

# **Devon and Somerset Fire and Rescue Service**

## **Equality in Procurement:**

### **A guide for potential providers**

**2012**

## **Why does equality matter?**

Equality is important to Devon and Somerset Fire and Rescue Service. Not only because it makes business sense and is the right thing to do, but also, as a public body, we have a legal duty to consider equalities in all we do. This duty cannot be discharged – which means anyone we work with must comply with the legislation, particularly where they perform any of our functions on our behalf.

This guidance is designed to help you both understand what we ask of potential providers, and to promote equality in your own organisation. There are ways you can do this even if you are a very small organisation.

## **What is the legal requirement?**

The Equality Act 2010 became law on 1 October 2010. It brought all the previous equalities legislation, such as the Equal Pay Act 1970, Race Relations Act 1976 and Disability Discrimination Act 1995 etc. into a single Act.

The Act clarifies and strengthens previous requirements to promote equality through all public sector functions and gives a greater focus on increasing transparency. The way in which public money is spent can influence good equalities practice in society as a whole.

Our procurement processes and procedures support Devon and Somerset Fire and Rescue Services in meeting the general duties and specific duties, created by the Equality Act 2010, placed on public sector organisations:

The Public Sector Equality Duty

The general equality duty states that we must, in the exercise of our functions, have due regard to the need to:

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

### **The Protected characteristics:**

This duty relates to the following eight 'protected characteristics': age, disability, religion or belief, gender reassignment, pregnancy and maternity, sex and sexual orientation.

Marriage and civil partnership is covered, only in relation to the first duty, to eliminate discrimination.

### **Procurement legislation.**

The Public Contract Regulations 2006 (as amended) which enact from EU directives form the governing law on public procurement in England, Wales and Northern Ireland. These are further enhanced within Devon and Somerset Fire and Rescue Authority through internal governance - the Procurement and Contract Regulations.

We must let contracts fairly, consistently and transparently and treat all potential providers equally. Evaluation processes must be proportionate and non-discriminatory.

We should follow the principles of the Public Contract Regulations 2006 as best practice, regardless of the value of the contract.

## What are the benefits of embedding equality in procurement?

### What are the benefits of embedding equality in procurement?

We benefit by being able to demonstrate that

- we proactively consider and address the needs of our end users and meet our duties under the Equality Act 2010
- we obtain value for money and goods, works and services that are fit for purpose.
- we raise the profile of equalities with potential providers and their supply chain throughout the procurement cycle.

By supporting potential providers through feedback and monitoring we are in a better position to establish positive relations with suppliers, manage risks relating to vicarious liability, and protect and enhance the reputation of Devon and Somerset Fire and Rescue Service.

Potential providers benefit as they are:

- able to learn and improve and become better placed to win business elsewhere, in both the public and private sectors
- gaining support and learning, encouraging potential providers to consider the business case for diversity within their own organisation, thereby enhancing reputation as an employer and as a potential provider.

The community we serve benefits as awareness of equality and diversity cascades down from employers and supply chain partners.

## What aspects of equality do we need to consider in procurement?

Essentially, the consideration of Equality and Diversity is embedded in Devon and Somerset Fire and Rescue Service as 'business as usual'.

We need to:

- ensure equality factors are considered in procurement activities from the start to finish of the procurement lifecycle to help contribute to the delivery of equalities objectives
- consider equality-related contract conditions where they relate to the performance of the contract/framework
- include proportionate equality-related award criteria in the tendering process
- include equalities issues and reviews in performance monitoring during the life of the contract/framework

Before we ask for tenders or quotations we decide using an Equality Risks and Benefits Analysis what equality aspects we need to meet in the contract. These requirements should then be reflected in the:

- Requirements
- Terms and Conditions
- The questions we ask potential providers about their organisations and how they propose to deliver the required goods/services

In the requirements, we should describe what we need and for what purpose. We should supply potential providers with enough information so that they can propose suitable solutions or products. The requirements may include specific features in the goods,

works or services or in the performance of the successful contractor relating to Equalities. Examples of such features are provided in the table below.

### **Example of things we would consider in goods and services**

- IT systems - could include specific colour displays to take into account ease of use by people with dyslexia, font size to be adjustable to facilitate people with impaired vision
- Design of buildings - include wide doors, ramps, electronic door controls, accessible facilities, location of hand dryers:
- Clothing - to take into account male and female physiology, including pregnancy, and be suitable to meet cultural requirements;
- Equipment - to take into account the needs of all users including females and older persons –weight, manoeuvrability, size of grip handles etc.
- Marketing - communications should not make assumptions or reinforce stereotypes

**Example of things we would look for in a potential provider:**

- to train their staff in customer care and equality and diversity policies and practices which cover all the protected characteristics,
- to schedule services to ensure that the dignity of D&S FRS staff or visitors is maintained
- to establish a 'dress code' for their staff which does not unlawfully discriminate
- provide flexible working where appropriate and have a good family leave policy
- to have a bullying and harassment statement and procedure for reporting
- to have an anti-discrimination policy and procedures for reporting
- to consider communication methods to persons where English is not their first language

**What do we look at when we evaluate?**

We undertake the evaluation fairly and consistently for all potential providers and this must be proportionate to the value, risk and complexity of the procurement. We do ask about any successful claims of discrimination against the organisation.

For low value purchases – you must have legally compliant policies and procedures.

However, where the Equality Risks and Benefits Analysis has identified equality considerations and/or high risks on the delivery of the goods, works or services it may be appropriate to request further information.

We may ask potential providers to provide copies of their policies, related procedures, training and recruitment and ask them to demonstrate how they apply these in practice.

For higher value and /or higher risk contracts – we review the potential provider’s written policies & practices to determine how comprehensive they are and whether they are applied in practice.

The policies and procedures should be presented in a format that clearly identifies the organisation, for example, on headed paper, and they should be signed and dated and subject to a regular review.

In assessing the comprehensiveness of the policies we follow the guidance in the table on page 10.

If considered appropriate we may make the award of contract subject to the potential provider improving their policies and procedures within an agreed timescale. However, if it is clear that the policy is not legally compliant (for example the contractor will only employ men) and, with approval from the procurement team, the potential provider may be excluded from the evaluation. We will notify the potential provider of the reason for the exclusion at the earliest opportunity. It may be appropriate to report the potential provider to the Commission for Equality and Human Rights ([www.equalityhumanrights.com](http://www.equalityhumanrights.com)).

We will give the potential providers feedback on their tender or quotation submissions, indicating which answers were well presented and where they could make improvements.



## What are the successful provider's continuing equality responsibilities?

For some contracts or frameworks, it may be appropriate to monitor and manage the performance of the successful contractor to ensure that Devon and Somerset Fire and Rescue Service continues to receive value for money.

We should include a review of equalities issues with suppliers during the monitoring process and on a regular basis. Depending on the contract and the profile of equalities within it, we may only review a contractor's policies annually or we may include equalities as a standing agenda item, for example, for service contracts.

## How we can support providers

Smaller contractors we work with will be able to participate in our Equality awareness open seminars, subject to availability. Seminars take place at our Service Headquarters and are usually each quarter. They focus on a particular equalities topic, such as Gypsies and Travellers, Learning Disabilities, Arabic culture or Lesbian, Gay and Bisexual awareness and good employment practice. We can also share a wealth of equalities related literature with you, and there is a possibility, subject to the contract type, of access to our equalities e-learning packages.

**If you are already a provider** contact [.cweteam@dsfire.gov.uk](mailto:cweteam@dsfire.gov.uk) for more information.

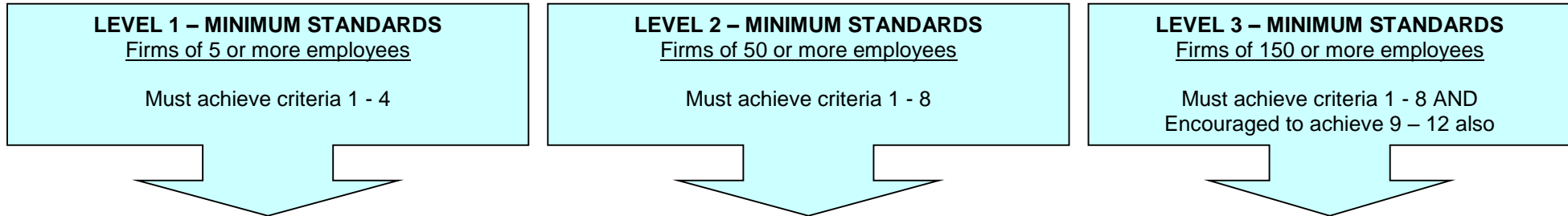
More information about equality and diversity is available on the Equality and Human Rights Commission website, [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

For more information on procurement and contracting activities contact: [procurement@dsfire.gov.uk](mailto:procurement@dsfire.gov.uk) or call 01392 872200.

DEVON AND SOMERSET FIRE & RESCUE SERVICE

GUIDANCE FOR EVALUATING SERVICE PROVIDERS ACTIONS ON DIVERSITY AND EQUALITY

(Age, sex, race, disability, religion or belief, gender reassignment, pregnancy & maternity, sexual orientation, marriage & civil partnership)



|   |   |   |  |    |  |
|---|---|---|--|----|--|
| 1 | Provide a written equality policy which covers at least: recruitment, selection, training, promotion, discipline & dismissal, <b>and</b> (a) victimisation, discrimination & harassment, making it clear that these are disciplinary offences within the firm; (b) identification of the senior position with responsibility for the policy and its effective implementation: (c) communication of the policy to staff. | 5 | Written instructions to managers and supervisors on equality in recruitment selection, training, promotion, discipline & dismissal of staff and other relevant HR policies such as Pregnancy & maternity, work-life balance policies etc. These can be instructions for general opportunities in employment. | 9  | Regular consultation on equality issues within the workforce   |
| 2 | Effective implementation of the policy in the firm's recruitment practice, to include open recruitment methods such as the use of job centres, careers service or press advertisements  | 6 | Training in equality for managers and staff.   | 10 | Regular diversity monitoring of selection transfer, training, promotion, discipline and dismissal – and bullying and harassment  |
| 3 | Regular Reviews of the policy   | 7 | Monitoring of: - <ul style="list-style-type: none"> <li>The numbers of job applicants for employment from different groups.</li> <li>The numbers of employees from different groups, by grade and section.</li> </ul>  | 11 | Mention in the firms recruitment advertisements and publicity literature of its arrangements for offering equal opportunities<br><br>Publish Equality monitoring information   |
| 4 | Regular monitoring of the number of job applicants from different groups (covering the protected characteristics)   | 8 | If monitoring reveals under-representation of particular groups, action to check that criteria 1-3, & 6-7 are being used effectively in the organisation and to make changes if necessary  | 12 | If monitoring (as in criteria 7 and 10) indicates under-representation of any group take action to check the criteria 1-3, 5, 6, 9 and 11 are being used effectively within the firm and if not, take appropriate advice. Take appropriate action (including positive action as a result of that advice) |

Firms with less than 5 employees should provide written assurance that they will meet the appropriate level of the standard following any recruitment which increases the size of the employees to 5 or more.

Where a contractor is carrying out the functions of DSFRS the contractor must meet the same standards as DSFRS, including the undertaking the Specific Duties, regardless of the size of the contractor.