

Guidance for Service Suppliers on Equality and Diversity in Procurement

Introduction

The Council spends over £1 billion per annum on goods, services and works to provide infrastructure and services to support the people of Kent. Whilst a contractor themselves must not discriminate, the Council's duties include not only ensuring discrimination does not occur, but also actively promoting equal opportunities and good community relations. In order to do this, the Council has built relevant equality considerations into the procurement process. Contractors, and potential contractors, need to be aware of the legal duty placed on the Council since it has implications for them.

By promoting equality and diversity in procurement, the Council should:

- Provide more adaptable services to tackle social exclusion, support independent living and develop stronger and more cohesive communities
- Create a diverse and integrated workforce.
- Improve the accessibility, quality and appropriateness of our services.
- Improve overall value-for-money in terms of goods, works and services it purchases.

The Equality Act 2010 became law on 1 October 2010. One of the Act's main objectives is "to enable duties to be imposed in relation to the exercise of public procurement functions"

The Act, requires public authorities to 'have due regard' to:

- eliminate unlawful discrimination
- advance equality of opportunity
- foster good relations when exercising their functions.

Public bodies need "to consider the needs of diverse groups in the community when designing and delivering public services". This also applies to private bodies exercising public functions.

The act seeks to invoke a cultural shift in how public authorities pursue equality objectives through their procurement activities. It also notes that:

"a common approach to equality in public procurement could reduce burdens on business applying for public sector contracts" and "make it easier for small and medium-sized businesses to compete."

Amendment to the Local Government Act 1988

Local authorities are explicitly permitted to take non-commercial matters into account during the procurement process, when they consider it is 'necessary' or 'expedient' to do so. This is in order to comply with the Single Equality Duty.

Procurement and Equality

This guide is intended to assist suppliers with understanding the Council's requirements on equality and diversity in procurement. The Council's Equality and Diversity Policy highlights its commitment to ensuring that current and potential service users, employees or job applicants will not be discriminated against on the grounds of social circumstances or background

The principles of tolerance and understanding and respect for others are central to us and the Council expects any supplier or contactor doing business with the Council to share this commitment by offering equality of opportunity, and operating in a non – discriminatory manner.

Kent is a diverse area with diverse needs and any contract that the Council enters into should reflect this range of needs by ensuring that the services provided are tailored to this community. Therefore it is important to the Council that equality and diversity are reflected in all our procurement procedures, and in particular those that impact most on the community.

Equality and Diversity Commitments

The Council takes its responsibilities for promoting Equality and Diversity very seriously. In order to ensure that these requirements are addressed in procurement, the Council has some key considerations.

1. Statutory Duties and Legislation

The Council complies with all anti-discriminatory legislation including:

- (a) European Union Public Procurement Directive 2004/18/EC
- (b) Public Contracts Regulations (Statutory Instrument 2006 No.5)
- (c) Public Contracts (Amendment) Regulations (SI 2009, 2992)
- (d) The Equality Act 2010
- (e) The Climate Change Act 2008
- (f) The Bribery Act 2010

This has implications for the Council's procurement policy as we have a duty to ensure our suppliers meet requirements to promote equality and diversity.

2. Documents

There are several key documents relating to the procurement process.

- The Council's 'Procurement Strategy' sets out our strategic approach to procurement.
- 'Spending the Council's Money' is Kent County Council's principal document on procedures of the procurement process.
- Our 'Equality and Diversity Policy Statement' highlights the Council's commitments to Equality as a whole.

3. Suppliers

The Council expects all our suppliers to:

- Comply with all relevant legislation and keep up-to-date with all developments and changes in legislation.
- Consider the relevance of equality that has been given to your contract and make sure you understand in broad terms what this means for you.
- Have an up-to-date equality policy covering employment and service delivery issues.
- Complete an equalities pre-qualification questionnaire as part of the procurement process.
- Consider what you need to do to meet the requirements of this questionnaire.
- Take steps to maintain this standard throughout the length of any awarded contract.
- Complete an equalities monitoring questionnaire to ensure compliance during the lifetime of the contract.

How does the Council promote equality and check suppliers compliance?

- The Council's requirement will reflect general equality and diversity issues and there may be more specific equality and diversity considerations within the core requirements of specific contracts.
- It can form part of the tendering process with a standard pre-qualification questionnaire on diversity that potential contractors must complete.
- This questionnaire forms part of the selection process that decides which contractors may be considered to tender.
- Contracts may include equality and diversity terms and conditions.
- The supplier will be monitored during their contract to ensure compliance with equality issues is maintained throughout their service,
- The results of this monitoring questionnaire will be reported back within the Council's procurement function.

Useful Contacts

Kent County Council's Equality and Diversity policy can be found at :

<http://www.kent.gov.uk/council-and-democracy/priorities-policies-and-plans/policies/equality-diversity-policy.htm>

The Equality and Human Rights Commission – Main Office

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Employers Forum on Age

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Kent County Council's Strategic Procurement Unit.

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The Low Pay Commission

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<http://www.efa.org.uk/>

**Stonewall (equality and justice for lesbians,
gay men and bisexuals)**

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[http://www.employers-
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