

Procurement and Equality of Opportunity

Guidance for external providers of services to Nottinghamshire County Council

Nottinghamshire County Council - Equality policy statement on procurement

The Equality Act (2010) sets out anti-discrimination law in the UK replacing all previous equality legislation. It introduces the term “protected characteristics”. The protected characteristics are: age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, pregnancy and maternity, and marriage and partnerships.

At Nottinghamshire County Council it is our policy to work positively to reduce inequality with all customers and employees by ensuring that they are treated equitably, fairly, without discrimination and with dignity and respect, regardless of their age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, pregnancy and maternity, marriage and civil partnerships and trade union membership status.

The Act sets out the public sector equality duty (PSED) which applies to all public authorities in England. It also applies to organisations contracted by the authority to carry out a public function. The PSED requires public authorities to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimization and other conduct prohibited by the Act.
- Advance equality opportunity between people who share a protected characteristic and those who do not, and
- Foster good relations between people who share a protected characteristic and those who do not.

We believe it is our duty to promote equality in service delivery and have taken positive steps to redress inequality. In turn, we expect our employees, visitors and partners to respect and comply with government legislation and policies.

We consider it necessary for organisations who intend to supply goods or services on our behalf to demonstrate that reasonably practicable steps have been taken to allow equal access and treatment in employment and services for all.

The following 'question & answer' section demonstrates how this policy will be applied in procurement for potential County Council service and goods providers.

Why do I, or my company, need to take equality into account?

Organisations providing services to or on behalf of Nottinghamshire County Council must carry out their duties in accordance with UK legislation and take appropriate action to combat discrimination against people with protected characteristics.

Failure to comply with this policy could make the authority, and in some cases individuals, liable to legal action and prevent organisations from being allowed to tender for County Council services and works.

What questions will I, or my company, be asked?

The questions detailed in the 'questions for contractors section' may be asked at the prequalification stage to assess a supplier's suitability to undertake business with the County Council.

Do I, or my company, have to answer 'Yes' to all the questions?

It is not a legal requirement for a company to answer 'yes' to all of the questions before they are considered for selection. Greater importance will be given to the answers received from the three questions marked by (+) as these questions refer to an external provider's policy and practice not to discriminate. The answers to these questions will also inform us if potential contractors have had a case of unlawful discrimination brought against them, and the steps they have taken to address any shortcomings.

We do not have a written Equality Policy. Does this mean we will not be included in the County Council's select list?

Much of current equality legislation applies to all service providers and employers, not just statutory bodies. The County Council strongly encourages potential suppliers to demonstrate a commitment to equality. We acknowledge that small businesses may not have formal written Equality policies, and other companies may have formal policies but may not refer to them in their recruitment advertisements. This will not automatically exclude them from selection. However all providers will be expected to demonstrate and comply with all relevant legislation.

EU Procurement regulations as at 26th February:

Supplies & Services (excl Social Care) equal to or above £172,514

Social Care Services equal to or above £625,050

Works equal to or above £4,322,012

How will this affect contracts whose value equal or exceeds these thresholds?

If the value of a contract exceeds EU thresholds, EU directives stipulate the questions that can be asked at prequalification stage. However the County Council will make explicit in the OJEU (Official Journal of the European Union) Notices for a contract that a successful contractor will be required to comply with additional questions pertaining to equality in relation to gender, race, religion, disability, sexual orientation and age.

Contract Clauses

How will this affect the clauses included in the contracts?

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

“The Contractor shall not unlawfully discriminate either directly or indirectly on such grounds as age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, pregnancy and maternity, and marriage and civil partnership, fixed term or part time status, trade union or non-trade union status and without prejudice to the generality of the foregoing, the Contractor shall not unlawfully discriminate within the meaning and scope of the Equality Act (2010) or any other relevant legislation or any statutory modification or re-enactment thereof”.

Will additional equality clauses also be included in the contract?

Additional clauses relating to Equality in relation to service delivery may also be included and monitored, for example to ensure that the service is being provided to certain target groups and to ensure that all service users are satisfied with the service being provided.

Questions for Contractors

The following questions may be asked during the tendering processes at the prequalification stage. Contractors are invited to submit relevant information which will be assessed before they are considered suitable to provide goods works and services to the Council.

Discrimination on the grounds of age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, pregnancy and maternity and marriage and civil partnerships is prohibited by UK law.

Nottinghamshire County Council therefore considers it necessary for all organisations, wishing to provide services on behalf of the County Council, to demonstrate that all reasonably practicable steps are taken to eliminate discrimination and promote equality by allowing equal access and equal treatment in employment and service delivery for all.

Do you have an equality policy?

Yes No

If yes, please provide a copy of your company policy on equality. If No, you will not be automatically excluded from our list of subcontractors, but we strongly advise that you develop a policy on equality.

Is it the organisation's policy as an employer to comply with statutory obligations under the current legislation relating to Equality and accordingly, its practice not to treat one group less favorably than others because of any protected characteristic as set out in the Equality Act 2010, in decisions to recruit, train or promote employees? +

Yes No

In the last three years has any court or tribunal found a case of unlawful discrimination against your company? +

Yes No

In the last three years has your Organisation been the subject of formal investigation by the Equality and Human Rights Commission (EHC) or a comparable body and found a case of unlawful discrimination against the organisation? +

Investigation will not disbar your Company from inclusion, but failure to disclose it will.

Yes No

Is your policy on Equality set out:

- a. In instructions to those concerned with recruitment, training or promotion of employees?

Yes No

If yes, please provide details

- b. In documents available to employees, recognised Trade Unions or other employee representative groups?

Yes No

- c. In recruitment advertisements or other literature?

Yes No

If yes, please provide a copy of a recent recruitment advertisement

Yes No

The County Council will take your answers to these questions into account in our selection process. It is not a legal requirement for a company to answer 'yes' to all of the questions before they will be considered for selection and greater importance will be given to the answers received for the 3 questions marked by +.

This publication can be made available upon request in alternative formats or languages.

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