

Equal Opportunities - Common standards for suppliers to South Bucks DC

Contents:

- What does equal opportunities mean?
 - Monitoring
 - Good practice
 - Equal opportunities legislation
 - Race relations
 - Disability discrimination
 - Sex discrimination
 - Working parents
 - Achieving Race Equality in Procurement
 - Appendix A - Sample policy on equal opportunities in employment
-

What does Equal Opportunities mean?

The Council is committed to ensuring that all Suppliers to South Bucks DC treat their employees fairly in relation to their day to day work. Everyone has a right to expect that the money local authorities spend on goods and services promotes and protects equalities in employment.

Furthermore Suppliers are required to ensure fairness and transparency in relation to recruitment, promotion and training of staff. Suppliers should not discriminate unfairly or unlawfully on the grounds of;

- Race, colour, ethnic or national origin
- Being male, or female, married or unmarried
- Disability
- Age
- Sexual orientation
- Trade union activity
- Religious and political beliefs

We use contracts to encourage equal opportunity policies in two main areas.

- Employment - employment policies, procedures and practices of contractors.
 - Service delivery - encouraging contractors to provide equally accessible services.
-

Monitoring

Once the Council awards a contract, it will monitor the contract to make sure it continues to meet our requirements. We can monitor this by doing the following;

- Monitoring questionnaires - We can send you a questionnaire during the contract period. You should fill it in and send it back to us within a given time.
- Site visits - We can arrange site visits to see how you are meeting the conditions.
- Contractor Performance Reports - The Procurement Unit may complete Contractor Performance Reports including a section for equal opportunities issues. Supervising Officers can use this section to make a note of any Equal Opportunities issues that arise during the contract period.

Good practice

The following is a general list of good practice guidelines that you should follow while you are working on site.

- You should remove offensive behaviour and language from construction sites (no wolf whistles, cat calls, gestures and so on), especially when children could overhear it.
- You should consider access issues for mothers and fathers who may be pushing prams in the area (this may be similar to access issues for disabled people who use wheelchairs) and safety issues on and around sites. You must do all work with positive consideration to the needs of parents with children.
- There should be respectful and safe standards of dress, appropriate to the weather conditions, at all times.
- You must not put up with bad behaviour and language from your staff.
- Building work and moving site vehicles should be carried out with great care and consideration for the safety of the general public.
- Posters should be put up around the site, giving names and phone numbers of staff who can be contacted about any of the issues mentioned above.

Equal Opportunities Legislation

Always remember your duty to follow equal opportunities legislation in relation to your employment practices and delivering goods and services.

The following is a brief summary of the important legislation to be aware of. References to primary legislation include all subsequent amending legislation.

Race Relations

The Race Relations Act 1976 makes it against the law to discriminate against anyone because of their race, colour, nationality (including citizenship), or ethnic or national origins.

The Race Relations Act is supported by codes of practice that the Commission for Racial Equality publish. The code of practice for removing racial discrimination and promoting equal opportunities in employment (known as 'the Code of Practice on Racial Equality in Employment') sets out the steps which employers should take to meet their obligations under the Act.

The code of practice recommends that employers should do the following:

- Have a written policy on equal opportunities in employment, including racial equality.
- Promote and publicise the policy.
- Make sure all workers understand the policy, and provide training for those who have particular responsibilities under it.
- Monitor workers, and applicants for employment, promotion and training, by racial group, and review all employment policies, procedures and practices, to see if they are potentially discriminatory or obstruct equality of opportunity.
- Take steps to prevent unlawful discrimination, and reduce any significant disparities between racial groups.
- Consider setting racial equality targets as a means of planning the reduction of significant disparities between racial groups.
- Consider positive action, as permitted under the Race Relations Act, to give people from any particular racial group(s) the opportunity to compete for work in which they may have been under-represented or absent.
- Include a term in contracts for goods, facilities, or services which requires suppliers to follow the recommendations of the code.

All companies who work for us must work to the standard that is set out in the Race Relations Act, which they must keep to as a matter of law, and the Commission for Racial Equality's statutory Code of Practice on Racial Equality in Employment, which they must follow as a matter of practice. The sample policy contained in the code is reproduced in Appendix A.

The Race Relations Act, and the code of practice, apply to employers whatever their size, resources or number of workers. Some smaller organisations may not need detailed procedures, but it is recommended that smaller organisations make sure that their policies and practices are consistent with the Race Relations Act and the code of practice.

Disability Discrimination

We have to tell contractors on our approved list about the Disability Discrimination Act. We follow the Act and expect you to do the same if you work for us. The Disability Discrimination Act 1995 says that there are two possible ways that a disabled person can be discriminated against.

There can be discrimination when a service provider:

1. Treats the disabled person unfairly, because of their disability, compared to how it treats (or would treat) others and cannot show that the treatment is reasonable.
2. Does not do something that it must do under section 21 of the act (a duty to make 'reasonable adjustments') in relation to the disabled person and cannot give a good reason why they did not do it.

Legislation

On 2 December 1996, the Disability Discrimination Act 1995 (the Act) brought in measures to prevent discrimination against disabled people. Part three of the Act is based on the principle that disabled people should not be discriminated against by service providers or those involved in managing properties. People who sell, let or manage property could also be service providers.

Complaints

If a disabled person feels they have been wrongly excluded from goods or services, or the selling or letting of land or property, they will be able to go to court to get damages for any financial loss they have suffered and if their feelings have been hurt.

There will be an upper limit on the amount of damages that can be paid if the person's feelings have been hurt.

Sex Discrimination

The Sex Discrimination Act (SDA) was introduced in 1975 and was amended in 1986.

The SDA makes it against the law to discriminate on the grounds of someone's sex. Specifically, sex discrimination is not allowed in employment, education, advertising or when providing housing, goods, services or facilities. It is against the law to discriminate because someone is married, in employment or advertisements for jobs.

The SDA applies to two kinds of discrimination:

1. Discrimination means treating someone unfairly because of their sex.
2. Indirect discrimination means setting unreasonable conditions that appear to apply to everyone, but in fact discriminate against one sex. For example, a rule saying that only people more than six feet tall will be hired will exclude far more women than men. Or, a rule saying all employees must work full time would discriminate against many parents.

The Equal Pay Act (EPA) 1970 (1984)

The EPA applies to pay and other contractual matters where a woman and a man are doing the same work or work that is of equal value. [Source: Equal Opportunities Commission]

The Sex Discrimination (Gender Reassignment) Regulations 1999

These regulations make it illegal to discriminate against transsexuals. This includes treating them less favourably than others when they are off work because of sickness or injury. Transsexuals are also protected from victimisation and harassment at work. The regulation only protects transsexuals against discrimination in paid employment and vocational training.

Employment Equality (Sexual Orientation) Regulations 2003 & the Employment Equality (Religion or Belief) Regulations 2003

They are two sets of regulations: the Employment Equality (Sexual Orientation) Regulations 2003 and the Employment Equality (Religion or Belief) Regulations 2003 which outlaw

discrimination in employment and vocational training on the grounds of sexual orientation and religion or belief respectively. These Regulations take effect from December 2003.

What do they outlaw?

- Direct discrimination - treating people less favourably than others on grounds of sexual orientation or religion or belief;
- Indirect discrimination - applying a provision, criterion or practice which disadvantages people of a particular sexual orientation or religion or belief and which is not justified as a proportionate means of achieving a legitimate aim;
- Harassment - unwanted conduct that violates people's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment;
- Victimisation - treating people less favourably because of something they have done under or in connection with the Regulations, e.g. made a formal complaint of discrimination or given evidence in a tribunal case.

What grounds do they cover?

The Sexual Orientation Regulations apply to discrimination on grounds of orientation towards persons of the same sex (lesbians and gays), the opposite sex (heterosexuals) and the same and opposite sex (bisexuals). They cover discrimination on grounds of perceived as well as actual sexual orientation (i.e. assuming - correctly or incorrectly - that someone is lesbian, gay, heterosexual or bisexual). The Regulations also cover association, i.e. being discriminated against on grounds of the sexual orientation of those with whom you associate (for example, friends and/or family).

The Religion or belief Regulations apply to discrimination on grounds of religion, religious belief or similar philosophical belief. They cover discrimination on grounds of perceived as well as actual religion or belief (i.e. assuming - correctly or incorrectly - that someone has a particular religion or belief). The Regulations also cover association, i.e. being discriminated against on grounds of the religion or belief of those with whom you associate (for example, friends and/or family)

(Source - Department of Trade and Industry)

Working Parents

From 6 April 2003, parents of children aged under six or disabled children aged under 18 have the right to apply to work flexibly and their employers will have a duty to consider these requests seriously.

At the same time, the Government is increasing and extending maternity leave and pay and introducing rights to paid adoption and paternity leave. These rights, together with existing rights to parental leave and time off for dependants, provide parents with more opportunities than ever before to balance work and family life, whilst being compatible with, and beneficial to, business efficiency.

(Source - Department of Trade and Industry)

Achieving Race Equality in Procurement

You should be aware of the following main steps to be taken to incorporate race equality into procurement and the key outcomes to be achieved:

Key outcomes

- All contracts are delivered in a way which is non-discriminatory, and promotes equality of opportunity for your staff, the general public, and businesses.
- The goods, works, and services provided by contractors cater for all users' needs.
- There is no difference in the satisfaction rates of users, or your staff, from different racial groups.
- Contractors are representative of the local population, or of the area from which the businesses are drawn, with respect to ethnic diversity.
- Contractors work on a voluntary basis to promote equality of opportunity beyond the scope of the contract.

Key building blocks

- Include race equality considerations in your procurement strategies and policies, and link them to your race equality scheme or policy.
- Be consistent in your approach to race equality across all departments, and at each stage of the procurement process.
- Provide training and guidance for all officers responsible for the race equality elements of a contract, including monitoring.
- Consult users, and potential users, on their requirements for relevant services, and initiate discussions with potential suppliers.
- Take steps to ensure there is a level playing field for all potential contractors, regardless of size or ethnicity of ownership - and make your policy on race equality clear to all interested firms.
- Consider race equality when defining your requirements at each stage of the contract process, monitor and assess results, and plan for improvement.
- Encourage contractors to agree to further voluntary steps to promote race equality, after the contract has been awarded.

Guiding principles

Relevance

Any contract that could have a different impact by racial group is relevant to your duty. Consider all elements of the contract, not just those which are most obvious.

Proportionality

The actions you take to ensure race equality should relate to the likely impact, and size, of the contract. You cannot ignore smaller contracts, but simpler procedures may be more appropriate.

Accountability

The body or individual legally responsible for your organisation is ultimately accountable for meeting the duty. Clear lines of accountability are needed if responsibility is delegated.

Transparency

This is a principle of EU rules and UK law, and is a key element of the duty.

Mainstreaming

Race equality should be integral to corporate objectives, planning, and service provision.

Appropriateness

Authorities vary, so the CRE's recommendations need to be adapted to work for you.

Complying with the law

You must meet the requirements of the RRA when carrying out procurement, but also comply with EU and UK laws, and government policy.

Risk assessment

The more relevant the contract is to the duty, the more risk there will be in not acting. Some risk can be transferred to contractors, but responsibility stays with the authority.

(Source: CRE Public Procurement and Race Equality Guidelines for Public Authorities)

Appendix A

Sample policy on equal opportunities in employment

_____[organisation's name] is committed to building an organisation that makes full use of the talents, skills, experience, and different cultural perspectives available in a multi-ethnic society, and where people feel they are respected and valued, and can achieve their potential regardless of race, colour, nationality, national or ethnic origins.

_____will follow the recommendations of the CRE's statutory *Code of Practice on Racial Equality in Employment* in all its employment policies, procedures and practices.

The aims of this policy are to ensure that:

- no one receives less favourable treatment, on grounds of race, colour, nationality, or ethnic or national origins, or is disadvantaged by any conditions, requirements, provisions, criteria, procedures or practices that cannot be justified on non-racial grounds, or victimised for taking action against racial discrimination or harassment, or instructed or put under pressure to discriminate against, or harass, someone on racial grounds;
- the organisation is free of unwanted conduct that violates the dignity of workers or creates an intimidating, hostile, degrading, offensive or humiliating environment;
- opportunities for employment, training and promotion are equally open to candidates from all racial groups; and
- selection for employment, promotion, transfer and training, and access to benefits, facilities and services, will be fair and equitable, and based solely on merit.

This policy applies to all aspects of employment, from recruitment to dismissal and former workers' rights.

We will take the following steps to put the policy into practice and make sure it is achieving its ends.

- The policy will be a priority for the organisation.
- ___(named senior manager and job title) will be responsible for the day-to-day operation of the policy.
- The policy will be communicated to all workers and job applicants, and will be placed on the organisation's intranet and website.
- Workers and their representatives and trade unions will be consulted regularly about the policy, and about related action plans and strategies.
- All workers will be trained on the policy; on their rights and responsibilities under the policy, and on how the policy will affect the way they carry out their duties. No one will be in any doubt about what constitutes acceptable and unacceptable conduct in the organisation.
- Managers and workers in key decision-making areas will be trained on the discriminatory effects that provisions, practices, requirements, conditions, and criteria can have on some racial groups, and the importance of being able to justify decisions to apply them.
- Complaints about racial discrimination or harassment in the course of employment will be regarded seriously, and may result in disciplinary sanctions, and even dismissal. The complaints procedure will be published in a form that is easily accessible.
- Opportunities for employment, promotion, transfer and training will be advertised widely, internally and externally, and all applicants will be welcomed, irrespective of race, colour, nationality or ethnic or national origins.
- All workers will be encouraged to develop their skills and qualifications, and to take advantage of promotion and development opportunities in the organisation.
- Selection criteria will be entirely related to the job or training opportunity.
- Information on the ethnic and racial backgrounds of workers and applicants for employment, promotion and training will be collected and analysed, to monitor each stage of the recruitment process. The information will be held in strictest confidence and will only be used to promote equality of opportunity and prevent unlawful racial discrimination.
- If the data show that people from a particular racial group are under-represented in particular areas of work, lawful positive action training and encouragement will be considered for workers and others from that group, to improve their chances of applying successfully for vacancies in these areas.
- Grievances, disciplinary action, performance assessment, and terminations of employment, for whatever reason, will also be monitored by racial group.
- Requirements, conditions, provisions, criteria and practices will be reviewed regularly, in the light of the monitoring results, and revised, if they are found to, or might, discriminate unlawfully on racial grounds.

- All contracts between _____ and contractors to supply goods, materials or services will include a clause prohibiting unlawful racial discrimination or harassment by contractors and their staff, and by any sub-contractors and their staff. The clause will also encourage contractors and potential contractors to provide equality of opportunity in their employment practices.
- An equal opportunities action plan will be drawn up, with racial equality targets and timetables, to show what steps the organisation plans to take to achieve equality of opportunity.
- The effectiveness of the policy and the plan will be monitored regularly. A report on progress will be produced each year, and published via the intranet, the website, the staff newsletter, notice boards and the annual report.
- Customers and clients will be made aware of the policy, and of their right to fair and equal treatment, irrespective of race, colour, nationality or ethnic or national origins.

This policy has been endorsed by _____ [an appropriate senior person] and has the full support of the management/board.

The policy was approved on _____ [insert date], following consultation with senior managers, workers, workers' representatives and trade unions.

[Source: CRE Code of Practice on Racial Equality in Employment (2005)]