

Communities & Equality

Equalities in Procurement a Suppliers Guide

February 2014



**Brighton & Hove
City Council**

Equalities in Procurement

Tackling inequality is one of the three key priorities of our new Corporate Plan and we aim to be pro-active and effective in achieving this. We recognise that there can be no fair society if some groups remain disadvantaged because of their legally protected characteristics: age, disability, race/ethnicity, religion and belief, sex, sexual orientation or gender reassignment. This also applies to how we provide our services either directly or when we procure them from elsewhere. We expect suppliers who provide goods and services on our behalf to adhere to the same principles. Compliance with the Public Sector Equality Duty helps us ensure that the goods and services we procure are fit for purpose and meet the needs of our users. It's an effective tool for improving economy, efficiency and effectiveness and therefore value for money.

The following information contained within this booklet explains what the Council's expectations are regarding equalities and provides suppliers with where they can get further advice and information.

At the council we recognise that everyone including our suppliers has a responsibility to remove barriers to our services where ever possible and to ensure they meet the needs of different users.

We hope that you can help support us in our vision for the Council.

The Procurement Team

Delivering equality in service provision

Brighton and Hove City Council recognises and welcomes the diversity of our city. We recognise that this is part of what makes our city great.

Incorporating equality outcomes, where relevant and in a proportionate way, should be a normal part of designing and specifying a service. It is important that they are considered upfront before the procurement process starts. This will help identify the specific needs of different potential users allow them to be appropriately reflected in the process so as to buy better outcomes for services and the council.

The Procurement Team at the Council sets the standards, provides the templates and guides staff through the procurement process. We also provide the guidelines to help our staff and suppliers to work better with each other, our partners and our stakeholders.

The council also recognises our diverse private sector and the range of opportunities and services it offers the people who live and work in the city. With a large proportion of small to medium sized businesses we work in partnership to support them in promoting cohesion and sustainability.

The Corporate Procurement Strategy 2014-2017 is aligned and put in place to help support the Council's Corporate Plan. The Procurement Strategy sets out our strategic objectives at Brighton & Hove City Council, across six key areas:-

1. **Services modernisation** - support the council's modernisation agenda for existing and future services to assess and improve their value for money, efficiency and

effectiveness

2. **Supply and services options appraisal** - thorough evaluation of all commissioning and procurement options (internal and external) for the provision of services
3. **Stakeholder and supplier engagement** - develop full stakeholder and supplier engagement in procuring council services
4. **Procurement, Diversity & Sustainability** - clear vision of relationships between the Procurement Strategy, the council's Equality and Inclusion Policy and Sustainability Policy and Action Plan
5. **Supply markets** - understand supply markets and seek to influence and develop these where possible
6. **Procurement service improvement** - improve the customer experience, quality and value for money of Procurement methods through service re-design and effective use of IT

A full copy of the Corporate Procurement Strategy 2014-2017 can be download from the Contracts and Tenders Pages on our Website:- <http://www.brighton-hove.gov.uk/content/council-and-democracy/contracts-tenders>

Our procurement processes demonstrate our commitment to equality that we extend to you as our suppliers. We demonstrate this in the advice we provide, through the questions we ask and by making sure that contractual arrangements actively endorse, enforce and promote equality.

This guide is designed to give you some hints that will help you support the Council's vision in a practical way and we hope you will find it helpful.

The Legal Bit.....

Equality Act 2010

The Equality Act (2010) sets out anti-discrimination law in the UK. It identifies 'protected characteristics', age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, pregnancy and maternity and marriage and civil partnerships.

The Act sets out the public sector equality duty (PSED) which applies to most public authorities in England, e.g. local authorities, police, schools, universities. It also applies to organisations carrying out a public function. It therefore includes private companies or voluntary sector organisations that have been contracted to carry out public functions on behalf of a public authority. The duty only applies in respect of the public function being carried out and not the wider business of the contracted body.

The PSED requires public authorities (and those acting on our behalf) to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not, and
- Foster good relations between people who share a protected characteristic and those who do not.

The Act also explains that advancing equality of opportunity involves having due regard to the need to:

- Remove or minimise disadvantages suffered by people due to their protected characteristics.
- Take steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people, and
- Encourage people with certain protected characteristics to participate in public life or in other activities where their participation is disproportionately low.

The main purpose of the Equality Act 2010 (EA10) is to streamline and strengthen anti-discrimination legislation in Great Britain. It provides the legal framework that protects people from discrimination.

Complying with the Duty may involve treating some people better than others, as far as this is allowed by discrimination law. For example, it may involve making use of an exception or the positive action provisions in order to provide a service in a way which is appropriate for people who share a protected characteristic – i.e. providing computer training to older people to help them access information and services.

Taking account of disabled people's impairments

The Duty also explicitly recognises that disabled people's needs may be different from those of non-disabled people. You should therefore take account of disabled people's impairments. This might mean making reasonable adjustments or treating disabled people better than non-disabled people in order to meet their needs.

Invitation to tender (ITT)

Having open, fair and competitive procedures for procuring contracts is important for the Council. It helps the Council get best value for money on what is being spent on services delivered through suppliers.

The rules on operating fair, open and competitive processes when procuring a contract are contained in the Council's Procurement Rules. These Rules also set out the requirements for advertising.

It is the Council's policy to attract as wide a range of suppliers as possible. The Council promotes equality of opportunity and will consider applications from persons of all backgrounds and suppliers that can better incorporate Equality issues which overlap with 'community benefits' which could include:-

- community cohesion objectives, for example developing strong positive relationships between people of different backgrounds

- targeted recruitment and training, for example to support disabled people into the workplace, or to ensure that women have an equal opportunity to reach senior positions
- equal opportunities training for an existing workforce
- supply-chain initiatives, for example to facilitate the capacity of suppliers to meet equality criteria community consultation
- promotion and support of social enterprises or minority businesses
- Resources for any number of community initiatives, for example lunchtime social events for elderly people who are at risk of isolation.

Short-listing applications

The Council uses a Pre Qualification Questionnaire (PQQ) which is an application pack similar to the one you may complete for a job application. The PQQ contains a number of equalities related questions:

- Are staff who have managerial responsibilities required to receive training on equal opportunities?
- In the last three years, has any finding of unlawful discrimination towards people with a protected characteristic in the employment field been made against your organisation by the employment tribunal, the employment appeal tribunal, or any court, or in comparable proceedings in any other jurisdiction?
- In the last three years, has your organisation been the subject of a formal investigation by the Equality and Human Rights Commission (E&HRC) because of a claim of unlawful discrimination?
- If the answer to the any of the two previous questions (or both) is '**Yes**', what steps did your organisation take as a result of that finding or investigation?
- Is your policy on equality set out:
 - in instructions to those employees concerned with recruitment, training and promotion?
 - in documents available to employees, recognised trade unions or other representative groups of employees?
 - in recruitment advertisements or other literature?
- If we asked, could you provide relevant examples of the instructions, documents, recruitment advertisements or other literature?
- Can you provide other evidence to show how you promote race equality in employment?
- Do you follow the Employers Code of Practice in the Equality Act 2010, as far as is possible which gives practical guidance to employers and others on preventing discrimination against victimise or harassing job applicants and employees from all the protected characteristic groups within the Act.

- Do you have a complaints system that is accessible to all your customers and do you monitor complaints on the basis of age, disability, religion or belief (or lack of belief), sex/gender, race/ethnicity, sexual orientation, gender reassignment, pregnancy and or maternity?
- If you are not currently subject to UK legislation, please supply details of your experience in complying with equivalent legislation that is designed to eliminate discrimination and to promote equality of opportunity.

We may also ask you specific questions related to the tender at either pre qualification questionnaire (PQQ) or tender stages but all these will be relevant and proportional to the contract which demonstrate you understand your obligations and act with due regard to legislation.

We will make reasonable adjustments to ensure access should you need to provide an interview and/or presentation as part of the short-listing process. Further details will be included in the tender communications.

Equalities in the contract

All of our contracts include equalities clauses/specifications that are relevant and proportionate to the contract. You can expect to be monitored on these clauses, general equalities legislation and any specifics added to the monitoring performance you have been advised of.

It's all in the policy

You may be asked to provide either a policy statement or policy. A policy statement is single page summaries whereas a policy goes into more detail about how you expect to deliver your Equality agenda and implement your equality objectives.

A good policy statement will confirm your commitment to Equality, a commitment to review the agenda and be signed and dated by a senior person in your organisation. It will show you provide training to your staff members and roughly outline your processes. It will nominate someone to be responsible for equalities. A very strong policy statement will commit to complete Equality Impact Assessments or explain how you will show evidence of due regard within the PSED and/or how you will evidence how you have met your equality obligations or other social requirements.

Our Procurement Equality Standards

Our Procurement Equality Standards require you to show **how** you meet/will evidence the equality laws and our equality standards. The level of proof we look for depends on two things:

1. The impact of your goods or services on people
2. The size of your organisation (proportionality) please see *the examples below regarding proportionality and the types of service it provides.*

Equality becomes more important if the goods or services being supplied have a high impact on people. For example, an organisation providing home care to people in the City might only be small in size, but will have a high impact on its customers; in this case we would look for a greater level of understanding of equality from this supplier and more evidence of meeting our equality standards.

The following are examples of proportionality

Example contract	IMPACT	Relevant issues
Meals on wheels agency employing 30 people	High	Employment of staff. Delivering meals daily to a group of people whose specific needs must be taken into account, e.g. food allergies and religious/cultural beliefs (nut allergy, vegetarian, halal, kosher).
Grass cutting by a sole contractor	Medium	No staff employed Service delivered indirectly to people. The contractor may have to consider the access needs of disabled people living nearby to the area being cut. They may need to maintain access during the works. The residents may complain to the Council about the obstruction.
Running a payroll system for staff – the service company employs 200 people	Medium	Employment of staff relevant due to the size of the workforce. Services delivered indirectly to people (Council staff) – the company has a limited ability to promote equality – however, payslips should be available in larger print and enquiry systems should consider the needs of all.
Producing parts for Council machinery - a firm employing 20 people.	Low	Employment of staff (unless a supported employment setting / social enterprise e.g. REMPLOY where most employees are disabled). Services not delivered directly to people.

Why do we have standards?

We want both our existing and new suppliers to be clear about what we expect from them in terms of equality policy and practice. We want you to match these standards, maintain them and improve on them.

Our objectives are to ensure:

- All contracts are sourced and delivered in a way that creates fairness for all and promotes equality of opportunity for staff, the general public, our customers and the business community.
- The goods, works and services provided by contractors, partners and suppliers deliver fairness for all and cater equitably for different users' needs.
- That all different types of customers of the goods, services or works are equally satisfied with performance and quality.
- That our equality standards are built into the procurement process at all stages.
- That our suppliers share and help deliver our equality goals.
- That existing contracts and suppliers are regularly checked to ensure they continue to meet our equality standards.
- That Council officers and anyone carrying out a function of the Council maintain our equality standards in all that they do.
- That both existing and new suppliers work to improve equality standards on an ongoing basis.

What we expect of you:-

Suppliers will be able to work with Brighton & Hove City Council only when they can show that they meet our equality standards. These standards must be clearly shown in either your policy documents or method statements and must be used every day in your work.

The Council aims to help community businesses achieve our equality objectives. We are therefore happy to provide support and guidance to organisations working with us that would like to improve their performance.

If you sub-contract any part of your services, you must ensure that any sub-contractors also meet our equality standards. You could also ask prospective tenders to ask similar questions to those in the PQQ to assess the capability of a sub-contractor to ensure they meet equality requirements.

We expect you to continue to meet our equality requirements while you work with us and in the future. If you do not, we will work together with you to address the problem. If you do not resolve the problem even after help has been provided, we may end our contract with you.

Termination of contract

Sometimes things go wrong. If during the delivery of the contract monitoring indicates breaches of equality requirements, we would discuss this with you and agree steps to rectify this. A serious breach may mean that we will need to use sanctions provided in your contract, but we will initially work with you to understand the problem. We may:-

- Explore whether staffing matters are properly managed
- Discuss and perhaps clarify the equality criteria
- Ask whether there are any different ways to ensure the equality objectives
- Evaluate performance management
- Ask you questions about our partnership working approach

For more information see our useful contacts pages

Business Link and the Federation of Small Business

Provide help support and networking for small businesses

www.businesslink.gov.uk

www.fsb.org.uk

Equality and Human Rights Commission

A combination of the former Commission for Racial Equality (CRE), Disability Rights Commission (DRC) and Equal Opportunities Commission (EOC). The three organisations merged in October 2007.

www.equalityhumanrights.com

Direct Gov - Official Government portal.

This can provide you with lots of legal advice.

<http://www.direct.gov.uk/en/index.htm>

Office for Disability Issues

Provides an overview of the Government agenda

<http://www.officefordisability.gov.uk/>