



SHA Procurement Policy

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1.0 INTRODUCTION

- 1.1 This policy sets out how Southside Housing Association will purchase or contract for goods / supplies, services or works. The policy sets down the principles that will apply to all aspects of the Association’s procurement activities, from high risk strategic projects, to small day to day purchases.
- 1.2 The value of goods / supplies, services and works, and the associated risks, will influence the procurement approach to be used.
- 1.3 The Scottish Housing Regulator’s regulatory expectations include a requirement that the Association should pursue Value for Money (VFM) in all that it does, as well as requiring the Association to comply with the law.
- 1.4 This policy seeks to address both value for money and the requirements of procurement laws.

2.0 BACKGROUND

- 2.1 Traditionally the Association has had a variety of procurement methods for goods supplies, services and works; sometimes using competitive tendering, sometimes inviting quotes, sometimes involving long term partnership relationships with consultants and/or suppliers. This pluralist approach has many strengths but the Association is mindful of the need to ensure corporate consistency, and the need to ensure that there is transparency and public accountability.
- 2.2 The definition of the Association as a “contracting authority” under procurement law is due largely to the fact that the Association receives and is the custodian of large amounts of public money. Consequently the probity and transparency of our procurement practices are very important.
- 2.3 The Association is aware that there will be tensions in our procurement policy between
 - The need to get the best price for goods /supplies, services and works and the need to ensure consistency in quality, and
 - The need to practically source goods / supplies, services and works and the requirement to demonstrate a clear rationale for using selected procurement routes.

Notwithstanding these obvious tensions, the Association will strive to ensure that there is a clear audit trail in all procurement decisions and that the ultimate objective is to get the best value in all goods / supplies, services and works.

2.4 Key law that applies to procurement of contracts by the Association is found in:

- The Procurement Reform (Scotland) Act 2014 (**the Scottish Act**) and
- Public Contracts (Scotland) Regulations 2015 (**the 2015 Regulations**).

3.0 PRINCIPLES OF SOUTHSIDE'S PROCUREMENT POLICY

3.1 The Association will seek to be consistent with the following principles in applying its Procurement Policy:

- Value for money
- Quality
- Transparency and proportionality, equal treatment and non-discrimination
- Compliance with Regulation

These principles will apply irrespective of the size and value of the goods / supplies, services or works acquired.

4.0 VALUE FOR MONEY

4.1 The Association must demonstrate that it achieves Value for Money in procurement.

4.2 The Association recognises the difference between price and value, and will consider the quality of the subject matter of contracts as well as the cost. The 2015 Regulations require the Association to seek the “most economically advantageous tender (**MEAT**)” and the Scottish Act requires that cost, quality and sustainability are balanced to assess value for money. This means that, in many cases, a broader approach to Value for Money will apply that looks at the whole life cost and other relevant matters.

5.0 QUALITY

5.1 In procurement, the quality of goods / supplies, services or works can be as critical as the cost.

5.2 Quality can directly impinge upon the real cost of goods / supplies, services or works.

5.3 In any procurement routes there must be a clear relationship between quality and price in any assessment process.

6.0 TRANSPARENCY AND PROPORTIONALITY, EQUAL TREATMENT AND NON-DISCRIMINATION

- 6.1 These principles are at the heart of procurement law, both in the Scottish Act and the 2015 Regulations, and essential to the Association's procurement practice.
- 6.2 The Association is accountable for all the decisions it makes. This also applies in any procurement practice.
- 6.3 This accountability relates to customers, funders and partners, and regulatory bodies.
- 6.4 A clear audit trail will exist for procurements that will set out the Association's expectations, the supplier's commitment, timescales, pricing, review arrangements etc.
- 6.5 Equally important will be the Association's reputation for probity in procurement.
- 6.6 The terms of any procurement will be clear (subject to any requirements for commercial confidentiality), proportionate, and all tenderers will be treated equally and without discrimination.
- 6.7 There will be sound internal controls in relation to staff making decisions on contracts.
- 6.8 Employees and Committee Members must not benefit in any way from the Association's procurement practices.
- 6.9 For further clarification on 6.8 (above) Employees and Committee Members must refer to the Association's policies in relation to Control of Benefits and Payments to Committee Members and Staff, Code of Conduct for staff and Committee members, and Gifts and Hospitality Policy.
- 6.10 In addition to the 6.8 and 6.9 all Southside Housing Association staff members involved in Procurement Activity on behalf of the Association are required to sign a Conflicts of Interest Declaration Form on an annual basis. Staff and Committee members are also required to update their Declaration Form if their circumstances change during any year.

7.0 COMPLIANCE WITH LAW AND REGULATION

- 7.1 In addition to the good practice guidance that the Association will strive to follow, there are various statutory regulations that apply to procurement and that must be upheld. In particular:
- The Scottish Act
 - The 2015 Regulations

- The Bribery Act 2010
 - Equality Act 2010
- 7.2 Consistent with the principles of probity outlined above, and the anti-bribery legislation, the Association will comply with its policy for Control of Benefits and Payments to Committee Members and Staff
- 7.3 Supplies, services and works over certain threshold values will require formal notification under the 2015 Regulations or the Scottish Act unless a specific exemption set out in the legislation applies (for more information see 8.16 and 8.17 below). Thresholds current in January 2022 are listed in the Appendix 1. Further information regarding requirements under these key procurement laws are set out in Section 8 (Procurement Practice).
- 7.4 In addition to these specific regulatory obligations, the Association will also shape its procurement policy and practice to reflect its commitment to its own Equalities Action Plan, and the legal obligations placed upon it by equality legislation.
- 7.5 Given the demographic profile of many of the communities it serves, the Association will be particularly sensitive to race equality in the procurement of goods / supplies, services and works.
- 7.6 Irrespective of the scale and value of the goods / supplies, services or works procured, the Association will reflect a commitment to these principles in all procurements.

8.0 PROCUREMENT PRACTICE

- 8.1 The Association will maintain an online, public register of contracts entered into following procurement exercises (under the Scottish Act and / or 2015 Regulations) that started on or after 18 April 2016 for any activity where the goods / supplies, services or works procured **exceeds £50,000**.
- 8.2 The Association will maintain a separate register of contracts privately where the procurement of goods / supplies, services or works are under £50,000.
- 8.3 When procuring any contract over Scottish Act thresholds (whether also over 2015 Regulation thresholds or not) the Association will comply with its Sustainable Procurement Duty. That is, prior to procuring any such contract, the Association will consider how the process might be used to:
- Improve the social, environmental and economic wellbeing of its area, reducing inequality;
 - Facilitate the involvement of small and medium sized enterprises (**SMEs**), third sector bodies or supported businesses (where at least 30% of the workforce are disabled or otherwise disadvantaged);
 - Promote innovation.

- 8.4 To comply with the Sustainable Procurement Duty, the Association will have regard to the statutory guidance issued by the Scottish Government.
- 8.5 In March 2023, relevant Scottish Government guidance for procurement includes:
- “Procurement Reform (Scotland) Act 2014: statutory guidance” – found at:
www.gov.scot/publications/procurement-reform-scotland-act-2014-statutory-guidance/
 - Scottish Procurement Policy Notes (SPPNs) – found at:
<https://www.gov.scot/collections/scottish-procurement-policy-notes-sppns/>
 - Construction Policy Notes (CPNs) – found at:
<https://www.gov.scot/collections/construction-policy-notes-cpns/>
 - Other procurement policy guidance, notes and link to “Procurement Journey” – Refer –
www.gov.scot/policies/public-sector-procurement/support-for-public-sector/
- 8.6 The Scottish Act requires the Association, unless a specific exemption set out in the legislation applies (for more information see 8.16 and 8.17 below), to procure any contract over Scottish Act thresholds (but under 2015 Regulation thresholds) by a procedure which includes:
- Publication of a “contract notice” on the Public Contracts Scotland (PCS) website, advertising the contract opportunity to potential tenderers.
 - Assessment of tenders received using only the exclusion criteria and other award criteria identified in the contract notice and any tender documents that follow – and based on a value for money / MEAT assessment rather than on price alone.
 - Publication of an “award notice” on the PCS website, once a decision is made to award the contract.
- 8.7 When procuring a contract valued over 2015 Regulation thresholds, then the Association will follow the more detailed procurement procedures provided in the 2015 Regulations, unless a specific exclusion set out in the legislation applies to the contract in question.
- 8.8 When procuring a contract of £4 million or more (**a Major Contract**), the Association must consider whether to impose community benefit requirements (**CB Requirements**) as part of its procurement.

8.9 CB Requirements are contract provisions relating to training and recruitment, or sub-contracting opportunities available, or otherwise improving the economic, social or environmental wellbeing of the Association's area.

8.10 In the Association's initial contract notice, the Association will either:

- Summarise the CB Requirements to be included in the contract – or
- Give its reasons for not including any CB Requirements.

8.11 To decide its approach to CB Requirements in Major Contracts, the Association will have regard to the statutory guidance issued by the Scottish Government.

8.12 The European Single Procurement Document (Scotland) (**ESPD**), which replaces previous forms of pre-qualification questionnaire, and is available from the Scottish Government Procurement Journey website, will be used by the Association:

- For all Procurements Activities

8.13 In all procurement exercises, regardless of contract value, invitations to quote or tender will always include the right for the Association to cancel the tender process at any time, or to not accept any or all tenders submitted.

8.14 The Association can consider the appointment of consultants, contractors and suppliers under framework agreements and may seek to access existing frameworks by others to avoid the lengthy set up process which might otherwise be involved.

8.15 The Association may take independent advice and / or legal advice regarding any individual procurement process in order to ensure compliance with the Scottish Act and 2015 Regulations, as appropriate.

8.16 Exemptions from procurement legislation

In a number of situations the legislation exempts a procurement from compliance with the Scottish Act and / or the 2015 Regulations. If the Association considers that one of its procurements may be exempt, they will take professional advice about whether an exemption applies before proceeding.

8.17 The following are examples – the Association will obtain professional advice before treating any specific procurement as exempt from the legislation:

Contract value is *over* Scottish Act threshold, but *under* 2015 Regulations threshold:

- Only one particular contractor can supply the goods / services or undertake the works – for example, where a unique work of art is commissioned – the Association cannot artificially narrow its requirements so that only one contractor is appropriate.
- Where, for reasons of extreme urgency, a procurement exercise cannot be completed – if the reasons for urgency are attributable to the Association’s actions, this exemption cannot be used.

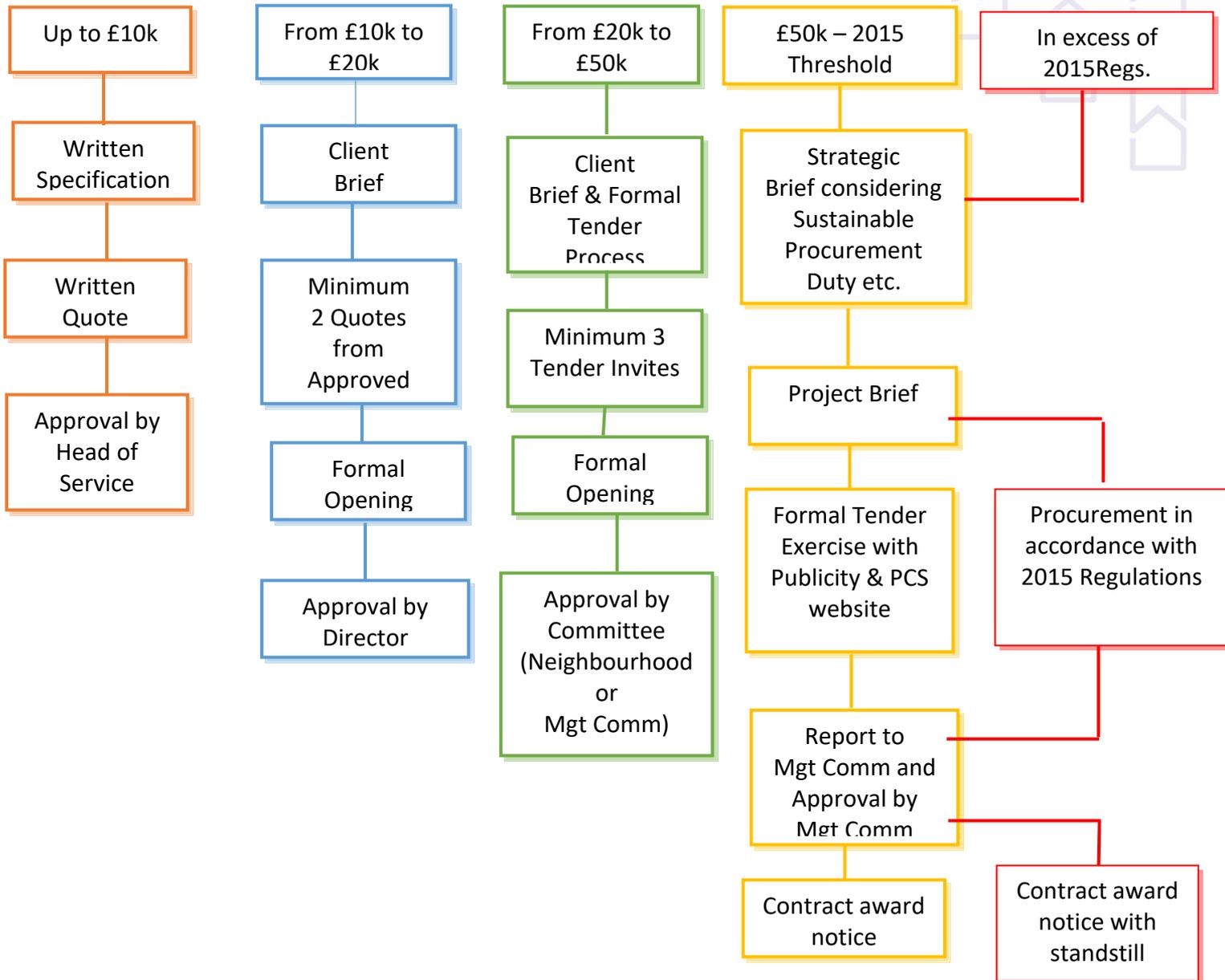
Contract value is *over* Scottish Act threshold, or *over* the 2015 Regulations threshold:

- A contract between the Association and its subsidiary – as long as that subsidiary is “controlled” by the Association.
- Acquisition of land – this exemption must be treated with caution if the Association proposes a land acquisition where development is also to occur as part of the transaction.
- Central bank services or loans.

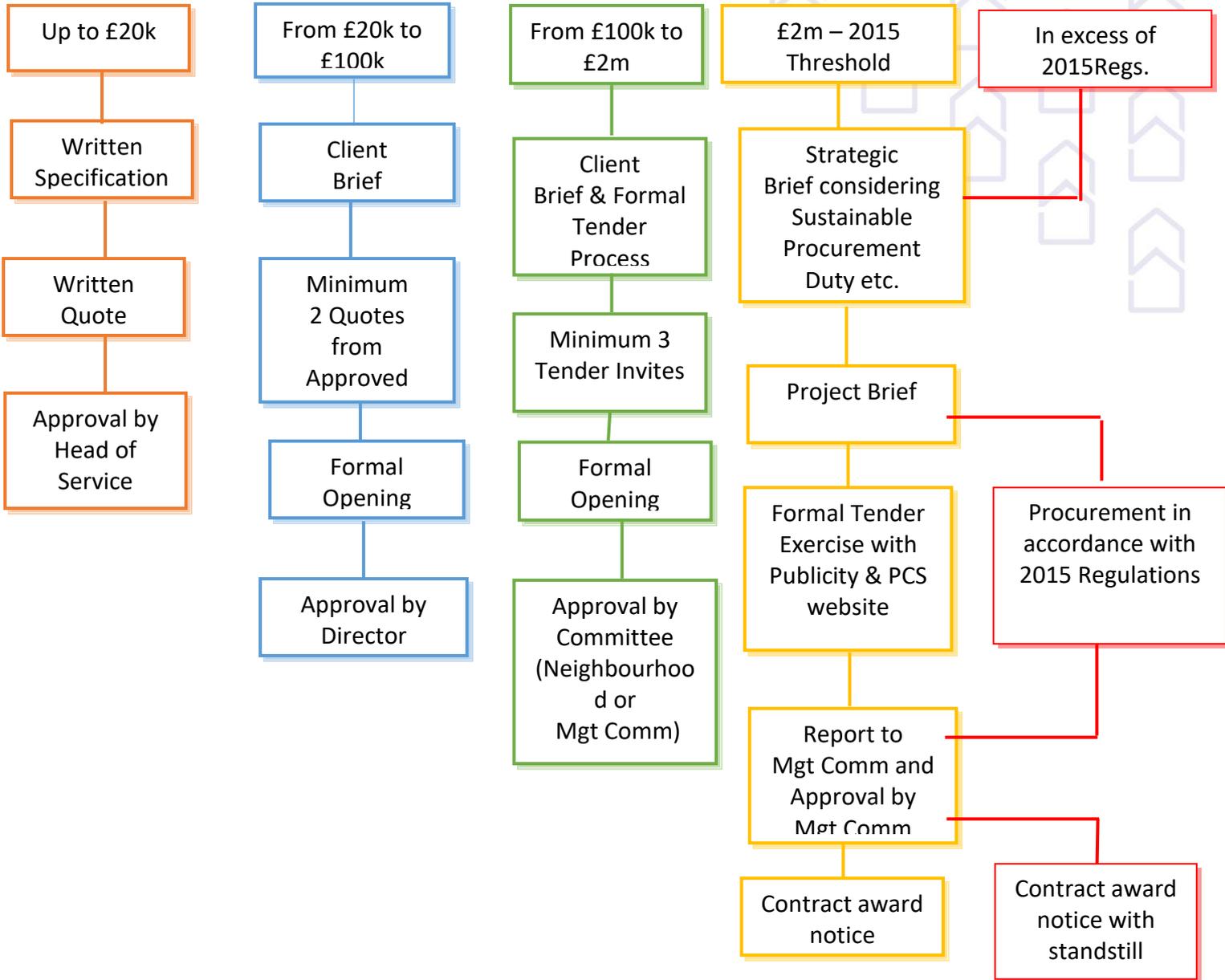
9.0 PROCUREMENT PRACTICES

9.1 The table below sets out the main procurement practices that will be used by Southside Housing Association.

Procurement of Goods / Supplies / Services:



Procurement of Works



10.0 SERVICE DELIVERY

- 10.1 For smaller sums of expenditure i.e. individual repairs, the procurement will form part of a larger contractual agreement and there will be delegated authority to different grades of staff. This will ensure that the exigencies of the service take priority but within an agreed procurement framework.
- 10.2 In addition for key supplies, services and works there will be agreed and pre-approved lists of contractors. The Approved Contractor's List will normally be used for jobs up to a value £20k and will allow the Association to quickly source goods / supplies, services and works without having to go through repeat pre-qualification assessments.
- 10.3 For work in excess of £20k the steps set out the flowcharts above will be carried out.
- 10.4 Where appointments are made out with the general framework of the Procurement policy these decisions will be reported to the next meeting of the Management Committee or appropriate Sub Committee and ratified by the Management Committee, in advance. All such decisions will be informed by knowledge of prevailing market conditions and pricing to ensure that the Association can demonstrate its commitment to Value for Money. The Association may, in regard to specific procurement decisions, take legal advice to further inform the decision taken and procedures followed.

11.0 DECISION MAKING

- 11.1 Where the Association makes a particular procurement decision, whether through negotiation, competitive tendering, partnering etc., a robust and transparent explanation, subject to commercial confidences will be made available to all tenderers. Unsuccessful contractors will receive an explanation and feedback on the selection process.
- 11.2 The Association expects to move towards increasing use of electronic tendering procedures, and increasing use of website based advertising of contracts. The Scottish Act and 2015 Regulations will make the use of electronic tendering procedures mandatory in due course and the Association intends to ensure it can comply when the mandate comes into force.

12.0 CONCLUSION

- 12.1 All procurement practice by the Association is to be guided by the principles outlined in this policy. Where practicable, the process framework and pricing threshold outlined in the flowcharts in section 9 above is to be followed. Any exceptions to this policy are to be ratified by the Association's Management

Committee. Further detail on this procurement policy will be found in both Maintenance and Development Policies given the nature of these areas of activities; however these specific policies will be consistent with the principles of this corporate procurement policy statement.

Appendix 1 – Thresholds

The tables below list contract value thresholds to be applied by the Association when considering whether procurement of a contract must follow the Scottish Act and / or the 2015 Regulations.

Scottish Act

Public Contract for:	Threshold (net of VAT):
Anything other than Works (i.e. Supplies or Services)	£50,000
For Works	£2,000,000
A major contract (must consider community benefit requirements)	£4,000,000

2015 Regulations (Thresholds valid 1 January 2022)

Public Contract for:	Threshold (inclusive of VAT):
Supplies or Services	£213,477
Small lots – Supplies or Services	£70,778
Works	£5,336,937
Small lots – Works	£884,720
“Light regime” services – e.g. social services, legal services	£663,540



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