

**METROPOLITAN BOROUGH OF SEFTON**  
**CODE OF PRACTICE FOR**  
**EQUALITIES IN PROCUREMENT**

**A) INTRODUCTION**

**1. Sefton Council and Equalities**

1.1 Sefton Council is committed to eliminating inequalities in all functions, including procurement. The Council strives to ensure that their services are equally accessible and appropriate to the differing needs of all community sectors regardless of race, colour, nationality, ethnic origin, gender, marital status, disability, age or sexuality.

1.2 Sefton Council Equalities Policy outlines the Council's commitment to achieving equalities in procurement. It is vital that we can assure all taxpayers and service users that Sefton Council and our contractors don't operate discriminatory practices but offer equality and opportunity.

**2. Objectives of this Code of Practice**

2.1 Equalities issues must be a key consideration for anyone involved in the procurement process, from identification of the service needs and objectives, to award and management of a contract.

**3. Procurement and Equalities**

3.1 Procurement plays a major role in the delivery of Sefton's Services. Building equality into the procurement process, and therefore into service delivery, ensures that services meet the diverse needs of communities in the Borough.

3.2 Through the **Procurement Strategy** all officers involved in procurement should be aiming to:

- Provide citizens/service users with the right services, in the right way at a competitive cost;
- Continuously improve the services we offer;
- Provide services designed to meet customer needs;
- Find the best way of delivering services designed to meet the needs of the people who use them.

- 3.3 Equalities issues are also integral to the achievement of these objectives. Without full consideration of service users' needs it is not possible to provide services that are accessible and appropriate to all.
- 3.4 Being responsive to service users and local needs is essential to procuring appropriately and achieving quality in service provision – **'quality means equality'**.
- 3.5 Since a large proportion of the Council's work is put out to tender, it is important that the firms awarded these contracts can demonstrate the same level of commitment to equality as does the Council. This commitment should be demonstrated in their delivery of services and in their own employment practices.
- 3.6 It is therefore the Council's policy to **include equalities issues in the contracting process**, by taking the following steps:
- Ensuring contractors' employment policies, procedures and practices are not discriminatory;
  - Ensuring that contractors provide and develop services which are appropriate and accessible, through user consultation;
  - Providing opportunities for people from equalities groups to participate in the contracting process.
  - Monitoring whether contracts do meet these equalities aspirations.
- 3.7 Clearly the integration of equalities in procurement is also important in countering discrimination and in fulfilling our legal obligations under equalities legislation. (For further information on the council's commitment to equalities see the Council's Comprehensive Equalities Policy at [www.sefton.gov.uk](http://www.sefton.gov.uk))

#### **4. Legal Framework and relevant Policy**

- 4.1 Sefton Council, as other organisations, must not discriminate on the basis of race, colour, nationality, ethnic origin, gender, marital status, disability, age or sexuality, in any of their procurement activities. Discrimination on these grounds is illegal and is legislated against in various Acts.

4.2 The Council remains responsible for meeting their duties and complying with legislation even where functions are carried out all, or in part, by external suppliers. The Council therefore expects everyone working on its behalf to practice equal opportunities, and be able to demonstrate that they take all reasonably practicable steps to allow access and equal treatment in employment and service delivery for all. (See summary of equalities legislation produced by Social Inclusion Unit).

4.3 Contractors will be expected to comply with all relevant legislative provisions and to keep up to date with the current developments and changes in legislation.

4.4 Contractors should also comply with the **Codes of Practice in Employment**, produced by the Equal Opportunities Commission, Disability Rights Commission and Commission for Race Equality. (See [www.CRE.gov.uk](http://www.CRE.gov.uk), [www.DRC.gov.uk](http://www.DRC.gov.uk), [www.EOC.gov.uk](http://www.EOC.gov.uk), or [www.cehr.org.uk](http://www.cehr.org.uk))

4.5 Officers also need to ensure that their duties in respect of the following are met:-

a) The Relevance of Equality to Particular Contracts

At the very beginning of any procurement project there are three key issues to consider. Sefton Equalities Partnership is available to help with considering these issues. Make contact with them at the earliest opportunity.

b) Relevance

- Look at the nature and purpose of each contract and the effect it could have on different groups of the community.
- The size, value and length of the contract are also key considerations.
- It may be appropriate to consider simpler procedures and requirements for some small, low value, one-off or short-term contracts – see Appendix A.

c) Core Requirement

- A core requirement is an essential part of the contract.
- Equality is likely to be particularly relevant to contracts for services but is also a core requirement for contracts for goods or works in relation to employment practices etc.

4.6 Examples of the relevance of equalities to different contracts

- a) **Services** – In services contracts equalities issues are likely to be a core requirement where the service is provided directly to members of the public.

For example, the provision of education, community care, housing, information or advice services.

Even in some services that appear to have little relevance to equality, there may be some aspects where equality is relevant. For example, where the service requires an awareness of different languages or cultural differences.

- b) **Goods** – The primary concern in contracts for goods is that the goods need to be 'fit for purpose'. In certain contracts fitness for purpose means the goods need to be capable of meeting the needs of particular community groups.

For example community transport staff uniforms to comply with specific cultures. For example community transport staff uniforms to comply with specific cultural and religious requirements.

- c) **Works** – Although not as obvious, there will be implications in works contracts for equality. The conduct of contractor's employees towards Council staff and towards members of the public is the key equality requirement in these contracts.

For example, contracts for repairing and maintaining residential properties.

**5. Existing Contracts**

- 5.1 All contracts currently in operation should be monitored to ensure that the equality requirements set out in the specification and contract conditions are being met in practice by the contractor.
- 5.2 When a contract is being reviewed and/or renewed the equality requirements should be strengthened where relevant in line with legislation and the Council's Equality Policy.

**6. Building Equality into the Procurement Process**

- 6.1 The Council can specify the services they want and spell out equalities aspects that must be met by the contractors. To ensure that equalities objectives are delivered to all groups covered by the Council's Equal Opportunities Policy, appropriate service standards and targets should be used in the specification and effective monitoring developed to ensure that services are delivered.

**7. Use of an Accreditation Service**

- 7.1 The Council has for a number of years given authority to the use of the Constructionline scheme that provides a full pre-qualification and on-going accreditation service on potential suppliers for construction and construction-related services, including the requirements in relation to equalities. This scheme enables authorities to select providers from a list of suppliers that are fully compliant with the legislation of the day.
- 7.2 The intention is for Constructionline to be incorporated into a service that will be known as the National Pre-Qualification Scheme and will cover the more general supply of goods and services, as well as retaining the ability to provide construction-related providers. It is anticipated that the NPQS scheme will meet all of the requirements for Equal Opportunities. However, it is important that officers ensure that all aspects relating to Equal Opportunities are covered during any procurement exercise, taking the following guidance into consideration.

## B) **STAGE ONE - PROJECT SCOPING**

### 1. **Service Review**

- 1.1 Conduct a review of the existing service provision to establish whether it is meeting the needs of current users and whether it would meet the needs of potential users. It is necessary to assess the quality, efficiency and effectiveness of existing services, and the extent to which they reach and are accessible to users, and whether they are viewed as appropriate by those who might or do use them.
- 1.2 Using equalities **monitoring data** the diversity of service users/potential service users can be investigated which will contribute towards the process of identifying service users needs. The data will show whether there are some community groups that are affected disproportionately or are not being served as well as they should be.

### 2. **Consultation**

- 2.1 Consulting service users, the people who will ultimately use the service, will help to identify their needs. Discussions with them may also help to assess whether the proposed arrangements would have an adverse impact on particular community groups.

#### 2.2 Example

Parents, teachers and headteachers in schools could be consulted over school meal menus and asked for their views on the service and possible improvement areas.

### 3. **Core Requirement**

- 3.1 At this stage it is necessary to determine how relevant equality is to a particular procurement project in order to establish how equalities issues need to be integrated with later stages in the process.
- 3.2 Equality will be a core requirement where it is an essential part of the contract.

3.3 The following areas need to be considered before moving on to preparing the contract documents:

a) Risk Assessment

- Identifying risks of the contract, including those relating to equalities which could include the public relations impact of our procedures and service delivery, and potential breaches of legal and statutory equality requirements;
- Take any risk identified into account when writing the specification and the other contract documents.

b) Management, Monitoring, Control

- Reflect on how equalities aspects of the contract will be managed, monitored and controlled;
- Write processes and requirements into the contract documents;
- Make clear what information the contractor is required to provide in order to enable the Council to monitor compliance of the contract.

c) Service needs and Objectives

- Recall the equalities needs and objectives that have been identified. These may include requirements in respect of the way in which the service is delivered or the goods provided;
- Consider what the community needs from the service in question;
- The impact equalities will have on the contract documents will depend whether equality was assessed as being a core requirement.

d) Workforce Issues

- Will the contract involve Council staff transferring to an external contractor?
- Consider the implications and TUPE legislation;
- The requirements in respect of TUPE are covered further in the Code of Practice of Work Issues.

e) Contract Packaging

- Must be packaged to deliver best value and continuous improvement.
- Does the packaging discourage or eliminate certain contractors?
- How can it be packaged to encourage under represented groups to apply?
- Inappropriate aggregation of smaller contracts, for example, may exclude smaller businesses.

## C) **STAGE TWO: CONTRACT PREPARATION**

### 1. **What contract documents are needed?**

- Pre-tender questionnaire
- Contract Conditions
- Specification
- Invitation to tender

### 2. **Key issues to consider prior to preparing the contract documents**

#### 2.1 Contract Award Criteria

- Will the tender be evaluated in terms of the most economically advantageous or lowest price?
- More likely that tenders will be selected on the basis of 'most economically advantageous' (MEAT)
- MEAT allows equalities matters to be considered, as long as they relate to the subject of the contract

#### 2.2 Variants

- Consider accepting variants
- Gives the contractor the flexibility to show that they can be innovative in delivering the contract
- May provide opportunities for saving money and improving service delivery

### 3. **Pre-Tender Questionnaire**

3.1 Sefton is currently working with the Regional Centre of Excellence for Procurement and the Society of Procurement Officers to produce a questionnaire that should recognise the different abilities of small and larger businesses to comply with equalities requirements. This will ensure that third sector opportunities are maintained. The questionnaire will be available in the near future from the Procurement Section.

#### 4. Information Requirements

- 4.1 It is also appropriate to make clear what is expected of tenderers as evidence of their ability to meet the equality elements of the specification. This might include information on the staff that would perform the contract. For example, details on staff qualifications and training, supervision arrangements, language skills and knowledge of particular cultures. Request method statements, in which tenderers can demonstrate their preferred methods to delivering the equality outcomes in the specification.
- 4.2 The invitation to tender must set out the criteria to be used in evaluating tenders, including any equalities criteria e.g. experience in providing the service to a diverse population and ability to provide customer facing staff who can speak and understand certain minority languages.
- 4.3 The invitation to tender must also refer to the contract conditions that relate to equalities legislation. Tenderers should be asked to confirm that they would comply with these conditions if the contract were awarded.

#### 5. Contract Conditions

- 5.1 The contract conditions set out the legal requirements and conditions under which the contractor must operate the contract. Equalities requirements can be inserted here making them contractual terms and conditions, which can be monitored for compliance. The clauses should alert contractors to all the relevant equalities standards and practices they should be follow in delivering the contract.
- 5.2 There are standard contract conditions relating to equalities that **must** be included in all contracts, whether equality is a core requirement or not. These cover contractors and sub contractors, and their obligations under current UK legislation on race, gender and disability. Details and further information may be found on the websites listed in paragraph 4.4 in Section A of the Code of Practice.
- 5.3 The contract clauses should inform the contractor of any monitoring that the Council will undertake during the contract, and stipulate what information the contractor needs to provide to facilitate this process. This commits the contractor to provide information to the Council that enable it to see that the firm is complying with any contract conditions.

- 5.4 The contract conditions should require contractors to inform the Council of any findings of unlawful discrimination made against the firm during the contract term and any steps the contractor takes in response to that finding.
- 5.5 If contractor's employees will be working alongside Sefton employees, we can require the contractor to comply with Sefton Equality Policy.

## **6. Specification**

- 6.1 The needs and objectives set out during the earlier stages of the process will now form the basis of the specification. The contract specification should be used to set out explicitly what the contractor is required to do in terms of equalities. It is the only opportunity to state clearly and precisely what is expected of the potential contractor and to ensure that equality policy objectives are set out unambiguously.
- 6.2 Equalities issues must be integrated throughout the specification and built into the appropriate clauses. Constant reference should be made to equality throughout the body of the specification and contract documents. It is not enough to merely refer to the Council's Equal Opportunities Policy in the introduction.
- 6.3 Examples of specifications with equality considerations
- A contract to supply prepared meals may include a requirement to supply meals that are suitable for Caribbean and Chinese diets, as well as maintaining certain religious requirements such as halal, kosher and beef free meals.
  - In specifications for care homes services it would be a requirement for the contractors staff to have undergone appropriate training in working with people with disabilities, be aware of religious observances and cultural conditions.
  - A contract for repairing and maintaining residential properties would bring the contractor's staff into direct contact with tenants and therefore the contractor would need to take steps to accommodate any special needs, including those who did not understand English very well, people with disabilities, people who worked anti social hours and elderly people.

- Specifications for school meals catering contracts should include requirements for menus to be 'flexible and tailored to meet individual requirements of the schools as far as possible' if there is a need to satisfy any specific ethnic make up of the school. This may need consideration of traditional seasonal dishes where appropriate and due consideration to the potential **multi-cultural background** of the pupils'.

## **7. Performance Targets**

7.1 The specification, where possible, should include performance targets relating to equalities, which can be used in measuring future performance and development of the service. For example, the contractor must conduct customer satisfaction surveys and ethnic monitoring of people who use the service. It would also be recommended that the contract provides for the contractor to make adjustments in the light of the result of monitoring.

7.2 Examples of Equalities targets include:-

- To improve the take up of the service by particular sections of the community;
- A specific proportion of staff completing equal opportunities training, especially those on the front line;
- Register and monitor complaints from under represented communities. The target will link with the requirement to monitor complaints from all customers.

## **8. Dealing with Complaints from Users**

8.1 The specification should include a requirement for contractors to develop a system for receiving, logging and forwarding complaints from users. This system must be accessible to **all** members of Sefton's community. Complaints procedures might be an area that could be tested using method statements and case studies.

## **D) STAGE THREE: LETTING THE CONTRACT**

### **1. Advertising**

- 1.1 A notice submitted to the Official Journal of the European Union and any adverts placed in newspapers or journals should state if equality is to be evaluated as a core requirement.
- 1.2 Adverts should not be placed in a way that could discriminate against certain suppliers. Advertising in the black Press (e.g. The Voice, Caribbean Times, Asian times etc.) would be part of good practice and would be particularly relevant where equalities is a core component of a contract.

### **2. Expressions of Interest**

- 2.1 At this stage it is only permissible to measure certain criteria – personal standing, economic and financial standing, and technical capacity. Technical capacity includes the contractor's capacity to meet legislation such as the Race Relations Act, Sex Discrimination Act and other equalities legislation.
- 2.2 Where the contract involves the provision of a service the Pre Tender Questionnaire (PTQ) question can relate to the provider's capacity to meet equality service delivery criteria as well as equality in the supplier's workforce.
- 2.3 Before issuing PTQs it must be clear what reliable evidence is required and how the answers will be evaluated:-
  - a) Candidates who are guilty of grave professional misconduct may be excluded from the tendering process at this stage. Breach of equality legislation, such as the RRA or DDA, or equivalent laws, could amount to such misconduct. However, where there is evidence that candidates have rectified and prevented a reoccurrence of the misconduct we would not be likely to exclude them.
  - b) In the policy and related documents/supporting evidence we are looking to see:
    - Instructions that explain the firms policies in respect of recruitment, training and promotion;
    - Use of open recruitment practices using for example Job Centres, careers offices and local newspapers to advertise vacancies;
    - Details on how the firm ensures that all job applicants are treated equally;
    - Commitment to review the policy regularly and take specific changes if necessary;

- Recruitment process that monitors the number of job applicants from different minority groups and takes action where under-representation is shown;
- Demonstrate that the Equalities Policy is communicated to employees;
- Policy covers victimisation, discrimination and harassment and makes clear that these are disciplinary offences;
- Policy identifies the senior post responsible for the policy and its effective implementation;
- Demonstrate that the equalities policy is communicated to the population in which the firm recruits their workforce – making their commitment public.

2.4 The focus here is to demonstrate that contractors have the **intent** to implement an equalities policy effectively. At this stage it is not appropriate to take the time and effort to establish that a firm is definitely doing what they say they are – we are looking for their intent. At later stages in the procurement process we should be ensuring that contractors really have the ability to meet any contract specific equality requirements (tendering) and are actually doing what they indicated they would (post contract monitoring).

2.5 If the contractor's policy and supporting evidence does not meet the criteria, we can give suggestions on how they can improve to comply with the Council's requirements. Once contractors can demonstrate that they have made sufficient improvement firms will be entitled to apply again.

### 3. **Taking Account of Size**

3.1 Smaller firms cannot always be expected to have the resources to develop their equalities policies and procedures to the extent that larger organisations are able to. With this in mind we could use different evaluation thresholds for different sizes of firms. (See appendix A for guidance).

### 4. **Contract Award**

4.1 It is good practice to inform all unsuccessful tenderers of the outcome, and provide them with feedback on their tender even if they do not specifically request it. This gives an opportunity to offer unsuccessful tenders advice, giving them help in improving the equalities aspects of their future bids. This is also beneficial for us in the future tendering exercises as it improves the market for successive contracts.

## **E STAGE FOUR: MANAGING THE CONTRACT**

The inclusion of equalities issues will only be effective if contractors' practices are monitored and managed during the course of the contract to ensure that they are meeting their commitments.

### **1. Initial Meeting**

- 1.1 Before the contract begins, a meeting should be held with the contractor to develop a clear, mutual understanding of the contract, including the equality aspects. It is essential to ensure that the contractor understands their responsibilities in relation to equalities issues.
- 1.2 Also ensure that the contractor understands what monitoring will take place and what information they must provide for these purposes.

### **2. Continuous Monitoring**

- 2.1 In all contracts monitoring should continue throughout the contract to check that standards and requirements are being met.
- 2.2 In larger contracts regular meetings should take place with the contractor to discuss the performance of the contract, any problems encountered, and improvements necessary. Also conduct regular site visits to see how the contractor performs and implements the equalities requirements of the contract in practice.
- 2.3 The monitoring arrangements for smaller contracts and standing lists should be relative to the size of the contract and the relevance of equalities issues. Spot monitoring, for example, or a paper based monitoring system may be more appropriate for smaller contracts (See appendix A for guidance on monitoring small and large companies).

### **3. Dealing with Problems**

- 3.1 If problems are identified arrange to meet with the contractor. Begin by suggesting action that needs to be taken by the contractor to rectify the situation. A time period can be given in which we expect to see improvements and rectify the situation. Ultimately, if the contractor does not make improvements and rectify the situation, the contractor can be deemed to be in breach of the contract and defaults may be invoked.

**F) STAGE FIVE : CONTRACT REVIEW**

In line with the duty to achieve best value it is necessary to review and evaluate a contract as a whole as it nears its end. In the context of equalities you will want to evaluate the extent to which the contract has achieved the specific equalities objectives and has promoted equality.

As a result of this contract review you will be able to draw some lessons for future procurement projects.

### **Checklist for Procurement Officers**

- a) Conduct a service review and consult users to ensure that all equalities requirements are taken into account.
- b) Identify all needs and objectives in relation to equalities.
- c) Ensure that there is an understanding of the requirements of equalities legislation and other relevant policies, amongst those involved in the procurement project.
- d) Determine whether equalities are a core requirement of the contract.
- e) Include equality requirements in the specification where equality is a core requirement.
- f) Include non-discrimination on contract conditions plus any other relevant equalities contract conditions.
- g) Using the PTQ, check contractor's ability to deliver equality in employment and service delivery.
- h) Include all relevant equalities information in the Invitation to Tender.
- i) Evaluate tenders for meeting the equality requirements in the specification, using the pre-determined criteria.
- j) Provide feedback to unsuccessful contractors.
- k) Meet the successful contractor to discuss the equalities contract conditions and other relevant issues.
- l) Monitor the contractor's performance in terms of equalities as set out in the specification and contract conditions.

### **Sources of Information and Advice for Tenderers**

- 'Race Equality and Procurement in Local Government' published by the Commission for Racial Equality.
- The Commission for Racial Equality ([www.cre.gov.uk](http://www.cre.gov.uk))
- The Equal Opportunities Commission ([www.eoc.org.uk](http://www.eoc.org.uk))
- The Disability Rights Commission ([www.drc.gov.uk](http://www.drc.gov.uk))

## **GLOSSARY**

### **BME Business**

Black and Minority Ethnic Business – defined as a business where 51% or more is owned by members of ethnic minority groups OR if there are few owners, where at least 50% of the proprietors are from black or minority ethnic groups.

### **Core Requirement**

A requirement which the contractor must meet to provide effectively and efficiently the goods, works, or services that are the subject of the contract.

### **Discrimination**

When a person is treated less favourably for some reason than others are or would be in the same or similar circumstances.

### **Packaging**

The formal dimensions of a contract- its length, its scale and complexity, and its application.

### **Performance Targets**

Targets for the contractor to meet in performing the contract.

### **RRA Duty**

The duty under the Race Relations Act to eliminate unlawful discrimination, and to promote equality of opportunity and good relations between people from different racial groups

### **SME**

Small or Medium Enterprise – defined as a business that employs up to 50 people.

**RACIAL EQUALITY COMMON STANDARD**

**Level 0** – Firms with less than 5 persons are required to provide written assurance that level 1 would be achieved prior to any recruitment, which would increase the size of the firm to 5 or more.

**Level 1** – (5 or more employees) Must achieve criteria 1-4

1. Provide a written equality policy that covers at least:
  - Recruitment, selection, training, promotion, discipline and dismissal
  - Victimisation, discrimination and harassment, making it clear that there are disciplinary offences within the firm
  - Identification of the senior position with responsibility for the policy and its effective implementation
  - Communication of the policy to staff.
2. Effective implementation of the policy in the firm's recruitment practices, to include open recruitment methods such as the use of job centres, careers office or press advertisements.
3. Regular reviews of the policy.
4. Regular monitoring of the number of job applicants from different ethnic groups.

**Level 2** – (50 or more employees) must achieve criteria 1-8

5. Written instructions to managers and supervisors on equality in recruitment, selection, training, promotion, discipline and dismissal of staff.
6. Training in equality for managers and any staff responsible for recruitment and selection.
7. Monitoring of:
  - a) the numbers of job applicants for employment from different racial groups, people with disabilities, gender.
  - b) The number of employees from different racial groups, people with disabilities, gender by grade and section.
8. If monitoring reveals under-representation of particular groups, action to check that criteria 1-3 and 6-7 are being used effectively in the firm and to make changes if necessary.

**Level 3** – (250 or more employees) must achieve criteria 1-8 and would also be encouraged to achieve criteria 9-12.

9. Regular consultation on equality issues within the workforce.
10. Regular monitoring of selection, transfer, training, promotion, discipline and dismissal.
11. Mention in the firms recruitment advertisements and publicity literature of its arrangements for offering equal opportunities.
- 12) If monitoring (as in criteria 7 and 10) indicates under-representation of any group, take action to:
  - a) Check that criteria 1-3, 6, 6, 9, and 11 are being used effectively within the firm
  - b) Take advice about appropriate action from offices from the CRE, Racial Equality Councils or the Race Relations Employment Advisory Service, Equal Opportunities Commission, Disability Rights Commission all of whom offer free advice.
  - c) Take appropriate action (including positive action) as a result of that advice.

**EQUALITY AND NON DISCRIMINATION MODEL CLAUSES**

**NOTES**

- When incorporating the following into existing contract documents, care should be taken to number the clauses correctly. Where clause numbers are referred to in the text (see 2.1, 2.6, 2.9,2.14), these may also need amending.
- The contract's default provisions should ensure that breach of these clauses will trigger the normal default procedure (e.g. if the breach is remediable, Service by the Council of a notice to remedy a breach). More sophisticated default provisions may be required where specific delivery targets are set (see 2.12).

**Part 1 – Clauses for use in all Contracts**

The following requirements must be included in all contracts

1. **Compliance with Legal Requirements**

- 1.1 In discharging its obligations under this Contract, the Contractor will comply with all applicable Acts of Parliament, Regulations, Orders, Directives, Statutory Guidance, Codes of Practise and Byelaws that are in force or may come into force during this Contract.

2. **Equality and Non-Discrimination**

- 2.1 Without prejudice to, or limitation of, its obligations under Clause 1.1 the Contractor will additionally comply with the following requirements in discharging its obligations under this Contract.
- 2.2 The Contractor will not discriminate directly or indirectly against any person on the grounds of gender, marriage, sexuality, religion and belief, colour, race, nationality, national or ethnic origin, contrary to the Equal Pay Act 1970, the Sex Discrimination Act 1975 (as amended), the Race Relations Act 1976 (as amended), the Employment Equality (Religion or Belief) Regulations 2003 and any other relevant legal requirement applicable during this Contract.
- 2.3 The Contractor will not treat a person less favourably for a reason relating to that persons disability (as defined by the Disability Discrimination Act 1995) nor fail to comply with a duty under that Act to make reasonable adjustments in relation to the disabled person.

- 2.4 The contractor will ensure that it complies with the Commission for Racial Equality's Code of Practice in Employment, the Equal Opportunity Commission's Codes of Practice on Sex Discrimination and Equal Pay and the Disability Rights Commission's Code of Practice for the elimination of discrimination against disabled persons in the field of employment, together with any future Codes of Practice in respect of Equality Issues.
- 2.5 The Contractor will notify the Council as soon as it becomes aware of any complaint or proceedings against the Contractor alleging unlawful discrimination or any investigation of the Contractor's performance of this agreement. In the event of any such complaint, proceedings or investigation the Contractor will co-operate fully and promptly with the body undertaking the investigation or bringing the proceedings, and will indemnify the Council against all costs, charges and expenses (including legal and administrative expenses and any compensation that the Council is required to pay) arising out of such investigation of proceedings.
- 2.6 The Contractor will provide to the Council such information as the Council may reasonably request in respect of the impact of equality issues on the operation of the contract, and vice-versa.
- 2.7 Additional clauses that may be appropriate, depending on the contract, are set out below:
- a) Where Sub-Contracting is, or may be permitted
- In the event that the Contractor subcontracts any of its obligations under this Contract it will impose obligations on its subcontractor that are substantially similar to those set out in this Clause.
- b) Where the Council wishes to have the right to remove the contractor's staff
- The Council reserves the right to require the Contractor, by written request, to remove any person involved in the performance of the Contract where in the Council's reasonable opinion such person is acting contrary to the requirements of this Clause.
- c) Where the performance of the contract may affect people's human rights
- The Contractor will discharge its obligations under this Contract without infringing the human rights of any person, as defined by human rights of any person, as defined by the Human Rights Act 1998.

**Part 2- Additional Clauses for Contracts where Equality is a Core Requirement of the Contract**

1. The Contractor will, in performing this contract, comply with the provision of section 71(1) of the Race Relations Act 1976 (as amended) as if the Contractor were a body within the meaning of schedule 1A of the Act and subject to an obligation to have due regard to the need to eliminate unlawful racial discrimination, and to promote equality of opportunity and good relations between persons of different racial groups.
2. The Contractor will comply with any equal employment and/or equal service delivery targets set as part of the Contract having regard to the Council's procedures for equalities monitoring.
3. The Contractor will monitor representation amongst its staff of persons of different racial groups (which shall mean groups of persons classified as "ethnic groups" in the most recent official census by the Office of National Statistics or successor body), and where it appears to the Contractor that any racial group is under-represented in its staff by comparison with the proportion of members of that racial group known or believed to be engaged in similar trade or trades in the Council's area, the Contractor shall, so far as it is not prohibited from doing so by the Race Relations Act 1976, Undertake the following actions as may be appropriate:
  - The placing of job advertisements designed to reach members of such racial groups and to encourage their applications.
  - The inclusion in job advertisements of the following slogan (or off a slogan carrying the same or a similar meaning) "We are an equal opportunities employer and encourage applicants from under represented groups.
  - The use of employment agencies and careers offices in areas where members of such racial groups live and work.
  - The promotion of recruitment schemes for school-leavers designed to reach members of such racial groups.
  - The provision of appropriate training and encouragement to members of the Contractor's staff from such racial groups to apply for promotion or transfer to positions where such racial groups are under-represented.
4. The Contractor will, (x months) from the date of this Agreement and (annually) thereafter submit a report statement to the Council demonstrating its compliance with this Clause 2.2 and its delivery of an accessible and appropriate service, fairly and without unlawful discrimination to all groups irrespective of gender, marriage, sexuality, religion and belief, colour, race, nationality, or ethnic origin or disability.

**Other Areas to Consider:**

- Contractor to undertake detailed monitoring, surveys and data analysis – e.g. of levels of satisfaction by ethnic background; consultation with users or the community at large; consultation with the contractor’s staff.
- Contractor to develop and change the services to reflect demographic or environmental changes, or previous poor equality performance.
- Contractor to take positive action – e.g. to make regular contact with disadvantaged or under-represented communities to encourage greater take-up of services.
- Specifying inputs, where these are relevant to the equality outputs required – e.g. arrangements for equality training, consultation, monitoring, recording.