4 and 14.3 - 14.6 set out that the Head of Commercial and Procurement shall maintain a consolidated workplan for the Council, containing a list of proposed regulated procurement</p>		

Ref	Description	Risk Rating	Moderate
	<p>activity for the next financial year. This is to be compiled using information provided by Directors and Chief Officers.</p> <p>However, this is not happening in practice. Rather than presenting a full procurement plan in advance of each new financial year, Clusters are developing procurement business cases on a phased basis throughout the year. This is intended to facilitate a steadier throughput of procurement activity through the Demand Management Control Board, and Finance and Resources Committee, avoiding potential bottlenecks, however, is not reflected in the Council's Procurement Regulations.</p> <p>The Council does present a forward plan, as part of its annual procurement report. However, in 2023 this included a significant proportion (69%) of contract opportunities, where the estimated dates for publishing a contract notice had passed by the time the report was published in October 2023. This presents a risk to effective planning for the Council and potential bidders for contracts, as well as to compliance with the statutory requirements.</p>		
<b>IA Recommended Mitigating Actions</b>			
	All procurements for the upcoming year should be added to the Procurement Plan, in advance.		
<b>Management Actions to Address Issues/Risks</b>			
	<p><i>A change is proposed in the Scheme of Governance review for 2024 to remove the requirement for an annual work plan to be presented by each Function/Cluster to committee.</i></p> <p><i>Commercial and Procurement do have a process in place to record upcoming procurements via Category Manager Work Plans (which is used along with information from the Contract Register to inform the forward plan in Annual reports) which in part is developed through regular engagement with Services and also through review of expenditure.</i></p> <p><i>This process will be reviewed to look at options around ensuring contracts are aggregated sufficiently and also to make this information publicly available for ease of access for suppliers/meet statutory requirements</i></p>		
	<b>Risk Agreed</b>	<b>Person(s)</b>	<b>Due Date</b>
	Yes	Strategic Commercial Manager	December 2024

Ref	Description	Risk Rating	Moderate
1.6	<p><b>Aggregate Spend and Exceptions</b> – The phased and Cluster-led approach to corporate procurement planning noted at 1.5 above also impacts on the Council's ability to identify and consolidate corporate level requirements effectively. The procurement legislation, and ACC Procurement Regulations, require similar procurement requirements to be aggregated when determining the levels of governance to be applied and competition invited. This is not always taking place where it should (e.g. Skip Hire contract).</p> <p>In response to previous audit recommendations, CPSS implemented a sample check process (six per quarter) to review aggregate spend. Whilst this is positive in addressing potential existing issues, within sampled areas, preventative measures would provide greater assurance over control. The recommendation at 1.4b above applies.</p> <p>Failure to plan effectively and sufficiently in advance of contract expiry for foreseeable and necessary routine procurement presents a risk to supply and service continuity. Failure to obtain appropriate approvals for contract extensions presents a risk of breach of Financial Regulations. There is also a fraud risk, in that undue time pressures may be used to justify</p>		

Ref	Description	Risk Rating	Moderate
	<p>selection of a specific procurement route, option or supplier, in order to secure business continuity, whether or not that is compliant and demonstrates Best Value.</p> <p>The Public Contracts (Scotland) Regulations 2015 specify that:</p> <p>“19.—</p> <ol style="list-style-type: none"> <li>1) <i>A contracting authority must, in carrying out any procurement or design contest which is subject to the application of these Regulations—</i> <ol style="list-style-type: none"> <li>a) <i>treat economic operators equally and without discrimination; and</i></li> <li>b) <i>act in a transparent and proportionate manner.</i></li> </ol> </li> <li>2) <i>A contracting authority must not design a procurement or design contest with the intention of excluding it from the application of these Regulations or of artificially narrowing competition.”</i></li> </ol> <p>Emergency or technical exemptions are regularly being applied and/or reported to Committee. There are also various procurements where there is a recurring pattern of annual re-procurement of the same supplies and services (three of our sample of 18: 17%, including Computer Systems and Outdoor Learning). In these cases the contract value, for the purpose of determining the appropriate procurement and governance route, is for the annual amount, which is typically less than £50,000. Similarly, there is regular justification of recurring spend without obtaining quotations where individual orders are less than £10,000, but collectively exceed procurement thresholds – for example Haulage and Specialist Waste. There is a risk that late, short-term, or sporadic procurement may be used to avoid application of appropriate governance and to artificially narrow competition – in breach of regulations, and reducing opportunities to demonstrate and deliver Best Value.</p> <p>The ACC Procurement Regulations require that the Head of Commercial and Procurement maintain a record of exceptions. This is not being retained and reviewed regularly.</p> <p>Contract "alerts" can be set up on the contracts register system, and would be beneficial to assist management with contract oversight and forward planning and mitigate the risk of having no contract in place. Only three of ten contracts (30%) reviewed with a record on the system had this in place.</p>		
	<b>IA Recommended Mitigating Actions</b>		
	<ol style="list-style-type: none"> <li>a) Requirements for aggregation should be considered in advance, based on planned and historic spending patterns.</li> <li>b) Regular use of emergency and technical exemptions should be reviewed and challenged, with longer term procurement strategies identified to demonstrate continuing Best Value for specific requirements.</li> <li>c) Consideration should be given to reducing the allowed duration of contracts arising from un-planned procurement.</li> </ol>		
	<b>Management Actions to Address Issues/Risks</b>		
	<ol style="list-style-type: none"> <li>a) <i>A change is proposed in the Scheme of Governance review for 2024 to remove the requirement for an annual work plan to be presented by each Function/Cluster to committee. Commercial and Procurement do have a process in place to record upcoming procurements via Category Manager Work Plans (which is used along with information from the Contract Register to inform the forward plan in Annual reports) which in part is developed through regular engagement with Services and also through review of expenditure. This process will be reviewed to look at options around ensuring contracts are aggregated sufficiently and also to make this information publicly available for ease of access for suppliers/meet statutory requirements</i></li> <li>b) <i>A process for recording exemptions approved will be created/agreed and implemented to allow for periodic review, as part of the process consideration will be given to rejecting requests where insufficient quotations have been invited (where</i></li> </ol>		

Ref	Description	Risk Rating	Moderate
	<p><i>such requests are not due to market limitations in terms of number of available suppliers).</i></p> <p><i>c) As part of the above process – potential for restricting contract values will be considered.</i></p>		
	<b>Risk Agreed</b>	<b>Person(s)</b>	<b>Due Date</b>
	Yes	Strategic Commercial Manager	December 2024

Ref	Description	Risk Rating	Major
1.7	<p><b>Approvals</b> – Each procurement of £10,000 and over requires formal approval.</p> <p>Where the proposed procurement is between £10,000 and £50,000, Chief Officer approval is required. There is no defined corporate method for recording these approvals. Where there is a departure from the process – e.g. proceeding without four quotations, or a technical exemption, approval from the Head of Commercial and Procurement is also required. This is documented on the relevant forms.</p> <p>In the five cases reviewed within this range, documentation was available to evidence these approvals, however Chief Officers generally delegate their power to approve this documentation, and facsimile signatures or names of delegates had been added to the documents. Whilst approval of these being added was available through email trails, these are not generally retained along with the ‘signed’ documentation, reducing assurance they are fully reflective of the content. Consolidating the approval process into one system would streamline the process and lead to efficiencies in the procurement process with added compliance benefits through having robust approval audit trails.</p> <p>Procurements in excess of £50,000 require officers to present a formal business case, in a defined format. As noted at 1.1 the format and content of these changed in 2023. These are further scrutinised by the Demand Management Control Board (DMCB), including Legal, Finance, and CPSS, in advance of submission to the Finance and Resources Committee. Thereafter, a tender evaluation report must be submitted for Chief Officer approval before a contract may be awarded.</p> <p>In all six cases reviewed at this level, a business case had been completed. As with lower value procurement, facsimile signatures or names are appended, with additional evidence held in Teams chat history, with links to live SharePoint documentation. However, in one case neither Chief Officer nor DMCB approval had been explicitly recorded prior to Committee approval being obtained.</p> <p>In one instance, dates recorded on documentation indicated that unsuccessful bidders had been notified prior to Chief Officer approval. There is a risk contracts may be inappropriately awarded if such approval is being pre-empted. In the same case, the contract awarded exceeded the Committee approved value by over £100,000, and there is no evidence of further approval being sought as required by ACC Procurement Regulations.</p> <p>For one procurement, although an overarching contract was entered into for £1.8 million, business cases were split by Cluster, with approval only obtained for the first £880,000 in the first instance, and £451,000 thereafter. Formal approval to enter into a contract at this level was not therefore evidenced in advance. The tender evaluation report was also not signed by the Chief Officer. Officers have therefore exceeded their delegated authority.</p> <p>In another case, Chief Officer approval covered a contract length of one year, plus three potential one-year extensions. Committee was asked to approve a two year contract plus two potential one-year extensions. Committee approval was also exceeded, as the contract</p>		

Ref	Description	Risk Rating	Major
	<p>awarded exceeded the approved value by more than £100,000, and there is no evidence of further approval being sought as required by ACC Procurement Regulations.</p> <p>There is no approval recorded for planned expenditure of over £500,000, with decisions based on only two quotations.</p> <p>In another two cases, no contract had been entered into, and no approvals obtained. In both cases, whilst in-year spend within 2023/24 was less than £50,000, there were orders over £10,000 individually, and recurring spend with the same suppliers for the same supplies substantially exceeded this figure (£215,000 and £173,000 respectively). Purchase Orders are typically being raised retrospectively for measured services rendered, further diminishing the opportunity to challenge and effectively control this expenditure.</p> <p>Maverick / off-contract spend at this level presents a substantial risk in terms of compliance with procurement legislation, internal governance, and demonstrating Best Value in procurement. There is a substantial risk of exposure to fraud and error.</p>		
<b>IA Recommended Mitigating Actions</b>			
<ul style="list-style-type: none"> <li>a) Clear guidance and controls should be put in place to ensure all relevant approvals are obtained and consistently and transparently evidenced before procurement progresses to subsequent stages, and in every case before a contract is awarded.</li> <li>b) Contracts should only be awarded within the boundaries of approval granted by Committee.</li> <li>c) Off contract spend in excess of defined procurement thresholds should be independently reviewed, challenged, and where necessary and appropriate procured through the correct channels.</li> </ul>			
<b>Management Actions to Address Issues/Risks</b>			
<ul style="list-style-type: none"> <li>a) <i>Commercial and Procurement will review the current controls and provide clarity on process/procedure.</i></li> <li>b) <i>Contract award report to be reviewed to identify options for additional controls.</i></li> <li>c) <i>Commercial and Procurement will work with Finance to develop a reporting tool in PowerBI which shows on/off contract spend against budget (and as part of this identify whether possible to have live updates from the Finance and Contract Register systems – this will provide the ability to further scrutinise contracts and spend in real time. This should support identification of issues at an earlier stage and improve scrutiny around off contract spend.</i></li> </ul>			
<b>Risk Agreed</b>		<b>Person(s)</b>	<b>Due Date</b>
Yes		Strategic Commercial Manager	December 2024

Ref	Description	Risk Rating	Moderate
1.8	<p><b>Contract Notices</b> – The Procurement Manual requires all contracts equal to or exceeding £10,000 to be advertised (including quick quotes under £50,000) on the Public Contracts Scotland (PCS) website unless the Head of CPSS has given express permission otherwise. The Procurement Reform (Scotland) Act 2014 also requires the seeking of offers through a 'contract notice' and the award of contracts through an 'award notice', for all Regulated Procurements (i.e. those in excess of £50,000), to be published on the PCS website. In accordance with the Procurement (Scotland) Regulations 2016 7 (6) the award notice must be published not later than 30 days after the award of the contract. The ACC Procurement Manual extends this to include call-offs from frameworks in excess of £10,000.</p>		



Ref	Description	Risk Rating	Moderate
	<p>For contracts with an estimated value of £10,000 or more but less than £50,000, PCS must be used to obtain competitive quotations. For a sample of five cases falling within this range, three (60%) were direct awards as the Service considered no other suppliers could meet the requirement, one was part of a Dynamic Purchasing Arrangement, and the other used the Quick Quote facility on PCS to seek quotations, but fewer than four were returned.</p> <p>In every case reviewed where this was required (six of nine contracts over £50,000), contract notices had been published on PCS. However, two contracts (22%) reviewed in excess of £50,000 had not published an award notice on PCS. Each had either a technical or quotation exemption approved, but this does not dispense with the requirement to publish award notices. Four (44%) award notices were published outside of the 30 day statutory deadline. In the absence of an Award Notice on PCS, and in the event of delays in publication, the Council is in breach of the Procurement (Scotland) Regulations 2016.</p> <p>Previous compliance issues were identified in Internal Audit report AC2019. Procurement compliance reports were implemented as a result, and are reported quarterly to the Risk Board. CPSS also implemented a check process to ensure notices have been published on PCS as required. However, this only picks up on cases where 1) a contract notice was published in the first instance, and 2) the due date has passed (i.e. a breach has already occurred). The new contracts register system includes the option to add PCS notice references for each contract. Whilst positive there is a risk it will only be used for otherwise compliant cases, and that exceptions will still only be identified after statutory timescales have been breached. Action needs to be taken to ensure contracts can only be entered into after all relevant notices have been published.</p>		
<b>IA Recommended Mitigating Actions</b>			
A process should be developed and put in place to ensure that in all necessary instances contract notices are published correctly and within prescribed timescales.			
<b>Management Actions to Address Issues/Risks</b>			
<p><i>The process established will be reviewed now the new contract register system is in place to identify whether any additional actions/controls can be put in place to mitigate this risk.</i></p> <p><i>Commercial and Procurement will work with Finance to develop a reporting tool in PowerBI which shows on/off contract spend against budget (and as part of this identify whether possible to have live updates from the Finance and Contract Register systems – this will provide the ability to further scrutinise contracts and spend in real time. This should support identification of issues at an earlier stage.</i></p>			
<b>Risk Agreed</b>		<b>Person(s)</b>	<b>Due Date</b>
Yes		Strategic Commercial Manager	December 2024

Ref	Description	Risk Rating	Major
1.9	<p><b>Tenders and Quotations</b> – For procurements below £50,000 ACC Procurement Regulations set out that written competitive quotations must be obtained. The Procurement Manual requires a minimum of four quotations be obtained, and recommends that between six and eight suppliers are identified and invited to quote, to reduce the risk of fewer than four responding, to ensure effective competition is evidenced.</p> <p>In three of the five cases (60%) reviewed below £50,000, officers had noted it was not possible to seek quotations due to there being no other suppliers for the goods/service required. If less than four quotations are received, then a "Non-competitive action" form</p>		

Ref	Description	Risk Rating	Major
	<p>(NCA) is required to be submitted to the Chief Officer and Head of CPSS for consent to proceed. CPSS do not keep records of approvals/dispensations – reliance is placed on procuring officers to retain these. One of the three procurements was not supported by this form, reducing assurance over planning and agreement to accept the risk of non-compliance with procurement rules. All non-competitive action places the Council at risk of not demonstrating it has fully attempted to achieve Best Value. Limiting the pool of potential bids for a contract also presents an increased fraud risk.</p> <p>For contracts in excess of £50,000, whilst approval may be sought to ‘single source’ or ‘direct award’ (see 1.11), where tenders are openly invited and a limited number of bids are received there is no specific requirement to obtain CPSS approval to proceed. For example, in four of the cases reviewed, only one or two contractors bid for the work. Whilst limited bids could be representative of market availability and appetite for the contract, they could also indicate issues with the procurement strategy or process e.g. timing, specification, advertising. There is no formal review independent of procuring officers to confirm whether smaller numbers of bids represent best value.</p> <p>For regulated procurements with an estimated contract value equal to or greater than £50,000 the Council must comply with provision 29 of the Procurement Reform (Scot) Act 2014. This is reflected in the ACC Procurement Regulations and manual, which require a formal competitive tendering process to be undertaken using the PCS website to advertise contract requirements. Tenders must be received electronically via PCS. Tender evaluations are to be completed by a panel of no less than two members, one of which must be technically qualified in knowledge of the procurement field, and recorded on an Evaluation Matrix template. Weightings are to be used to ensure the most economically advantageous supplier is selected. Upon supplier selection an award letter is issued to the successful supplier and letters issued to unsuccessful suppliers. Procurement legislation provides that all bidders have a right to feedback and a right to challenge decisions on the evaluation process. A written record of the evaluation process should be retained to support this.</p> <p>Whilst bid evaluations had been completed, this had not always been recorded on the contracts register system. In five cases although officers stated that more had been involved, there was no evidence that more than one panel member had completed the tender evaluation. In one case the standard evaluation matrix was not used, and the selection process was less clear as a result. Having more than one evaluator mitigates against the risk of error or bias. To mitigate the risk of legal action against the Council, evaluations require to be robust, and retained as per legislation requirements.</p>		
	<b>IA Recommended Mitigating Actions</b>		
	<ul style="list-style-type: none"> <li>a) CPSS should consider rejecting requests to proceed with fewer than four competitive quotations where this is the result of insufficient quotations having been invited.</li> <li>b) A record should be maintained of all instances where permission has been granted to proceed without the requisite number of quotations. This should be subject to periodic review to identify patterns of behaviour and areas where improvement work should be targeted.</li> <li>c) A review process should be developed and implemented to confirm whether tender exercises with smaller numbers of bids represent best value, before contracts are awarded.</li> <li>d) Tender evaluation matrices should include details of officers involved and should be recorded on the contracts register system. Where records indicate evaluations have not been completed by more than one officer, contracts should not be awarded until this has been reviewed.</li> </ul>		
	<b>Management Actions to Address Issues/Risks</b>		
	<ul style="list-style-type: none"> <li>a) <i>A process for recording exemptions approved will be created/agreed and implemented to allow for periodic review, as part of the process consideration will be</i></li> </ul>		

Ref	Description	Risk Rating	Major
	<p>given to rejecting requests where insufficient quotations have been invited (where such requests are not due to market limitations in terms of number of available suppliers).</p> <p>b) The above process will include the creation of a central record for such requests and the team will review whether there is any opportunity to automate the process.</p> <p>c) The procurement guidance will be supplemented to include information on tender exercises with a smaller number of bids and key points for DPA's to ensure best value.</p> <p>d) The contract register guidance will be updated on mandatory documentation to be uploaded which will include evaluation matrices.</p>		
	<b>Risk Agreed</b>	<b>Person(s)</b>	<b>Due Date</b>
	Yes	Strategic Commercial Manager	December 2024

Ref	Description	Risk Rating	Moderate
1.10	<p><b>Framework Agreements</b> – Frameworks can provide a compliant procurement route through which specified goods and services can be contracted for, without the need for further full tendering processes. Frameworks are themselves subject to tendering and selection processes, and establish the terms and suppliers who can meet purchasers' requirements during a defined period. Frameworks may be set up by an external central purchasing body (e.g. Scotland Excel) or internally (e.g. individually or in collaboration between Aberdeen City; Aberdeenshire, and Highland Council). They do not themselves create a binding contract to supply specified quantities or values of goods and services: they set the terms under which such contracts may be entered into.</p> <p>Where it is intended to procure goods and services available through a framework, it will first need to be reviewed by CPSS to confirm it is appropriate and in line with legislation. It can then be formally 'adopted' and reflected on the contracts register. Thereafter, call-off contracts will need to be entered into with the suppliers selected to meet the Council's requirements. The rules for selecting suppliers within a framework vary, but typically provide for either a direct award (where this can be justified in line with internal procurement governance requirements) or a 'mini-competition' (where suppliers within the framework bid to win the contract, and a framework-defined selection process is applied).</p> <p>ACC Procurement Regulations state that call-off contracts from a framework in excess of £10,000 require to be recorded on the contracts register system, with a clear link to the "framework master" record. However, this was not the case in two of seven cases (29%) where a framework had been referenced. Award letters had also not been produced in these instances – with individual Purchase Orders raised instead. Procurement guidance indicates that individual orders of under £10,000 do not require a separate call-off contract to be registered. However, in these instances there were orders over £10,000, and the guidance does not specify what to do in the event that multiple orders of less than £10,000 exceed this limit in aggregate – which would indicate a more substantial contract should have been let. There is a risk that without adequate guidance with a requirement to register all framework expenditure, call-off contracts will not be correctly recorded, impacting on procurement planning and compliance.</p> <p>In another two instances (29%) there was no evidence of the referenced frameworks having been formally adopted by the Council prior to their utilisation. If frameworks have not been reviewed and formally adopted prior to entering into contracts, then in addition to failure to meet internal governance requirements, there is a risk to the Council if the terms and conditions are incompatible or do not meet its needs.</p>		

Ref	Description	Risk Rating	Moderate
	<b>IA Recommended Mitigating Actions</b>		
	<p>CPSS should develop and implement controls to ensure that frameworks cannot be used until their adoption has been confirmed; relevant call-off contracts have been entered into, following appropriate competition or approved justifications for direct awards; and the call-off contracts with each individual supplier for which approval to spend has been granted have been added to the contracts register system.</p> <p>The requirements should be clarified in procedures and guidance to avoid ambiguity over the circumstances in which this should apply.</p>		
	<i>Further guidance will be developed around the use of frameworks for delegated procurers, assessment of current process to identify whether there are any areas where controls could be automated are to form part of the review mentioned in the management response.</i>		
	<b>Risk Agreed</b>	<b>Person(s)</b>	<b>Due Date</b>
	Yes	Strategic Commercial Manager	December 2024

Ref	Description	Risk Rating	Major
1.11	<p><b>Direct Awards</b> – In specified circumstances it may be appropriate to single source or ‘direct award’ a contract without competition. Procurement legislation allows this in exceptional circumstances where for specified reasons there is only one suitable source of supply, and that these reasons must be kept under review. The Council’s Procurement Regulations provide for such cases where there is adequate justification, and confirmation from the Head of CPSS that there are grounds for permitting a Direct Award in line with the procurement legislation. The Head of CPSS is required to maintain a register of such approvals. However, there is no such register. Details are however, generally, retained in the contracts register system.</p> <p><u>Directly Awarded Contracts</u></p> <p>As part of the review, the following was identified:</p> <ul style="list-style-type: none"> <li>• 152 of 481 contracts (32%) were directly awarded without competition. <ul style="list-style-type: none"> <li>○ This includes 31 ‘high value’ contracts (over £175,000).</li> <li>○ Due to variations in how contract values are recorded on the system it is not possible to identify the proportion of procurement spend that has been directly awarded.</li> </ul> </li> <li>• 10 of 481 contracts (2%) were awarded under an exemption or dispensation from the requirement to obtain competitive quotations. <ul style="list-style-type: none"> <li>○ As not all contracts are recorded on the register (see 1.4), the actual proportion is likely to be higher.</li> </ul> </li> </ul> <p>Three of the 18 cases reviewed (17%) had contracts which had been directly awarded without competition. Relevant forms and approvals were in place for each. However, the process for determining whether such approval should be granted by CPSS, and specific justifications, are not documented. This weakens assurance that all relevant considerations have been applied, and that such procurement is compliant (or that due regard has been given to the risks of non-compliance).</p>		

Ref	Description	Risk Rating	Major
	<p><u>Framework Agreements</u></p> <p>Where a framework agreement is in place, this can specify that a Direct Award call off is a compliant procurement route. This was the case for a further three contracts within the audit sample, and the contracts register indicates 28% (134 contracts, 20% 'high value') of contracts are categorised as 'call off' from a framework. Whilst technically compliant, there is limited justification being recorded for selection of a specific supplier within frameworks. The ability to single source within a framework means end users are not having to justify selection at the point of purchase. Without a detailed assessment of whether they offer the most economically advantageous option at the time contracts were entered into, there is a significant risk to demonstrating and delivering Best Value.</p>		
	<b>IA Recommended Mitigating Actions</b>		
	<p>CPSS should record justifications for each non-competitive action, with explicit reference to relevant sections of the legislation.</p> <p>The prevalence of direct awards without competition should be reviewed to ensure there is continued sound justification in every case.</p>		
	<b>Management Actions to Address Issues/Risks</b>		
	<p><i>A process for recording exemptions approved will be created/agreed and implemented to allow for period review.</i></p>		
	<b>Risk Agreed</b>	<b>Person(s)</b>	<b>Due Date</b>
	Yes	Strategic Commercial Manager	December 2024

Ref	Description	Risk Rating	Moderate
1.12	<p><b>Purchase Orders and Payments</b> – ACC Procurement Regulations, and Financial Regulations state that:</p> <p><i>“No supplies, services or works shall be ordered or instructed except on an official order form”, and</i></p> <p><i>“The order, with the contract references/schedule numbers added, shall be approved by the Director or other authorised signatory”.</i></p> <p>There is currently no means of recording contract references in a specific reportable field on the purchase to pay system, to facilitate a complete check that these are being recorded in every instance. Various clusters use alternative systems to raise orders and approve payment, and these also do not record or report on contract references. However, in line with the above internal regulations, references should be recorded.</p> <p>From a sample of nine orders relating to the sample of expenditure included in Appendix 1, two had no contract to reference, and the remaining seven did not reference the related contract number. This is a breach of ACC Procurement and Financial Regulations, and reduces assurance that all spend is supported by formal contracts, on agreed terms, determined through compliant procurement processes, which will deliver Best Value.</p> <p>One contract has been paid, in full, up-front for a five-year service. Whilst up-front payment can lock in value, this is a high risk option. Appropriate adjustments have been made to ensure the correct accounting treatment. However, in the event that a supplier can no longer deliver the requirements, it may be difficult to ensure funds are retained to support continuing service delivery.</p>		
	<b>IA Recommended Mitigating Actions</b>		

Ref	Description	Risk Rating	Moderate						
	<p>All purchase orders, however generated, should have contract reference numbers included. Controls should be implemented to ensure orders cannot be raised without a contract reference.</p> <p>Material up-front payments should be subject to appropriate controls / approvals.</p> <p><b>Management Actions to Address Issues/Risks</b></p> <p><i>Commercial and Procurement will work with Finance to develop appropriate corporate messaging, there are limitations around controls as the system does not have an option for a mandatory contract reference field.</i></p> <table border="1" data-bbox="284 616 1029 705"> <thead> <tr> <th data-bbox="284 616 657 649">Risk Agreed</th> <th data-bbox="657 616 1029 649">Person(s)</th> <th data-bbox="1029 616 1402 649">Due Date</th> </tr> </thead> <tbody> <tr> <td data-bbox="284 649 657 705">Yes</td> <td data-bbox="657 649 1029 705">Strategic Commercial Manager</td> <td data-bbox="1029 649 1402 705">December 2024</td> </tr> </tbody> </table>	Risk Agreed	Person(s)	Due Date	Yes	Strategic Commercial Manager	December 2024		
Risk Agreed	Person(s)	Due Date							
Yes	Strategic Commercial Manager	December 2024							

## 4 Appendix 1 – Sample Findings

### 4.1 Issues and recurring themes

The following risks were identified in respect of a sample of procurement activity reviewed as part of this audit:

Expenditure Level	Supply or Service	Identified Risk Areas
£10k - £50k	Cycle Training	Non-competitive action (single sourced). Exemption form completed. No documented business case.
£10k - £50k	Environmental Health Software	Non-competitive action (single sourced). Exemption form completed. Single year renewal for a long running system. No contract award letter.
£10k - £50k	Engineering Consultancy	Contract extended through direct award to existing supplier. Non-competitive action (single sourced from a framework). No exemption form.
£10k - £50k	Fireworks	Fewer than four quotations invited and returned. No exemption form. No documented business case.
£10k - £50k	School Transport Service	Part of a Dynamic Purchasing System. PCS award notice published after deadline.
£50k+	Cleaning Contract	Open tendering as part of a framework, limited number of bids for this Lot. No contract registered. Included in a framework but not called off.
£50k+	Day Education	Direct award (Social Care exemption). Contract approved retrospectively.
£50k+	Email Filtering Software	Non-competitive action (single sourced from a framework). Exemption form completed. No evidence of framework adoption. No documented business case. Single year renewal for a long running system. Previously presented as a business case to Committee as a three year contract. No PCS award notice published. No contract award letter.

Expenditure Level	Supply or Service	Identified Risk Areas
£50k+	Event Management	<p>Open tendering, limited number of bids.</p> <p>Price / Quality ratio varied between approved business case and invitation to tender (NB evaluation was on the basis advertised)</p> <p>PCS award notice published after deadline.</p>
£50k+	Specialist Waste	<p>No contract.</p> <p>No procurement planning or contract notices.</p> <p>Non-competitive action (single sourced). No indication of CPSS approval.</p>
£50k+	Libraries Management Software	<p>Non-competitive action (single sourced from a framework).</p> <p>No evidence of framework adoption.</p>
£50k+	Music Lesson Software	<p>Non-competitive action (single sourced). Technical Exemption form completed.</p> <p>As a technical exemption, the contract was awarded prior to this being notified to Committee.</p> <p>No PCS award notice published.</p> <p>Five year contract, paid up-front.</p>
£50k+	Outdoor Learning	<p>Non-competitive action (single sourced).</p> <p>Regular spend but no contract registered for 2023/24. A new direct award is being proposed for 2024/25.</p> <p>Single year renewal for a long running requirement.</p>
£50k+	Road Haulage	<p>No contract.</p> <p>No procurement planning or contract notices.</p> <p>Non-competitive action (single sourced). No indication of CPSS approval.</p>
£50k+	Scaffolding	<p>Open tendering as part of a framework, limited number of bids for this Lot.</p> <p>No contract registered. Included in a framework but not formally called off.</p> <p>Contract value exceeds approvals by over £100k.</p>
£50k+ > National Threshold	Skip Hire	<p>Open tendering, limited number of bids.</p> <p>Contracts register value exceeds Committee approved value:</p> <p>Spend not aggregated and planned effectively across the Council – various overlapping business cases and Committee approvals over several years from different Clusters.</p> <p>PCS award notice published after deadline.</p>



Expenditure Level	Supply or Service	Identified Risk Areas
<p><b>£50k+</b> <b>&gt; National Threshold</b></p>	<p>Street Lighting</p>	<p>No contract.</p> <p>No procurement planning or contract notices.</p> <p>Non-competitive action. The supplies were originally part of a contract let to another supplier through open tendering (though there were limited bids). The cluster identified a savings opportunity through obtaining a quotation from the manufacturer, after the original contract for supply, installation and management had been agreed. No indication of CPSS consultation or approval.</p> <p>The supplier is on a framework, but there is no evidence of its adoption by ACC.</p>
<p><b>£50k+</b> <b>&gt; National Threshold</b></p>	<p>Waste Bags</p>	<p>Mini-competition quick quotes from a framework.</p> <p>Award notice contract reference incorrect.</p> <p>PCS award notice published after deadline.</p> <p>Unsuccessful tenderers notified before Chief Officer approval recorded.</p> <p>Contract value exceeds approvals by over £100k.</p> <p>Contract value exceeds value included in the contracts register.</p>

## 5 Appendix 2 – Assurance Terms and Rating Scales

### 5.1 Overall report level and net risk rating definitions

The following levels and ratings will be used to assess the risk in this report:

Risk Level	Definition
<b>Strategic</b>	This issue / risk level impacts the Council as a whole. Mitigating actions should be taken at the Senior Leadership level.
<b>Directorate</b>	This issue / risk level has implications at the directorate level and the potential to impact across a range of services. They could be mitigated through the redeployment of resources or a change of policy within a given directorate.
<b>Service</b>	This issue / risk level impacts at the Business Plan level (i.e. individual services or departments as a whole). Mitigating actions should be implemented by the responsible Head of Service.
<b>Programme and Project</b>	This issue / risk level impacts the programme or project that has been reviewed. Mitigating actions should be taken at the level of the programme or project concerned.

Net Risk Rating	Description	Assurance Assessment
<b>Minor</b>	A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.	<b>Substantial</b>
<b>Moderate</b>	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified, which may put at risk the achievement of objectives in the area audited.	<b>Reasonable</b>
<b>Major</b>	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.	<b>Limited</b>
<b>Severe</b>	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.	<b>Minimal</b>

Individual Issue / Risk Rating	Definitions
<b>Minor</b>	Although the element of internal control is satisfactory there is scope for improvement. Addressing this issue is considered desirable and should result in enhanced control or better value for money. Action should be taken within a 12 month period.
<b>Moderate</b>	An element of control is missing or only partial in nature. The existence of the weakness identified has an impact on the audited area's adequacy and effectiveness. Action should be taken within a six month period.
<b>Major</b>	The absence of, or failure to comply with, an appropriate internal control, which could result in, for example, a material financial loss. Action should be taken within three months.
<b>Severe</b>	This is an issue / risk that could significantly affect the achievement of one or many of the Council's objectives or could impact the effectiveness or efficiency of the Council's activities or processes. Action is considered imperative to ensure that the Council is not exposed to severe risks and should be taken immediately.

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## 6 Appendix 2 – Assurance Scope and Terms of Reference

### 6.1 Area subject to review

Aberdeen City Council made payments of over £800 million to external bodies in 2022/23. Where this includes the procurement of goods, services and works, legislation and internal rules and regulations set out specific requirements which must be complied with in order to meet the Council's legal obligations, and provide assurance over Best Value in procurement.

The Council's Financial Regulations require that all purchasing and orders for supplies, services and works must be undertaken in accordance with the Council's Procurement Regulations. The Procurement Regulations refer to the Council's Procurement Manual for certain matters including the required procedural detail to ensure Best Value is obtained e.g. quotation and tender requirements.

The Council's Procurement Regulations require workplans with supporting business cases to be submitted by each Function to the Head of Commercial and Procurement Shared Services (C&PSS) for Committee approval, prior to the commencement of each financial year, for all contracts to be procured in the coming year, with a Contract Value of £50,000 or more for supplies and services, or £250,000 or more for works. When determining the contract value, the Council's Procurement Regulations require the Delegated Procurer to consider the aggregate value of the particular requirement for supplies, services or works across the whole Council.

Procurements shall only be undertaken by Delegated Procurers who have been designated as such by the Head of C&PSS and who hold relevant Delegated Procurement Authority (DPA), meaning the office concerned has completed the necessary DPA training and authority to procure has been granted by the Head of C&PSS as demonstrated by being included on the C&PSS Delegated Procurer register.

### 6.2 Rationale for review

An internal audit of procurement compliance was completed in September 2020 (AC2019) with recommendations based on risk gradings of major and significant.

C&PSS reported to the Risk Board in June 2021 stating 3 major recommendations had been closed off and new monitoring processes and reporting arrangements had been put in place to identify gaps and issues with compliancy.

In May 2022 internal audit completed a cross-service report on "Procurement Compliance Controls Support" with the objective of supporting the C&PSS in developing its approach to improving compliance with procurement requirements.

The consultation identified areas of weakness regarding:

1. Delegated Procurement Authority training from low completion rates to technical glitches with the training material.
2. Availability of reports to Delegated Procurers whilst procurement planning to avoid "off-contract" expenditure.

From the support, suggestions, discussions with internal audit, C&PSS intended to review the Procurement manual and training available and consult with clusters on reporting arrangements to ensure compliancy.

The objective of this audit is to provide assurance that the Council has appropriate arrangements in place, that are being complied with, to ensure compliance with procurement legislation and internal regulations.

### 6.3 Scope and risk level of review

This review will offer the following judgements:

- An overall **net risk** rating at the corporate level.
- Individual **net risk** ratings for findings.

### 6.3.1 Detailed scope areas

**As a risk-based review this scope is not limited by the specific areas of activity listed below. Where related and other issues / risks are identified in the undertaking of this review these will be reported, as considered appropriate by IA, within the resulting report.**

The specific areas to be covered by this review are:

- Procurement governance
- Procurement training
- Procurement planning
- Publication of procurement opportunities (Public Contracts Scotland)
- Contracts register and procurement documentation.
- Purchase orders
- Management reporting and action

## 6.4 Methodology

This review will be undertaken through interviews with key staff involved in the process(es) under review and analysis and review of supporting data, documentation, and paperwork. To support our work, we will review relevant legislation, codes of practice, policies, procedures, guidance.

Due to hybrid working across the Council, this review will be undertaken primarily remotely.

## 6.5 IA outputs

The IA outputs from this review will be:

- A risk-based report with the results of the review, to be shared with the following:
  - Council Key Contacts (see 1.7 below)
  - Audit Committee (final only)
  - External Audit (final only)

## 6.6 IA staff

The IA staff assigned to this review are:

- Debbie Steele, Auditor (**audit lead**)
- Colin Harvey, Audit Team Manager
- Jamie Dale, Chief Internal Auditor (**oversight only**)

## 6.7 Council key contacts

The key contacts for this review across the Council are:

- Gale Beattie, Director, Commissioning.
- Craig Innes, Head of Commercial & Procurement Services.
- Melanie Mackenzie, Strategic Commercial Manager (**process owner**)
- Vikki Cuthbert, Chief Officer (interim), Governance.
- Jenni Lawson, Chief Officer (interim), Governance.
- Jonathan Belford, Chief Officer, Finance.

## 6.8 Delivery plan and milestones

The key delivery plan and milestones are:

Milestone	Planned date
Scope issued	01-Dec-2023
Scope agreed	08-Dec-2023

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Milestone	Planned date
Fieldwork commences	18-Dec-2023
Fieldwork completed	22-Jan-2024
Draft report issued	09-Feb-2024
Process owner response	01-Mar-2024
Director response	08-Mar-2024
Final report issued	15-Mar-2024