

INTEGRATING EQUALITY AND DIVERSITY INTO PROCUREMENT

GUIDANCE FOR CONTRACTORS & SUPPLIERS

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1. Overview

This guide for potential contractors and suppliers has been published to help them understand how we are working towards the integration of equality into procurement. This guide gives information and advice on how we will promote equality in the procurement of goods, works and services and what we expect from contractors and suppliers during the procurement process.

2. Why include equality and diversity in procurement?

We want to make Scarborough Borough Council a cohesive, multi-cultural society in which all differences are valued and celebrated. To achieve this we have committed ourselves to the principles of fairness and valuing diversity for everyone who lives, works, studies, invests or visits the Borough of Scarborough. We have produced a Generic Equality Scheme which sets out the details of this commitment.

The role of procurement in promoting equality

We provide a wide range of services to the community and businesses in the Borough. In some cases these are provided directly by us, in other cases on our behalf by contractors and partners.

Each year we enter into contracts worth many millions of pounds for buying goods, works and services on behalf of the Scarborough Borough community. Therefore, the services provided to the community should be geared towards their diverse needs and requirements.

Spending by us sustains and maintains a significant number of jobs within the Scarborough Borough. We have a statutory duty to ensure that public money is spent in a way that ensures value for money and does not lead to unfair discrimination and social exclusion.

The promotion of equality in procurement will help 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 practice the Council's policies on equality.

3. Legal Background

Scarborough Borough Council's Statutory Duties and Legislation

The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, the Sex Discrimination Act 1975, the Equal Pay Act 1970, and the Disability Discrimination Act 2005 contain various prohibitions on discrimination on the grounds of race, sex and disability in the provision of goods, facilities and services. The Equalities Act 2006 extended many of these prohibitions to religion and belief and sexual orientation.

We take a generic approach to equality and we are making every effort to ensure fair treatment in all respects, and not just those areas covered by legislation.

3. Contract Procedure Rules

Contract Standing Orders is the Council's primary procurement document, detailing all the procedures to be followed throughout the procurement process. The Council's Contract Standing Orders require that Procuring Officers have due regard to relevant strategies including Equality, Diversity and Community Cohesion (Generic Equality Scheme) and refer to this procurement guidance for further information.

It is important to ensure that procurement and equality are appropriately integrated to ensure compliance with our statutory obligations and to promote our vision of valuing diversity throughout our partnership and contractual working. This is to ensure that:

- Our vision for equality and diversity, as outlined in the Equality Scheme, is reflected in service design, delivery and review.
- The Equality Scheme is reflected appropriately in the process and procedures associated with tendering and procurement generally.
- Community needs are reflected in service design, delivery and review.
- Contractors fulfil their own equal opportunity obligations as employers and service providers in respect of equality areas when carrying out work for the Council.

5. Process for checking contractors' compliance

A basic summary of the procurement and equality process is as follows:

- All contractors will be required to adhere to the Council's standard terms and conditions, which contain a specific clause on equality.
- We will advise contractors, at the pre-tender stage, whether the contract is deemed to be relevant to equality and what contractors need to complete as a result. This is described in Appendix 3.
- Each contract will be given a low, medium or high relevance to equality.
- If equality is deemed of low relevance, contractors will be required to complete Section A of the Equalities Questionnaire (see Appendix 1) for all contracts above £50,000 in value.

- If equality is deemed to be of high or medium relevance, contractors will be asked to complete Section A and B of the Equalities Questionnaire (see Appendix 1).
- All contract with a value of **£1 million or over** will be considered of high relevance to equality and contractors will be required to complete Section A and B of the Equalities Questionnaire.
- The successful contractor will be required to submit and complete particular tasks at each contract review session depending on the assessed relevance of the contract to equality (see Appendix 4).

Contractors will be referred to the Equality guidance documentation published on the Council's website www.scarborough.gov.uk . This includes:

- A copy of the Integrating Equality into Procurement - Guidance for Contractors and Suppliers.
- A list of Frequently Asked Questions.
- Templates for Contractors.

Appendix One

Equalities Questionnaire

Section A - Compulsory Questions
To be completed by all those contractors invited to tender. If applying for a contract with the Council under a restricted procurement procedure, these questions may be included in a Pre-Qualification Questionnaire (PQQ).

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. The equality legislation consists of the Race Relations Act 1976, the Sex Discrimination Act 1975, the Equal Pay Act 1970, the Disability Discrimination Act 2005, the Employment Equality (Sexual Orientation) Regulations 2003, the Employment Equality (Religion/Belief) Regulations 2003, the Employment Equality (Age) Regulations 2006, all amendments to these Acts and all relevant regulations made under them.

Please tick appropriate box to answer questions and if you wish to provide additional information please attach supplementary sheets, but keep this to a minimum - You must however provide copies of all policies referred to.

1. Do you have policies in place to ensure that you as an employer and as a service provider comply with your statutory obligations under the equality legislation, which applies to Great Britain, or equivalent legislation in the countries in which you employ staff?

Yes	No
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2. Accordingly, do you have policies in place to ensure that you do not discriminate directly or indirectly in breach of equality legislation which applies in Great Britain and legislation in the countries in which you employ staff:
 - In relation to decisions to recruit, select, remunerate, train, transfer and promote employees?

Yes	No
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 - In relation to delivering services?

Yes	No
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3. Do you have a written equality policy?

Yes	No
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4. Does your written equality policy cover:

- Recruitment, selection, remuneration, training, promotion, discipline and dismissal?

Yes No

- Victimisation, discrimination and harassment making it clear that these are disciplinary offences?

Yes No

- The identity of the senior position for responsibility for the policy and its effective implementation?

Yes No

5. Is your policy on equality set out:

- In documents available and communicated to employees, managers, recognised trade unions or other representative groups?

Yes No

- In recruitment advertisements or other literature?

Yes No

- In materials promoting your service?

Yes No

If you answered NO to any part of questions 4 or 5 please provide list below and provide copy evidence where appropriate to show how you promote equality in employment and service delivery.

If you answered YES to any part of questions 4 or 5, please provide copy evidence that can support your answers. List below the evidence that is attached to and provided with your submission.

11. If you are not currently subject to UK employment law please supply details of how your or your firm comply with equivalent legislation that is designed to eliminate discrimination and to promote equality of opportunity (continue on an additional sheet if required).

Section B - Additional Equalities Questions
To be completed when equality is considered a core requirement or if the contract value is £1m or more.

12. Are members of your staff with managerial responsibilities required to receive equalities training?

Yes

No

If you have answered YES to question 12, please provide a list of such training (continue on an additional sheet if required).

13. Do you issue your written equality policy to managers and supervisors concerned with recruitment, remuneration, training and promotion?

Yes

No

If you have answered YES please list below and provide copies of any relevant documents in respect of recruitment, selection, remuneration, training and promotion as issued to and used by managers, supervisors and personnel officers.

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

Yes

No

If you have answered YES please list the procedures below (continue on an additional sheet if required).

For firms who sub-contract

15. Do you require sub-contractors to demonstrate evidence of their equality policies and practices?

Yes

No

If you have answered YES please provide details of what kind of evidence sub-contractors are required to submit (continue on an additional sheet if required).

16. If you have any other information regarding your policies on equality 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 please detail below (continue on an additional sheet if required).

Appendix Two

Guidance in answering the Equalities Questionnaire

Section A - Compulsory Questions

All contractors will be required to complete this section of the Equality Questionnaire. When completing the questionnaire, all companies must answer each question fully. Failure to fully answer each question required may lead the Council to consider the answer unsatisfactory.

Question 1 and 2

If your firm has implemented an effective equality policy, you will be able to answer yes to these questions. It will be important to ensure that your policies are consistent with our position on equality.

The Council has published a booklet on its website www.scarborough.gov.uk containing templates for a variety of equality policies and procedures which may prove useful for potential contractors and suppliers who have not yet implemented an equality policy.

Question 3 and 4

To ensure that you can answer these questions confidently you will need to ensure that your policy covers:

- Recruitment, remuneration, selection, training, promotion, discipline and dismissal
- Victimisation, discrimination and harassment
- Identifies the senior position responsible for the policy

Question 5

Documents available and method of communication to staff

You will be required to detail any documents, which explain your firm's policies in respect of recruitment, selection, remuneration, training and promotion outside of the equality policy asked for in Question 3 and 4. You will also need to provide details of how your firm has communicated this document to staff i.e. notice boards or issue individual employees with a copy.

In recruitment advertisements or other literature

You will need to provide details that show your firm's commitment to equality in employment and service delivery.

Small firms may not have detailed procedures but you must ensure that evidence is provided which demonstrates that personnel operate in accordance with a written equality policy that includes:

- Open recruitment practices such as using job centres and local newspapers to advertise vacancies
- Instructions about how the firm ensures that all job applicants are treated fairly.

In material promoting your services

This relates to how your firm provides information in materials promoting your services e.g. in different languages, making information accessible to people with hearing and visual impairment and physical access for disabled users.

Question 6

This question's concern is whether any court or employment tribunal has found your firm guilty of unlawful discrimination in the last three years. It is important to be honest with your answers. The Council may check your responses.

If the answer is yes, you may wish to insert additional information at Question 8, which details the actions your firm has undertaken to prevent a repeat occurrence. Answering yes will not automatically mean that you do not get the contract; you need to ensure that the Council feels confident that you have sufficient measures put in place to prevent a re-occurrence.

Question 7

This question's concern is whether your firm has ever had a contract terminated for non-compliance with equality legislation or equality contract conditions.

If the answer is yes, your firm may wish to submit additional information at Question 8 with details of the actions taken to prevent a repeat occurrence.

Question 8

This asks for supplementary evidence to questions 6 and 7 should it be required.

Question 9

If your firm has been found guilty of unlawful discrimination, you will need to provide evidence that details the steps your firm has taken to correct the situation. The Court, Employment Tribunal or Equalities and Human Rights Commission (or its predecessors) will have made recommendations about steps your firm should take to eliminate the discrimination. If no action or inadequate action has been taken in this respect, only then will your firm be considered refusal onto the tender list.

Question 10

This asks for supplementary evidence if you answered yes to question 9. You should provide as much information as you deem necessary.

Question 11

If your firm is not subject to UK employment law you must ensure that you supply details of equivalent legislation that you adhere to.

Section B

If you have been advised that your contract is of medium or high relevance to equality you will need to complete both Section A and B of the Equalities Questionnaire.

Question 12

You will need to provide details of the equality training managers have received in your firm.

Question 13

You will be required to supply details of any documents, which explain your firm's policies in respect of recruitment, selection, remuneration, training and promotion as issued to and used by managers, supervisors, personnel officers, etc.

If you are a large firm, you are likely to have detailed procedures for recruiting staff, which may be included in a Code of Practice, which you can mention.

If you are a smaller firm, you may not have such detailed procedures but you should still submit details that provide evidence that personnel operate in accordance with a written equality policy.

Question 14

This should be detailed in your firm's equality policy. You should detail any complaints procedures or harassment policies and guidelines that your firm has produced.

Appendix Three

The Procurement Process for Contractors

Tender / PQQ Information

- Check what relevance your contract has been given to equality
- Make sure you understand in broad terms what this means for you
- Check your equality policy is up to date and covers employment and service delivery issues
- Check your equality policy is compatible with the Council's

Selection

- You will be asked to complete an Equalities Questionnaire as detailed below. This may be as part of a Pre Qualification Questionnaire (PQQ), as an individual questionnaire or may even be included in the tender itself.
- If equality is of low relevance to the contract and the contract is above £50,000 in value, you will be asked to complete the questions contained in Section A of this questionnaire.
- If equality is of medium or high relevance to the contract you will be asked to complete the questions contained in Sections A and B of this questionnaire.
- The tender / PQQ pack will inform you what level of relevance equality is to the contract.

If you are unsuccessful in the selection stage, seek feedback on the equality elements of your submission and use this information.

Invitation to tender

- Make sure you are aware of the parts of the specification relating to compliance with equality legislation
- Consider what you need to do to meet the requirements
- Check that you fully understand the contract conditions and confirm acceptance
- Use all the information provided by the Council. All details on equality and procurement are held on the Council's website at www.scarborough.gov.uk .
Outline how you will fulfil all the elements of the contract

After you have won a contract

There will be specific monitoring requirements depending on whether the contract was deemed of low, medium or high relevance to equality. The specific details are contained in Appendix 4.

Appendix Four

Contract Review - Equality Check Sheet

Name of contractor:

Contract Review Date:

	Low Relevance, High Value Contract Review Sheet	Yes	No
1	Submission of equality policy for review		
2	Contract officers need to check whether there has been any new equality legislation and if there has that the contractor's equality policy has been reviewed in light of it. Has the equality policy been reviewed?		
3	Has the equality policy been reviewed to reflect changes to any of the firm's procedures?		

	Medium Relevance Contract Review Sheet	Yes	No
1	Submission of equality policy for review		
2	Contract officers need to check whether there has been any new equality legislation and if there has that the contractor's equality policy has been reviewed in light of it. Has the equality policy been reviewed?		
3	Has the equality policy been reviewed to reflect changes to any of the firm's procedures?		
4	Submission of information detailing service delivery and take-up, (where appropriate)		
5	Submission of information detailing the number of job applicants from different equality groups (race, disability and gender as a minimum - for some services also consider monitoring age, religion/belief, sexuality and rurality)		
6	Submission of information detailing the number of employees from different equality groups (race, disability and gender as a minimum - for some services also consider monitoring age, religion/belief, sexuality and rurality)		
7	Does the information supplied reveal any under representation of particular equality groups		

8	If yes, please detail the proposed action to be taken:
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High Relevance Contract Review Sheet		Yes	No
1	Submission of equality policy for review		
2	Contract officers need to check whether there has been any new equality legislation and if there has that the contractor's equality policy has been reviewed in light of it. Has the equality policy been reviewed?		
3	Has the equality policy been reviewed to reflect changes to any of the firm's procedures?		
4	Submission of information detailing service delivery and take-up, (where appropriate)		
5	Submission of information detailing the number of job applicants from different equality groups (race, disability and gender as a minimum - for some services also consider monitoring age, religion/belief, sexuality and rurality)		
6	Submission of information detailing the number of employees from different equality groups (race, disability and gender as a minimum - for some services also consider monitoring age, religion/belief, sexuality and rurality)		
7	Does the information supplied reveal any under representation of particular equality groups		
8	If yes, please detail the proposed action to be taken:		
11	Has the contractor regularly consulted with its staff on equality issues?		
12	If yes, please provide details of the consultation:		
13	Submission of information detailing the monitoring of selection, training, transfer, promotion, discipline and dismissal figures (race, gender and disability as a minimum - for some services also consider monitoring age, religion/belief, sexuality and rurality)		
14	Have the firm's recruitment advertisements and publicity material mentioned and offered equal opportunities?		

15	Does the information supplied reveal any under representation of particular equality groups?		
16	If yes, please detail what actions have been or will be taken:		

If you have answered NO to any question, please can you state the reasons why and what actions you plan to take:

Name of Client Department Officer: _____

Signature: _____

Name of Contractor: _____

Signature: _____

Position: _____

Date of Review: _____

Glossary

Core requirement

In the context of an individual contract, a requirement which the public authority has determined the contractors must meet, to provide effectively and efficiently the goods, works, or services that are the subject of the contract.

Firm or business

Any private or voluntary organisation, such as company, partnership, charitable trust, or other type of body, which can enter into a contract to provide goods, works, or services.

Procurement

The process by which a public authority enters into a contract with an external supplier to carry out works or provide goods and services. The term encompasses the full range of public authority contracts, including private finance initiatives (PFI) projects and public and private partnerships (PPP).

Promote equality

To eliminate unlawful discrimination and to promote equality of opportunity and good relations between people from different social groups.

Discrimination

Direct discrimination means less favourable treatment on equality grounds.

Indirect discrimination means applying a provision, criterion or practice which only a considerably smaller proportion of people from one social group can meet and which cannot be shown to be a proportionate means of achieving a legitimate aim.

Services

All the activities of a public authority, whether carried out directly or by others on its behalf, excluding activities defined as 'works'. 'Services' includes the exercise of a public authority's powers of regulation, inspection and law enforcement. It includes activities provided to members of the public or a section of the public, as well as services provided to the authority itself.

Supplier

A private or voluntary organisation that is interested in providing goods, works, or services to a local authority.

Tender

A supplier who has been selected to submit a tender for a contract.

Value for money

The optimum combination of whole life cost and quality to meet the requirements of the public authority.

Works

The construction or demolition of buildings, both residential and non residential, repair to the fabric of these buildings, construction of roads, bridges, tunnels, and the installation of gas, electric, and plumbing services.