Branch guide to equalities in procurement
Local authorities spend billions every year on contracts with private and voluntary organisations for goods, works and services. It is vital, therefore, that they should fully integrate equalities into the procurement process.

There are legal implications arising from UK and EU law which can be helpful in improving or developing procurement policies. These are discussed in the relevant sections of this guide. Many authorities have produced policies specifically dedicated to equalities in procurement and summary examples are also provided in this guide. These may be useful in informing, assessing and challenging the procurement process.

Equalities need to be considered at each stage of the procurement process, with detailed equality impact assessments being carried out, as appropriate.

This guide will look at:

1. The legislative position
2. The Equalities Framework for local government
3. Branch action
4. Examples of equalities clauses in procurement agreements
5. Sources of further information
1. The Legislative position

There are a number of pieces of legislation which underpin the procurement process. The overarching one is the Public Service Contracts Directive\(^1\). In addition there is the domestic legislation containing the public sector equality duties.

The following paragraphs list the relevant pieces of legislation and provide comment on how these have been interpreted by the courts (UNISON comments are shown in bold).

1.1. Public Service Contracts Directive 2004/18/EC

This provides that:

- The award of contracts concluded in the Member States on behalf of the State, regional or local authorities and other bodies governed by public law entities, is subject to the respect of the principles of the Treaty and in particular to the principle of freedom of movement of goods, the principle of freedom of establishment and the principle of freedom to provide services and to the principles deriving therefrom, such as the principle of equal treatment, the principle of non-discrimination, the principle of mutual recognition, the principle of proportionality and the principle of transparency. However, for public contracts above a certain value, it is advisable to draw up provisions of Community coordination of national procedures for the award of such contracts which are based on these principles so as to ensure the effects of them and to guarantee the opening-up of public procurement to competition. These coordinating provisions should therefore be interpreted in accordance with both the aforementioned rules and principles and other rules of the Treaty.

UNISON comment: Here ‘equal treatment’ refers to non-discrimination between contractors from different EU member states

Article 26 provides that:

- Contracting authorities may lay down special conditions relating to the performance of a contract, provided that these are compatible with Community law and are indicated in the contract notice or in the specifications. The conditions governing the performance of a contract may, in particular, concern social and environmental considerations (emphasis added). Recital 33 provides that:

- Contract performance conditions are compatible with this Directive provided they are not directly or indirectly discriminatory and are indicated in the contract notice or in the contract documents. They may, in particular, be intended to favour on-site vocational training, the employment of people who experience particular difficulty in achieving integration, the fight against unemployment or the protection of the environment. For instance, mention may be made amongst other things, of the requirements – applicable during performance of the contact – to recruit long term job-seekers or to implement training measures for the unemployed or young persons, to comply in substance

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\(^1\) Directive 2004/18/EC
with the provisions of the basic International Labour (ILO) Conventions, assuming that such provisions have not been implemented in national law, and to recruit more handicapped [sic] persons than are required under national legislation.

UNISON comment: Article 26 and Recital 33 therefore allow for equality considerations to be incorporated into conditions for the performance of the contract after the contract has been awarded. This was confirmed in Commission-v-Netherlands (Case C368/10), a case considered by the European Court of Justice. It found that fair trade requirements relating to goods can be included as a contract performance clause.

There are limitations. A contract cannot, for example, require contractors to meet a quota for employees of a certain racial group if this could conflict with another directive – in this case, the Race Discrimination Directive 2000. However, if it addresses issues of disadvantage, it can be justifiable. The Directive requires that, the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures to prevent or compensate for disadvantages linked to racial or ethnic origin. A term stating that a contractor must exercise positive action in terms of training women to be, for example, plumbers would not conflict with Sections 158 and 159 of the Equality Act 2010 which allows under-represented groups to be given special treatment. For more information on positive action, see the Equality Act below.

Section 39 of the Directive provides that:

1. A contracting authority may stipulate conditions relating to the performance of a public contract provided that those considerations are compatible with Community law and are indicated in-
   a. The contract notice and the contract documents; or
   b. The contract documents
2. The conditions referred to in paragraph (1) may, in particular, include social and environmental considerations.

UNISON comment: The Directive does not permit preference to be given to bids from organisations that are owned by disadvantaged groups, except in the case of workshops employing significant proportions of disabled workers.

There has been some legal debate about whether the adoption of the Living Wage as a contract term is lawful because under EU law it is unlawful to set a mandatory regional minimum wage. However as more councils become living wage employers they are finding ways to lawfully extend the living wage to contracted out services. One way round this is to include the living wage as a term of contract performance. For example the GLA extended the London
Living Wage to contractors on the basis that it is lawful, on a case by case basis, to request contractors to bid on the basis of what it will cost if they pay all their employees working on the contract a London Living Wage – and by contrast the price if they did not do so. The decision-maker determines on a value for money basis whether the bidder offering to pay the London Living Wage has offered value for money – all other things being equal. They do this by looking at factors like how improved pay levels may better guarantee a stable and more motivated work force.

It should also be permissible to require contractors to provide for apprenticeships and work placements under EU and UK law, provided this represents value for money.

1.2. Equalities Act 2010

Section 149 of the Act provides for a general equality duty that:

1. A public authority must, in the exercise of its functions, have due regard to the need to
   a. Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
   b. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
   c. Foster good relations between

   persons who share a relevant protected characteristic and persons who do not share it.

2. A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in (1)

3. The relevant protected characteristics are – age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, sexual orientation.

UNISON comment: The functions covered by the Act include procurement and the Act requires local authorities to have due regard to the need to ensure that suppliers, contractors and their agents provide goods, supplies and services that do not discriminate against people in any way. Councils should therefore be seeking to eliminate unlawful discrimination and promote equality of opportunity through their procurement practices.

The Act only requires public authorities to have ‘due regard’ to the need to eliminate discrimination and advance equality of opportunity. However, public authorities are in breach of the Equality Act if they discriminate in employment or in the way they provide goods, facilities and services on grounds of any of the protected characteristics: age; disability; gender; gender reassignment; marriage and civil partnership;
pregnancy and maternity; race; religion or belief; and sexual orientation.

However, as the positive action provisions of the Act are only permissive, advancing equality of opportunity is not mandatory.

1.3 Specific public sector equality duties

In addition to the 2010 Equality Act, there are specific equality duties laid down by regulations in England, Scotland and Wales. The implementation process for these differs, with Scotland and Wales having much more rigorous provisions. However, there is no reason why English authorities should not adopt similar standards.

1.3.1. England

The English regulations are very ‘minimalist’ – they just require public authorities to publish equality objectives at least every four years, as well as information to demonstrate how they are complying with the Public Sector Equality Duty.

There is no specific regulation relating to procurement. Therefore we must rely on:

- the Public Service Contracts Directive
- the Preamble to the Equality Act which enables “duties to be imposed in relation to the exercise of public procurement functions”
- Section 150 (3) of the Act which states that a public authority is subject to the duty...– due regard to the elimination of discrimination and the advancement of opportunity – “in relation to the exercise of all of its functions.”

However, there is Cabinet Office guidance on what the government considers public authorities need to do – in the context of procurement – to have due regard to the equality duties. The guidance states that:

1. ‘Due regard’ in the context of public procurement means consciously considering the relevance of the three aims of the duty to the individual procurement – eliminate unlawful discrimination; advance equality of opportunity; and foster good relations between people who share a protected characteristic and those who do not.

2. Where equality issues are included in the procurement process, this must be done in a proportionate way (ie the actions taken are proportionate to how relevant the equality issue is to the individual procurement), taking into account value for money.

3. The issues must be looked at substantively and with an open mind. It is not enough to just note that there will be no negative impact, as there are parts of the duty which require a look at whether positive improvements can be made. It is good practice for those subject to the PSED to keep a record of

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2 The Equality Act 2010 (Specific Duties) Regulations 2011

the process to help demonstrate they have given real consideration to the three aims (whether or not equality is relevant to what is being procured).

The Cabinet Office guidance note also contains some examples of incorporating equality into the public procurement process. These are as follows:

**Cabinet office: Incorporating Equality into the Public Procurement Process**

Procurers should note that less regulated procurements (e.g. Part B services and those below the EU threshold) are only subject to EU Treaty Principles and not to the detailed requirements of the Public Contracts Regulations 2006.

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<tr>
<th>Pre-Procurement</th>
<th>This can include consultation with potential users to establish any relevant equality-related requirements.</th>
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<td>For example, in a procurement of social care and support services for local residents, the contracting authority engages with different groups of residents (e.g. elderly, disabled) to find out exactly what sort of support they need. This information is used to establish exactly what the service will need to offer and how it should be delivered.</td>
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<th>Specification</th>
<th>Reflect any equality-related requirements which describe the characteristics of what is being procured (and which are linked to the subject matter of the contract) in the technical specifications in accordance with Regulation 9 of the Public Contracts Regulations 2006. Requirements must be clear, precise, transparent and non-discriminatory.</th>
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<td>For example, in a procurement for the supply of uniforms, the contracting authority includes a requirement for the uniforms to cater for the needs of men and women, as well as those with religious requirements.</td>
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| **Selection** | Potential suppliers can be asked relevant equality-related questions where this demonstrates technical capability to deliver the contract in accordance with Regulation 25 of the Public Contracts Regulations 2006. Selection criteria must be non-discriminatory, proportionate and linked to the subject matter of the contract.  
For example, in a procurement for the running and management of a community centre with specific social inclusion requirements, the contracting authority asks potential suppliers for evidence that they employ or have access to staff with the knowledge and experience to deal with the social issues specified (e.g. the need to have trained staff who are able to handle and respect the cultural differences and needs of the community, such as the traditions and religious beliefs of different groups within the community). |
| **Award** | Relevant equality-related award criteria can be used to help determine the most economically advantageous tender, where such criteria assess an equality-related part of the technical specification. Award criteria must be linked to the subject matter of the contract, transparent and nondiscriminatory in accordance with Regulation 30 of the Public Contracts Regulations 2006.  
For example, in procurement for the provision of information services on pension related matters, the contracting authority stated in its specification that information/material must be accessible to people who have visual or hearing impairments. When evaluating the bids, the contracting authority assesses to what extent tenders meet these requirements. |
| **Contract Conditions** | Where equality-related matters impact on the way in which the contract is performed, relevant equality-related contract conditions can be included. Contract performance conditions must be transparent, non-discriminatory and relate to the performance of the contract in accordance with Regulation 39 of the Public Contracts Regulations 2006.  
For example, in a procurement for the provision of security services in a Government office where staff performing the contract will be on Government premises and have contact with the contracting authority’s staff, a contract condition is set that the supplier’s staff delivering the contract must do so in line with the contracting authority’s equality and diversity policy. |
| Contract Management | When managing contract delivery, it’s important to ensure that any equality-related requirements are being met. For example, in a contract for the provision of school meals, the contracting authority included within the specification a requirement to cater for different dietary requirements, including religious requirements. As part of contract management, the contractor is asked from time to time through the life of the contract, to provide a copy of the different menus catering for these dietary needs. |

As far as employment is concerned, the most relevant example is shown under ‘Contract Conditions’.

### 1.3.2 Scotland

Unlike in England, the Scottish regulations\(^4\) do include specific duties to consider equalities in public procurement activity – both for award criteria and contract conditions. Regulation 9 states:

1. Where a listed authority is a contracting authority and proposes to enter into a relevant agreement on the basis of an offer which is the most economically advantageous, it must have due regard to whether the award criteria should include considerations to enable it to better perform the equality duty.

2. Where a listed authority is a contracting authority and proposes to stipulate conditions relating to the performance of a relevant agreement, it must have due regard to whether the conditions should include considerations to enable it to better perform the equality duty.

3. Nothing in this regulation imposes any requirement on a listed authority where in all the circumstances such a requirement would not be related to and proportionate to the subject matter of the proposed agreement.

This means that it is compulsory a) to have due regard to whether the criteria adopted for the awarding of a contract should include equality considerations and b) to whether equality conditions should be stipulated as part of monitoring the performance of the contract. As you can see there is some limitation to the duties ie there is no requirement to do so where this would be disproportionate to the objective it is designed to achieve.

### 1.3.3 Wales

The Welsh regulations\(^5\) also include duties to consider equalities in the award of contracts and performance conditions.

Regulation 18 states:

1. Where an authority that is a contracting authority proposes to enter into a relevant agreement on the basis of an offer which is the most economically

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\(^4\) Equality Act (Specific Duties) (Scotland) Regulations 2012

\(^5\) Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011
advantageous it must have due regard to whether the award criteria should include considerations relevant to its performance of the general duty.

2. Where an authority that is a contracting authority proposes to stipulate conditions relating to the performance of a relevant agreement it must have due regard to whether the conditions should include considerations relevant to its performance of the general duty.

These duties mirror the Scottish duties, but there is no exclusion of the proportionality test.
2. The Equality Frameworks for Local Government

2.1 England
In 2007 the Equality Framework for Local Government in England (EFLG) was developed for application by local authorities in England. It is designed for use as a self-assessment tool and national benchmark. The Equality Framework is intended to:

- inform decision-making about services that aim to be more tailored to diverse needs
- contribute to the evidence base that underpins the reasons for changes to service policy and delivery – for example, why services are prioritised in the way they are
- help an organisation to enhance its reputation
- support and complement effective community engagement and empowerment
- help to promote high standards of customer care and insight
- provide a standard approach to the integration of equalities into service policy and planning
- help organisations to meet their statutory duties.

The Equality Framework for Local Government (EFLG) comprises five performance areas:

- Knowing your communities
- Leadership, partnership and organisational commitment
- Community engagement and satisfaction
- Responsive services and customer care
- A skilled and committed workforce

The EFLG has three levels of achievement, namely:

- Developing
- Achieving
- Excellent.

2.2 Wales
There is a similar framework for Wales entitled Equality Improvement Framework for Wales. The accompanying guidance makes clear that achieving the framework is more than a tick box exercise. It sets out the aims under a series of overarching issues:

- Community Engagement
- Leadership and Organisational Commitment
- Generating Outcomes
- Equipped Workforce

The latter of these covers training and development, appraisals, staff feedback, supportive workplace culture, workforce monitoring and workforce planning to reflect the make-up of the local population.

Procurement can be found in the Generating Outcomes aim which covers award criteria; contract conditions; equality impact as a fundamental element of the commissioning and procurement process; formal agreement of contribution to achieving corporate equality objects; involvement of equality stakeholders in Contracts and Commissioning; formal monitoring and challenge by senior leadership.

6 See: http://www.local.gov.uk/web/guest/equality-frameworks/-/journal_content/56/10171/3476575/ARTICLE-TEMPLATE
Full details of the framework can be found at www.wlga.gov.uk/equality-improvement-framework-for-wales

2.3 What do these frameworks look like in practice?
Carlisle City Council has translated the five performance areas in the Equality Framework as follows:

- Ensuring that all policies and service plans reflect the principles of equal opportunities
- Monitoring activity in relation to equal opportunities and publishing the results including equality impact assessments
- Identifying policies that impact on equality and ensure they comply with the law and good practice
- Raising awareness of equality policies and the law for all staff and councillors
- Insisting partners, suppliers and contractors are committed to equal opportunities

Newcastle City Council has adopted the Framework as follows (extracts):

“Our commitments
We want to make sure that all people have equal access to education, employment, services and opportunities...

Empowering people
We will treat our employees and people who apply for our jobs fairly. We want our workforce to reflect the diversity of our city. This will help us to understand and respond to the needs of our customers. We want to be a place where people from different backgrounds enjoy working. We will make full use of people’s talents and skills...

...We will support our employee staff groups. We will consult them and Trade Unions about our approach to equality.

Providing services
We know some people find it difficult to access services or take part in public life. By promoting fairness and inclusion we will remove barriers to services and opportunities. We will take practical steps to improve the way we provide our services. We will take action to tackle discrimination that affects specific groups...

...We will make sure that organisations providing services on our behalf follow our approach to equality. We will:

- include a commitment to equality in our tender specification
- include specific equality clauses in contracts; and
- monitor contractor’s performance where relevant"
3. Branch action

Here are some actions you can take to maximise the use of the equality duties in your campaigning against privatisation:

1. Find out what, if anything, your council has included in its procurement policies and procedures about equalities (see UNISON guidance on procurement for the stages).

2. Check that consideration of the need to combat discrimination and promote equality is properly reflected both in terms of award selection criteria and in how successful contractors will be monitored. You can use some of the examples in appendix 1 to help you.

3. (England and Wales) Ask your council if it is using the Equality Framework for Local Government and find out what level of achievement the council is claiming to have reached.

4. Be prepared to argue that councils should seek to improve in-house services rather than go out to tender because in-house services offer greater flexibility and ability to respond to changing needs, are more accountable and have better employment practices (see Branch guide to securing in-house services). Try to gather evidence on the make-up of the workforce, how the in-house service meets the equality standard, and examples of how it is able to reflect and meet the needs of the diverse communities it serves.

5. Where a council does engage in a procurement exercise make sure that an equality impact assessment is carried out at an early stage as part of feasibility/scoping and options appraisal work. The council should assess keeping the service in-house and other service delivery options as to what impact they may have on protected groups. Remember that it is not enough for the council to just show that there will be no negative impact. They should also consider how much each service delivery option can do to bring about positive improvements in equality of opportunity.

6. Ask your council to make sure that it records how it has considered the equality duties throughout the process and that these are shared with the branch.

7. Ensure that equality track record and ability to comply with council equality objectives is being considered when selecting bidders. This should include questions on:
   - any findings of unlawful discrimination, breaches of equal pay or formal investigations
   - evidence of how they promote equality and what outcomes they have achieved – see appendix for examples. If you have agreement to be involved in short-listing this is an area you will be able to question bidders about. If not make sure you ask your council how they are checking bidders’ track record and capacity
   - use of analytical job evaluation to ensure equal pay
   - evidence of equality policies and equality training
   - how these principles are applied to sub-contractors

If you consider the procurement process is defective, you could bring this to the
attention of the Monitoring Officer⁷ who is responsible for monitoring how the council complies with its statutory obligations, and receiving complaints.

Conclusion

Equalities should be at the heart of the procurement process. Working towards improving performance on diversity is not simply the right thing to do, it is critical to the ability of local authorities to observe good employment practice and to ensure that service delivery reflects the diversity of the local community. UNISON believes the best way to deliver equality is through the maintenance of in-house services. However, this is not the reality for many Councils so it is essential that organisations which deliver services on behalf of the local authority are required to reflect and perpetuate the equality principles adopted by the Council in question. This guide is intended to help branches through the various issues in relation to equality in procurement. It should be used with the other guides that have been developed in this series.

⁷ a statutory post set up under Section 5 of the Local Government and Housing Act 1989, as amended by Schedule 5 paragraph 24 of the Local Government Act 2000
Examples of equality clauses in procurement policies

The following are extracts taken from current local authority procurement policies. These may be helpful to you in challenging or developing your authority’s procurement policies. Some of these predate the Equality Act, so may not include all the protected characteristics. Nevertheless, the principles stated should be taken to apply to all aspects of equality. Some also predate the establishment of the single equalities commission, the Equality and Human Rights Commission. Again, references to the Equal Opportunities Commission, the Commission for Racial Equality and the Disability Rights Commission should be taken to apply to the EHRC.

Chelmsford City Council

We require companies, agencies or individual working on our behalf to practice equality of opportunity and not to discriminate against our residents on the grounds of race, gender, disability, sexual orientation, age, religion or belief. They must be clear about the Council’s position on equality and be aware of the requirements placed upon them to adhere to our policies.

We take a proactive approach to our obligations under Equal Opportunities legislation. All organisations wishing to provide services on our behalf must be able to demonstrate that all reasonably practical steps are taken to allow fair access and equal treatment in employment and service delivery for all. If they fail to do this, they could make the Authority, and in some cases individuals liable to legal action and be excluded from tendering for council contracts.

The following standard clause covering equalities will be included in all contracts for services. The contract clause covers both contractors and sub contractors and their obligations under current UK legislation covering race, gender and disability.

“Throughout the duration of this Agreement, the Contractor shall, and in addition shall ensure that its Sub contractors shall:

Discharge their obligations under this agreement and (supply the Goods/ works and perform Services) in accordance with their responsibilities under the provisions of the Equality Act 2010 and shall in addition discharge its obligations under this agreement and provide the services in a manner consistent with Council’s policy on Equal Opportunities”

Additional clauses relating to equality of opportunity in relation to service delivery will also be included, where for example the service is being provided to certain target groups. There may also be requirements for recruitment of local people built into the contract.

Kirklees Council

The following questions will be asked of potential contractors whether they conform to the requirements of the following questions. This is more than a tick box approach and submissions will be evaluated on the evidence supplied.

- Do you comply with your statutory obligations under the Equality legislation, which applies in Great Britain, or equivalent legislation in the countries in
which your organisation employs staff?

Please evidence

● In the last 3 years has any finding of unlawful discrimination been made against your organisation by the Employment Tribunal, the Employment Appeals Tribunal or any other court?

Please evidence if applicable.

If the answer is yes, please provide details of action to improve

● In the last 3 years has your Company been the subject of a formal investigation by the Commission for Racial Equality, (CRE) the Disability Rights Commission (DRC) or the Equal Opportunities Commission (EOC) on grounds of alleged unlawful discrimination?

Please evidence if applicable

If the answer is there has been a finding adverse to your organisation, please ....... provide details of action to improve

● Does your policy on equality and diversity cover the following? Recruitment/Selection, Job Advertisements, Remuneration (Pay), Training, Promotion/Transfer, Harassment/Victimisation/Grievance and Discipline, Service Delivery

Please evidence

● Do relevant and appropriate people know about your policy and has it made a difference?

Please evidence

● Do you comply with relevant codes of practice, which give practical guidance to employers and others on the elimination of discrimination? For example the CRE and DRC codes of practice for employment, which cover issues including workforce monitoring, positive action recruitment and training opportunities

Please evidence

Liverpool City Council

[The council] commits to harnessing LCC buying power to increase access to jobs and skills opportunities for local people by:

● considering what recruitment and training, subcontract and supply chain opportunities could be obtained from relevant contracts;

● at the commissioning stage, including work experience, training, equal opportunities, recruitment requirements and supply chain opportunities in its contract specification, where it considers this appropriate;

● including other social and environmental matters in its contract specifications, where it considers this to be appropriate;
and

- including these as part of the ‘core requirements’ that are considered at all stages of the selection, contract award, contract management and monitoring process.

This does not mean jobs and skills clauses will be applied to all contracts, but that they will be considered within the framework identified below, the threshold value of contracts, and within relevant legal and policy frameworks.

The Council’s intends within the legal framework applicable, wherever possible, to support social enterprises, organisations with a low level of pay multiple between the highest and lowest paid staff, and organisations which can demonstrate clear local benefits.

**Dover District Council**

Any contract that the Council enters into should reflect its range of needs by ensuring that the services provided are tailored to our 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.

The Council procures externally sourced goods, works and services. 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 build equality considerations into the procurement process.

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 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 on a regular basis to ensure compliance during the lifetime of the contract
Bolton Council

The promotion of equality in procurement will help the Council to:

- Improve the overall value for money for the Council in terms of the goods, works and services they purchase
- Improve the quality, responsiveness and appropriateness of our services.
- Ensure that public money is not spent on practices which lead to unfair discrimination to sections of the Borough.
- Create a diverse and integrated workforce.
- Deliver more responsive and flexible services in combating social exclusion and building stronger and cohesive communities.
- Encourage other organisations to promote and practise the Council’s policies on equality.

Section A – compulsory questions

To be completed by all those contractors invited to tender

Section A of this questionnaire must be completed satisfactorily in order for any company to be considered for any Approved List or to tender for any Council contract

1. Is it your policy as an employer and as a service provider to comply with your statutory obligations under the equality legislation, which applies to Great Britain, or equivalent legislation in the countries in which your firm employs staff?

2. Accordingly, is it your practice not to discriminate directly or indirectly in breach of equality legislation which applies in Great Britain and legislation in the countries in which your firm employs staff:

- In relation to decisions to recruit, select, remunerate, train, transfer and promote employees?
- In relation to delivering services?

3. Do you have a written equality policy?

4. Does your equality policy cover

- Recruitment, selection, training, promotion, discipline and dismissal?
- Victimisation, discrimination and harassment making it clear that these are disciplinary offences?
- Identify the senior position for responsibility for the policy and its effective implementation?

5. Is your policy on equality set out:

- In documents available and communicated to employees, managers, recognised trade unions or other representative groups?
- In recruitment advertisements or other literature?
- In materials promoting your services?

Please evidence all questions

If you answered NO to any part of questions 4 or 5 can you provide (and if so, please do) other evidence to show how you promote equalities in employment and service delivery.

6. In the last three years, has any finding of unlawful discrimination been made against your firm by the Employment Tribunal, the
Employment Appeal Tribunal or any other court or in comparable proceedings in any other jurisdiction?

7. In the last three years, has any contract with your organisation been terminated on grounds of your failure to comply with

- Legislation prohibiting discrimination?
- or
- Contract conditions relating to equality in the provision of services?

8. In the last three years, has your firm been the subject of formal investigations by the Commission for Racial Equality, the Disability Rights Commission, the Equal Opportunities Commission or a comparable body, on grounds of alleged unlawful discrimination?

9. If the answer to question 6 and 7 is YES, or, in relation to question 8, a finding adverse to your organisation has been made, what steps have you taken as a result of that finding? Please summarise the details below and provide full details as an attachment.

10. If you are not currently subject to UK employment law, please supply details of your experience in complying with equivalent legislation that is designed to eliminate discrimination and to promote equality of opportunity. List any attached documents.

Section B – additional equalities questions
To be completed when equality is considered a core requirement

11. Are your staff with managerial responsibilities required to receive equalities training?

If you have answered YES to question 11, please provide details of such training.

12. Has your equality policy, in written instructions, been provided to managers and supervisors concerned with recruitment, selection, remuneration, training and promotion?

13. Do you have procedures in place to protect your employees from unlawful discrimination by other employees or by members of the public?

If you have answered YES to question 13, support your answer by describing the procedures. List any attached documents.

For firms who sub-contract

14. Do you require sub-contractors to demonstrate evidence of their equalities policies and practices? If you have answered YES to question 14, please provide details of what kind of evidence sub-contractors are asked to submit. What do you ask sub-contractors to provide in evidence of their answers? List any attached documents.

15. Do you have any other details about your equalities policy and practices that you wish to be considered, including information on work you have done in previous or existing contracts, and references, which cover equalities? List any attached documents.
Appendix 2

Sources of further information:

**Equality Act 2010:**

**Regulations:**

*England:* The Equality Act 2010 (Specific Duties) Regulations 2011

*Scotland:* The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012
http://www.legislation.gov.uk/ssi/2012/162/contents/made

*Wales:* The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011

UNISON Public Sector Equality Duty Factsheet:

**EHRC guidance, buying better outcomes:**

**Equality Framework for Local Government in England (EFLG):**
http://www.local.gov.uk/web/guest/equality-frameworks/-/journal_content/56/10171/3476575/ARTICLE-TEMPLATE