



Legal status

The following information explains the legal position of Scotland Excel and references the legislation that enables it to contract on behalf of its members through its lead authority, Renfrewshire Council.

Please note that this is not intended to constitute legal advice and should not be relied upon in lieu of consultation with appropriate legal advisors.

Joint committee

Scotland Excel is a joint committee. It is formed under section 57 of the Local Government (Scotland) Act 1973 to carry out the purchasing functions as decided by its member councils.

Scotland Excel is one of a number of purchasing consortia in Great Britain, many of which are constituted either as joint committees under equivalent legislation or as unincorporated associations.

Each participating council has entered into a formal agreement to act together with other member councils in carrying out common functions and duties better performed in collaboration. Each participating council nominates a representative to consider and decide upon the joint committee's business and the joint committee is subject to its own procedural standing orders.

Further information is available on [Renfrewshire Council's website](#).

Lead authority

Each of the member councils of Scotland Excel has agreed to Terms and Conditions which set out the governance arrangements for Scotland Excel and the basis for each member council's involvement in Scotland Excel. A joint committee is not a separate legal entity however, therefore, to ensure the actions of a joint committee are carried out and have legal effect it must appoint a 'lead authority' with legal personality to act on its behalf and implement its decisions.

The lead authority appointed to act for Scotland Excel is Renfrewshire Council. One consequence of this is that Scotland Excel agreements, which could be framework agreements or contracts, will be awarded by Renfrewshire Council, acting on behalf of Scotland Excel.

Renfrewshire Council, therefore, has two distinct roles in relation to Scotland Excel namely as lead authority and as an individual member council. In its capacity as an individual member council, Renfrewshire Council has no overarching role in managing or operating a Scotland Excel agreement. It, again as an individual member council, similarly has no decisive role in the operation or management of any contracts made by other Councils based on a Scotland Excel agreement.

When Renfrewshire Council acts as lead authority, it does so in accordance with the instructions of and powers delegated by the Scotland Excel joint committee. The governance structure of the joint committee, via the Terms and Conditions that support it, ensures that the benefits and risks associated with membership of Scotland Excel are shared across the member councils.

Central purchasing body

Under the Public Contracts (Scotland) Regulations 2015 Renfrewshire Council as contracting authority is authorised by Scotland Excel to award public contracts or conclude framework agreements intended for one or more contracting authorities as a 'central purchasing body' in accordance with regulations 2(1), Interpretation, and 38, Centralised purchasing activities and central purchasing bodies.

Member councils, associate members and framework agreements

Scotland Excel establishes framework agreements for the benefit of its member councils. The framework agreements may also be used by its associate member organisations.

A framework agreement is defined by The Public Contracts (Scotland) Regulations as:

“an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged”.

A framework agreement is not a contract. A contract is only formed when a contracting authority makes a purchase under the terms of the framework agreement.