

Achieving Equality through Commissioning and Procurement



A guide for commissioners and
organisations wanting to do business with us.

February 2015

Introduction

People have high expectations about public services and their role in ensuring people's health and wellbeing; most of our services have a health and wellbeing outcome, even if not involved directly in the delivery of health or social care services.

We are seen as community leaders and providers or commissioners of essential services; people put their trust in us to get it right and to spend their taxes wisely.

People don't necessarily see public services as separate organisations – they won't always know if the service they receive is provided by a private company or voluntary/charitable organisation through a contract, a county council, district council or health service provider. Their interaction will be with a member of staff who may be their carer or refuse collector, for example, providing 'a public service'.

It's therefore important that, when working together, we all have an understanding of expectations and standards; this includes standards for achieving fairness and equality.

Public authorities spend billions of pounds each year on buying goods and services from different sectors. This purchasing power can be used as a lever to advance equality for all.

This guide aims to provide clarity around equality standards and benefits including:

- Devon's shared vision of equality and fairness.
- Devon County Council policy and values.
- Legal duties under the Equality Act and Public Services (Social Value) Act.
- Procurement and commissioning procedures.
- Standard equality clauses in contracts.
- How we can support organisations.
- Practical advice and guidance on meeting or exceeding our standards (understanding where and how equality is relevant).

Further information about doing business with us is available on our website. Visit devon.gov.uk/doing_business_with_dcc.

For further information or alternative formats please email procure@devon.gov.uk or write to Devon County Council – Procurement, County Hall, Topsham Road, Exeter EX2 4QU.

Disclaimer: This information is provided as guidance only and Devon County Council accepts no liability for its content or for the consequences of any actions taken on the basis of the information provided. Organisations are advised to take their own legal advice.

Vision of equality and fairness

Organisations across Devon are invited to sign up to Devon's Joint Declaration for Equality. The aim of the declaration is to demonstrate commitment to the achievement of equality and fairness for all people in the county. The signatory organisations recognise the importance and benefits of an equal society and will behave in ways that reflect an equal society. *To sign up, email equality@devon.gov.uk providing the company logo and electronic signature from the Chief Executive/Director.*

An equal society advances equality by encouraging participation, understanding people's different needs, disabilities, situations and goals and removing or minimising disadvantage and the barriers that limit what people can do and can be at any stage in their life.

An equal society upholds the human rights of everyone and works to eliminate unlawful discrimination, harassment and victimisation, and unfair discrimination. It fosters good relations by promoting understanding and tackling prejudice.

An equal society values human diversity, recognising that diversity brings a range of skills, knowledge, values, styles, perspectives and ideas that secure Devon's future as a place where people want to live, work and prosper.

Organisations pledge to work together, publish objectives, factor equality into decision making, monitor progress and do what we can to achieve the following **Vision of Equality and Fairness**:

People can achieve their own potential and a good quality of life.

Everyone can access services, facilities or information.

Different needs are always taken into account.

There is public involvement and influence in decision making, planning, policy and service delivery. People are consulted and listened to through wide, fair and effective representation. There is a strong understanding of the diverse range of needs in Devon's communities, their make-up and changing nature.

Devon is a strong, safe and inclusive community. There are good relations between different communities. People are treated with dignity and respect at work, as customers, and in the community.

People have trust and confidence to report incidents of abuse or discrimination. Concerns are addressed.

Our workforce, at all levels, is supported and broadly reflects the diversity of the community. There is fair pay and employment practice, equal opportunities to progress and develop, and access to flexible working and family-friendly arrangements.

Devon County Council policy and values.

Devon County Council's equality policy has full support of its **Equality Reference Group** (community stakeholders). The policy contains five principles which we expect our own staff and Members to adhere to.

A copy of the Council's equality policy and further information is available at www.devon.gov.uk/equality.

Organisations are welcome to adopt and adapt the council's equality policy for their own use. This will help organisations work in line with our standards, but it is not a compulsory requirement as they may need something that better fits their organisation. You may want to seek expert/legal advice to develop an equality policy that is right for your organisation.

Please acknowledge Devon County Council if using any of our policies and guidance.

Legal duties

Equality Act 2010

People have legal protection from discrimination, harassment and victimisation because of a characteristic defined in the Equality Act. The Protected Characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation.

Discrimination includes direct discrimination (less favourable treatment) and indirect discrimination (a provision, criteria or practice that disproportionately disadvantages people with a characteristic and cannot be objectively justified for a legitimate aim).

The protections cover the provision of services and public functions, work, education, associations (e.g. members' clubs) and premises.

Public authorities also have 'pro-active' duties to consider equality issues and demonstrate performance in the delivery of services and employment of staff.

The public sector equality duty (PSED) states that a public authority must, in making decisions, policies and delivering services and functions, give due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other prohibited conduct.

- Advance equality of opportunity by removing or minimising disadvantage, meeting people's needs, taking account of disabilities and encouraging participation in public life.
- Foster good relations between people by tackling prejudice and promoting understanding.

A public authority also has specific duties to publish information and objectives to demonstrate how it is meeting the general duty.

Information includes workforce, community and service user/customer profiles (involvement, feedback and outcomes).

These duties apply to commissioning and procurement activities:

- The authority remains responsible for functions being carried out by another provider and therefore it needs to build equality requirements in to contracts and carry out contract monitoring.
- Where a function has been fully contracted out to another organisation, that organisation is responsible for meeting the public sector duties, but must be made aware of this.

The Act and case law has established that organisations need to consider and apply equality in a way which is:

Relevant, Proportionate, Necessary, Reasonable and Informed.

This means equality issues only need to be considered where relevant, and the amount of consideration applied will depend upon the degree of relevance.

Most things have some relevance to equality and some services have high relevance. For example, services which provide direct care to individuals will have a high relevance to equality, requiring a strong attention to meeting individual needs backed up by staff training programmes, whereas a road building scheme will have a low relevance. However, the road building scheme will not have 'no relevance' if the scheme enhances good health by diverting polluting traffic from urban areas (providing positive outcomes for disabled people with respiratory conditions) or affects a particular community (positively or negatively) such as a religious or older community, for example road closures near a place of worship or retirement village.

The degree of relevance is determined by the extent to which the policy, service or function can eliminate discrimination, advance equality or foster good relations in the way it is carried out. It is not necessarily determined by the number of people affected. This is of particular importance because **those at risk of discrimination are often in a minority because their needs get overlooked by the majority.**

In order to understand the relevance, services need to be well informed. This means staff, managers and Councillors need to be **aware of their legal responsibilities and have an understanding of the people affected and their needs**, through data, information and meaningful consultation.

Action taken will need to be **necessary, proportionate and reasonable.** This means that any disadvantage to an individual should not outweigh an advantage to the service/business or others.

Reasonableness considers a number of factors such as budget, availability of resources, the extent of inconvenience, consideration

of alternatives, and 'what the average person would do'. However, this does not give rise for excuses to do nothing.

Service providers and employers also need to **anticipate the need to make reasonable adjustments for disabled people** to improve access including physical access and access to information. Failure to do so can result in discrimination. The **consideration of other needs (such as gender, language or religious requirements) will help reduce the risk of unlawful indirect discrimination.**

For more information about the Equality Act visit www.devon.gov.uk/equalitylegislation.

Influencing broader equality outcomes

Public authorities could consider the wider influence their purchasing powers have on meeting the PSED and providers could 'go that extra mile'.

For example, in terms of gender equality, to what extent is the pay gap between men and women reducing between various procured services where work could be regarded as of equal value? Do providers follow the authority's footsteps and demonstrate leadership which improves community relations and attitudes to minority/disadvantaged groups (involvement in Gay Pride, for example)?

Public Services (Social Value) Act 2012

The Public Services (Social Value) Act requires public authorities to have regard to economic, social and environmental well-being in connection with public services contracts.

The authority must consider, where relevant and with proportionality:

- How what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area, and
- How, in conducting the process of procurement, it might act with a view to securing that improvement.
- Whether to undertake any consultation to achieve the above aims.

The council uses a process called Impact Assessment to identify and monitor equality (social) needs/issues and opportunities for improving outcomes. The procurement and commissioning process also includes a specific assessment using the Procurement Sustainability Matrix, which explores impacts of our procurement exercises in more detail.

The Impact Assessment Toolkit also considers environmental and economic factors so that these can be looked at together, and balances made where necessary.

Impact Assessment

Impact Assessment is a key part of the procurement and commissioning process; it helps meet requirements of equality and social value legislation.

Organisations wanting to do business with us may also use or adapt our Impact Assessment Toolkit to help consider and meet equality, economic and environmental standards.

For more information about Impact Assessment and specific guidance and checklists for carrying out social/equality, environmental and economic impact assessments, visit new.devon.gov.uk/impact.

Procurement and commissioning procedures

Commissioning is where we take a strategic view of the customer needs and the market and consider how best to procure (purchase) or deliver a service to meet a need.

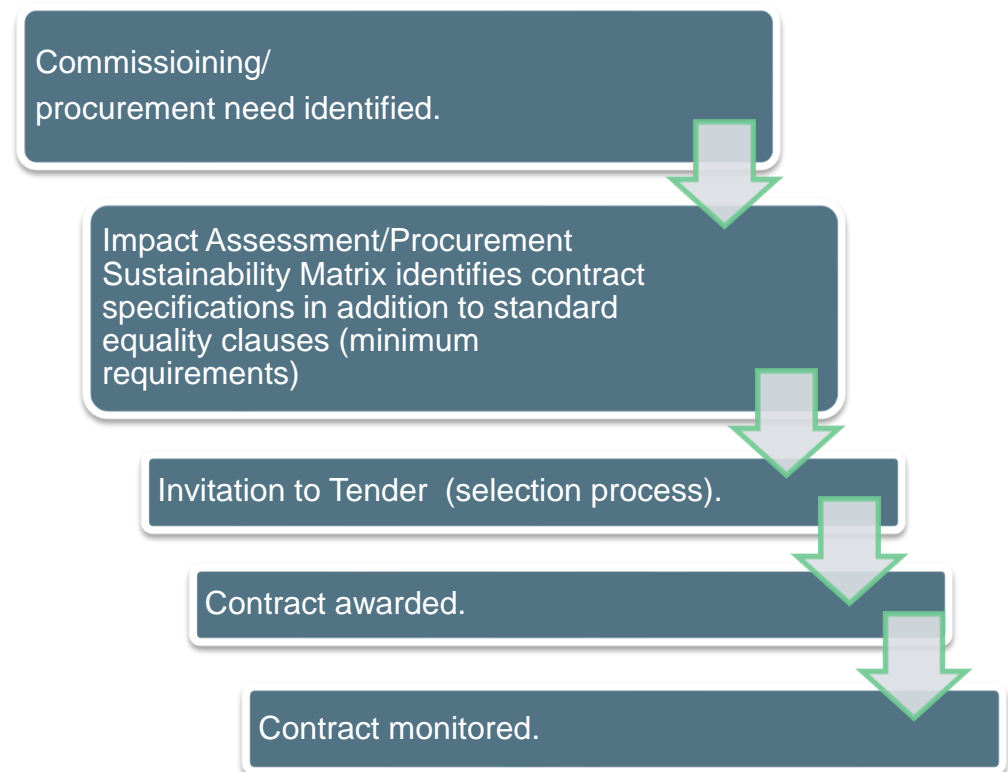
When a commissioning process begins, impact assessments are carried out – the findings will determine which equality considerations need to be contained within the award criteria questions (which Suppliers are scored on). This is a vital stage in the process.

An Invitation to Tender is advertised and this will include standard questions (compulsory minimum requirements) and any other relevant equality considerations that were identified in the impact assessment (the award criteria questions).

Suppliers that fail to meet the minimum requirements will not be considered, those who meet minimum requirements will be scored on the award criteria questions which may include additional equality requirements.

The terms and conditions of the contract include equality clauses which Suppliers must comply with, or risk losing their contract.

Suppliers will be monitored for their equality compliance and may be required to provide equality monitoring information such as customer profiles and feedback, this is particularly important for services delivering health and social care. Where sub-contracting arrangements are in place, monitoring information must also be provided about the supplier partner's performance.

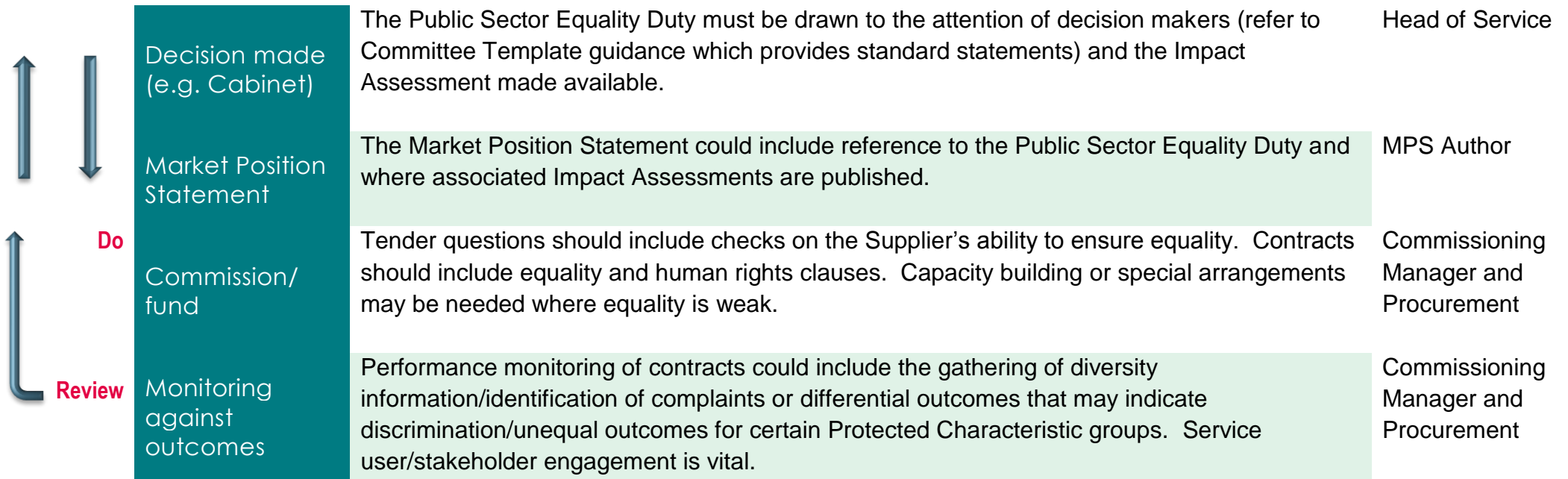


Application of the Public Sector Equality Duty in Social Care Commissioning & Market Position Statements

Activity

Who

	<p>Analyse</p> <p>Needs Assessment</p>	<p>Population/service user profiles should include a narrative about each of the Protected Characteristicsⁱ as well as other relevant factors such as socio-economic characteristics, prevalence of health conditions, wellbeing etc. Service user engagement should be part of this process. The Needs Assessment informs Demand. (See Note 1).</p>	<p>Author of assessment</p>
	<p>Demand and supply (market) Information</p>	<p>Analysis of the market should consider to what extent the needs of minority groups including disabled people, ethnic/religious minorities and lesbian, gay, bisexual and trans people are being met as well as human rights aspects such as dignity, choice, privacy and control.</p>	<p>Author of D&S information</p>
	<p>Plan</p> <p>Commissioning strategies, intentions and plans</p>	<p>Strategies and intentions should consider the Public Sector Equality Duty to eliminate discrimination, advance equality and foster good relations (see Note 2). Statements about the duty could be explicit in the business case. An Impact Assessment (including the Needs Assessment) should have started in order to shape and appraise the options.</p>	<p>Commissioning Manager</p>
	<p>Stakeholder engagement and testing</p>	<p>The draft Impact Assessment may identify issues that should be explored with stakeholders, including service users. It may identify the need to consult with particular Protected Characteristic groups. The Impact Assessment should remain 'open' at this stage as it is used to help shape the final approach. Service users (or relevant stakeholder/interest groups) could be asked to help write the Assessment or comment on it. There should be a consideration of enhancing all possible positive outcomes and experiences, not just removing negative ones.</p>	<p>Commissioning Manager and Procurement</p>
	<p>Adjust</p>	<p>Adjustments to commissioning strategies, intentions and plans are made (where needed) in light of engagement, testing and impact assessment. The Impact Assessment is signed-off and available for publishing.</p>	<p>Commissioning Manager and Procurement</p>



Note 1

Data may be limited or difficult to obtain for some Protected Characteristics resulting in the need for the County Council and partners to carry out thematic Needs Assessments for certain groups. It is important to plug gaps in information about minority groups so that their current/future needs are not overlooked when considering service demand. Needs Assessments are published on the **Devon Health and Wellbeing** webpages. Census data is not always reliable (for example, it is not possible to identify sexual orientation from Civil Partnership data). Other sources of information include the **Devon Community Needs Survey** and the Equality and Human Rights Commission's **Equality Measurement Framework** and **How Fair is Britain**. Research and surveys are often available from local Voluntary and Community Sector organisations including those belonging to the **Equality Reference Group** and national bodies such as the **Equality and Diversity Forum**.

Note 2

This means considering to what extent (i.e. taking all necessary and appropriate steps) the strategy, policy or plan can:

- Eliminate discrimination, victimisation, harassment and any other prohibited conduct (includes direct and indirect discrimination, refusing women to breastfeed in public and failure to make reasonable adjustments for disabled people).
- Advance equality of opportunity by removing or minimising disadvantage; meeting people's needs; taking account of disabilities and encouraging participation in public life.
- Foster good relations by tackling prejudice and promoting understanding.

Standard equality clauses

These are MINIMUM requirements.

Terms and Conditions

Human Rights Act 1998

The Contractor shall comply in all respects with the provision of the Human Rights Act 1998 and will indemnify the Council against all actions, costs, expenses, claims, proceedings and demands which may be brought against the Council for breach of statutory duty under the Act attributable to the Contractor.

Equal Opportunities

- a. The Contractor shall not unlawfully harass or victimise a person or discriminate either directly or indirectly because of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, colour, nationality, ethnic or national origin, religion or belief, sex, or sexual orientation ('the protected characteristics') 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, the Human Rights Act 1998 or other relevant legislation, or any statutory modification or re-enactment thereof.
- b. The contractor shall give due regard to the need to eliminate discrimination, advance equality and foster good relations within the meaning and scope of the Public Sector Equality Duty S.149

of the Equality Act 2010 in the execution of the Contract (Services only).

- c. The Contractor shall take all reasonable steps to secure the observance of clauses a and b by all servants, employees or agents of the Contractor and all suppliers and sub-contractors employed in the execution of the Contract.
- d. The Contractor shall demonstrate to the Council that it has a policy to comply with its statutory obligations under the legislation referred to above in clauses a and b.
- e. If there should be any findings of unlawful discrimination made against the Contractor by any court or employment tribunal, or an adverse finding in a formal investigation by a Commission, the Contractor shall take appropriate steps to prevent repetition of the unlawful discrimination.
- f. The Council reserve the right to test the Contractor's equality performance through the life of the Contract. The Contractor shall cooperate with the Council regarding the provision of data and/or access for site visits as reasonably required by the Council.

Standard Equality Questions

Suppliers will be asked the following standard questions as part of the Invitation to Tender.

It is your legal responsibility as an employer to comply with statutory obligations under the Equality Act 2010. Please confirm your organisations status in relation to the following:

- Does your equality policy meet the requirements of the Equality Act 2010 and aim to protect people from all forms of unlawful discrimination because of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, colour, nationality, ethnic or national origin, religion or belief, sex and sexual orientation?
- Should your organisation reach final short-listing, you will be required to provide copies of your policy documentation for inspection. Do you agree to send copies of these policies to the Authority within five working days of such a request?
- Are you able to put your policy into practice in YOUR treatment of WORKERS AND CUSTOMERS and deal with any allegations of discrimination in the course of the contract seriously? Are you able to set one or more objectives and gather and publish information (where relevant, necessary and proportionate) to demonstrate how you are eliminating discrimination, advancing equality and fostering good relations within the scope of the contract? Provide details of how this will be achieved.
- Are you able to provide equality and diversity training for relevant managers, staff, agents or volunteers (that is appropriate for the scope of the contract and which covers the nine protected characteristics of the Equality Act 2010)?

- In the last three years has your organisation been the subject of any formal investigation on grounds of alleged unlawful discrimination?
- If you answered yes to the question above or a Commission made a finding adverse to your organisation, have you taken steps to address this? If so give details.

Only respondents with 150 or more employees need to answer the following question:

- Are you able to collect, analyse, monitor and publish information about your workforce including the age, gender, disability and ethnicity of job applicants, those selected for interview, those appointed and promoted, leavers and those subject to grievance and disciplinary procedures? Is this information anonymous and clearly separated from recruitment processes? Do you carry out any additional workforce monitoring in line with the Public Sector General and Specific Duties of the Equality Act 2010 such as staff surveys and training? If you reach shortlisting stage you may be required to explain how you do this or intend to do this, providing evidence if it is available.

For guidance on workforce monitoring visit www.equalityhumanrights.com and look up workforce monitoring under the Equality Act Public Sector Duties.

Additional Equality Questions

Additional questions about equality will vary depending upon the nature of the contract.

For example, services providing direct care where personal and individual needs are a high consideration will require a strong emphasis on equality and anti-discriminatory practice:

We may ask Suppliers, for example, how they will ensure access to services for disabled people – they will need to consider a full range of access needs including the physical environment and how people can access information through different channels (face to face, telephone, internet etc.), taking into account physical and sensory disabilities (visual impairment, Blind, Deaf or hard of hearing), learning disabilities and mental health conditions.

Suppliers will also need to consider how to ensure dignity and meet the needs of men and women, lesbian and gay service users and people with different ethnic, cultural and religious backgrounds. Our social impact assessment guidance can help consider these needs.

Depending upon the nature of the contract, we may ask other specific questions about how the service could meet the needs of diverse customers across a range of measures.

For large contracts, we may also ask questions about how to mainstream good equality practice across the organisation and support staff from diverse backgrounds. We may expect to see evidence of sound leadership, policy frameworks, training/development and use of intelligence/data (including consultation, surveys and customer monitoring) and planning.

Developing the Service Specification and Tender Questions – For commissioners

An Impact Assessment and Staff/Service User Involvement (consultation) are a vital part of the commissioning/procurement process for services that people will use (and some products such as ICT equipment/software). Involvement can ensure services are responsive to need and improve quality; it should run right through the whole process/cycle. As already explained, the nature of the contract will determine how much equality needs to be considered and built in, likewise this will determine how much involvement of service users is needed as part of service/contract design and contract monitoring.

Within health and social care services, the level of involvement needed is likely to be high. **Healthwatch Devon** provide a main 'gateway' for commissioners of health and social care services to involve the public, service users and carers in the development and improvement of services.

Commissioners within People Services must contact the Council Involvement and Equality Team (People Services) for assistance. **Corporate and Place based commissioners** can contact the Corporate Engagement Team for support. Attendance at an **Equality Reference Group** meeting to consult with voluntary sector equality groups may also be recommended.

How we can support organisations

Devon Procurement Services provides Supplier Engagement Training, this provides Suppliers with:

- A broad overview of the contract
- Information about the electronic tendering system
- How to compile a competitive bid
- The evaluation process
- Do's and don'ts
- How to view other business opportunities.

We run **Meet the Buyer events** for general information about doing business with us, these events are advertised via local media.

Market Specific Supplier Engagement may also arise when there is a procurement exercise. We do what we can to support new, small, charitable or voluntary and community sector organisations by offering a range of support to all potential Suppliers. However, we cannot be seen to favour any particular sector or organisation.

When appropriate and proportionate we will undertake **Market Warming events** prior to an Invitation to Tender launch and after. These events are generally intended for Suppliers with the

aim of ensuring that all organisations have equal access to the tender process.

Commissioners and Procurement Officers take part in these events and depending on the size, complexity and supplier market there could be one central event or several held in localities around Devon.

Quite often in the Social Care market, potential Suppliers are user-led or run by other minority groups and these events give them direct access to the procurement process.

For further information or for details on up and coming events contact procure@devon.gov.uk.

To be alerted to procurement opportunities, register first via [Devon Tenders](#) and select the categories of business you are interested in. When a relevant opportunity arises, you will be automatically notified. Visit the supplier's area at devontenders.gov.uk for more information.

Example of how we have helped small businesses

As an example, Devon Procurement Services tendered for the provision of passenger transport by using a Dynamic Purchasing System (DPS).

This was a new system for all transport operators, and to ensure that there remained a good supplier base of both smaller and larger transport operators, four supplier days were held across Devon – Barnstaple, Exeter, Ivybridge and Newton Abbot.

The supplier events explained the reasons behind choosing the DPS, explained the procurement process, provided details of the Devon Tenders portal and gave them a chance to ask questions.

The supplier events were attended by approximately 100 operators with a large proportion of Small Medium Enterprises (SMEs).

Devon County Council also involved the twelve voluntary Community Transport Association groups within Devon by giving a presentation to them at one of their six-monthly meetings. The authority works closely with the CTA groups and wanted to ensure they had the opportunities to come onto the DPS and be able to tender to provide further services for Devon's residents.

We can make certain **reasonable adjustments** to the procurement process for disabled people (in particular sole traders).

We cannot provide one to one support and we can only accept paper copies of a tender in exceptional circumstances and **ONLY** if agreed in advance.

Due to contracting legislation, we cannot extend closing dates or other deadlines for individuals or organisations, so please discuss any requirements with us as early as possible.

Because of the tight deadline, it may not be practical to produce alternative formats (audio, braille etc.) and assistance may be better achieved through computer software or other communication support.

For advice on accessing electronic/online information, **visit bbc.co.uk/accessibility/guides**.

Businesses/traders should also check what personal support is available through the **Access to Work** scheme.

Practical advice, support and guidance

We would like all organisations to feel that they *can do* business with us and are not put off unnecessarily by legal responsibilities and requirements.

Public services do have tougher legal duties, but private and voluntary/community sector organisations that have followed a 'public sector approach' to achieving equality will find that they improve the customer experience and therefore earn a better reputation, which is good for business all round. We believe in passing on best practice.

When tendering, we may find our shortlisted Suppliers are strong in all areas except equality, in which case we may help in addressing this area of weakness, or expect Suppliers to work with specialist agencies or advisors.

Equality is about quality for everyone. If you provide good access and customer service to all people you will enhance your business and provide a better experience for everyone. Consider if at least 10% of the population are disabled, at least 6% of the population are gay/lesbian and about 4 to 10% have a minority ethnic background, (not counting overlaps) you will exclude at least 20% of customers if you do not demonstrate a commitment to racial, disability and sexual orientation equality.

Top tips

For Commissioners

When relevant, build the Public Sector Equality Duty in to all stages of the process from the Needs Assessment and Options Appraisal through to Contract Monitoring.

Be proportionate to the size and nature of the contract.

Use the Impact Assessment Toolkit and Sustainability Matrix.

Think about how you will check and monitor for equality requirements.

Seek advice and get examples of best practice.

Involve and engage service users/stakeholders in service specifications and contract monitoring.

For Suppliers

Think about how equality is relevant to your services and use processes such as Impact Assessment or customer feedback to check how well you measure up.

There is plenty of guidance available online, so do use resources available to you.

Consider involving or contracting with a third party or joining a consortium to improve access and meet the needs of other minority groups.

Small, specialist organisations could develop 'Sales Brochures' about the services they can provide under a consortium/sub-contracting arrangement.

Case Studies

A series of case studies aim to show you where equality is relevant and how equality standards can be met.

1) Information and communication technology

Accessibility to users is always a consideration when undergoing a procurement exercise.

For example, a procurement exercise for e-books for the Library Service requested that the e-Books should be accessible for visually impaired people. The successful contractor has ensured this by working with a third-party service provider.

Procurement for an Interactive Interpretation display requested accessibility options for disabled people, in particular those with visual and hearing impairments. The winning bidder advised that they would implement an online HTML version that is accessible using screen readers, a transcript of audio-visual panels and closed captions of audio interviews.

2) Construction

Under Devon's Construction Framework South West, the construction contractors were asked to be members of the Considerate Constructor's Scheme.

This is an industry initiative which the county council felt appropriate to endorse and require our contractors to conform to, for every site.

Incidentally as Devon leads this framework on behalf of the whole south west region, this extends not only to Devon's sites but all sites that are part of CFSW - which has been over 70 significant construction sites throughout the SW region to date.

All our framework contractors have agreed to support this for all sites and registration is on a site by site basis.

For more information visit www.ccscheme.org.uk/index.php/site-registration.



3) Social Care contracting

Equality standards are of very high importance when procuring health and social care services and are always a significant part of any procurement process. Here are three examples:

In the recent tender process for a service particular questions were included within the evaluation criteria relating to accessibility of the services and how the provider would ensure that all needs would be met. During the evaluation process it emerged that one provider was not able to provide services to gay men and as such the submission was unsuccessful. As part of the normal feedback process this provider was specifically informed that their submission was unsuccessful because it would not enable the County Council to meet its responsibilities regarding equality.

In another example, where a procurement process was carried out for the provision of a Recovery Orientated Substance Misuse Service in Devon, bidders were instructed that their responses to all questions should *“pay particular attention to the service specification, needs assessment and commissioning strategy in your responses with strong emphasis on equality throughout the service delivery.”*

This was to ensure that equality issues were accounted for in all elements of the service that would result from the tender process. This was finally reinforced by a specific scored question in the interview / presentation element of the evaluation relating to equality and diversity.

Finally, the specification for the recent Advocacy Services contract contains the requirement that the provider *“must target advocacy services towards people who are the most vulnerable and who face the most barriers in having their voice heard – regardless of their age, the nature of their disability, where they live or the category of statutory service for which they may be eligible”*. This is an example of writing the equality requirements into the very substance of the contract.



Working with community outreach organisations to improve equality outcomes

Suppliers:

You may feel that you are unable to provide tailored services to particular communities or reach/engage with minority/under-represented groups, or need to provide equality and diversity training for your staff.

Commissioners:

You will need to consider how minority/under-represented groups needs will be met in the delivery of the contracted service, what proportion of the contract should address specific needs and whether existing funding and service prioritisation is proportionate to the needs of population groups in Devon. The contract price should take into account the cost of making reasonable adjustments for disabled people and other additional costs to meet particular needs.

Plugging gaps in service delivery to meet the needs of minority/under-represented groups can be achieved in a number of ways, for example:

- Employing specialist community outreach workers (Suppliers).
- Breaking the contract down into 'lots' to allow for targeted delivery by specialist organisations (from any sector) to certain sections of the community (Commissioners).

Suppliers working in partnership with others by:

- Sub-contracting with specialist organisations that work with minority/under-represented groups (as a business partner).
- Joining a consortium of Suppliers which includes a range of specialist organisations covering relevant Protected Characteristic groups.
- Spot purchasing from specialist organisations.

There are a number of organisations already providing support in Devon who may be able to help, their details may be available through the Devon Community Directory. For example:

- Translation and interpreting services.
- Organisations that specifically reach out to, or provide tailored services for ethnic/religious minorities, lesbian, gay, bisexual and transgender people, Deaf and disabled people.
- Organisations that can provide equality and diversity training.

How to form or join a Consortium

We may use a Market Warming Event to bring potential Suppliers together and encourage attendance particularly if we think the contract would benefit from a consortium approach. This will give different organisations the opportunity to meet and exchange contact details.

We can facilitate this at an early stage, but once the Invitation to Tender is launched we cannot influence the outcome of the process.

Organisations may look at a tender opportunity and think there are aspects of it they cannot deliver. It will not be clear to them who else is bidding at this stage so they may need to use other sources of information such as business networks or the Devon Community Directory to identify potential partners.

We recommend that specialist community outreach organisations join the Devon Community Directory so that they can be identified easily.



Meeting Unmet Needs

The 'grass roots' approach to establishing a business case for commissioning specialist services to minority/disadvantaged groups

Along with the Private and Public Sectors, the Voluntary and Community Sector is an important partner in the delivery of community based services. The sector thrives when it has a mixture of funding from charitable sources such as Big Lottery grants, volunteers, legacies as well as Public Sector contracts. The sector cannot survive on volunteers alone and many organisations employ paid staff. The sector is generally viewed as offering good value for money with excellent community outreach.

Projects and services delivered under a charitable source are time limited but when the funding ceases this can cause problems when the following conditions are present:

- People have become dependent upon the services provided and now see them as essential. The services may be offering people 'a lifeline'.
- The services have identified a need that is not currently being met in generic public service delivery (including failure to meet a statutory duty).
- The organisation can demonstrate clear benefits and improved outcomes to communities that meet public sector priorities, particularly those relating to health and wellbeing.
- The organisation is unable to apply for repeat funding, or the funding source itself has ended.

- The organisation has been unable to secure other sustainable sources of funding.

When these conditions are present these organisations often turn to public services for grant funding. However, in the current financial climate, public services are struggling to fund their own services, let alone grant fund services set up by others.

Many activities delivered by the Voluntary and Community Sector are excellent and we celebrate and applaud their success, but in many cases the County Council can only offer advice or signposting or possibly 'in kind' resources when funding comes to an end.

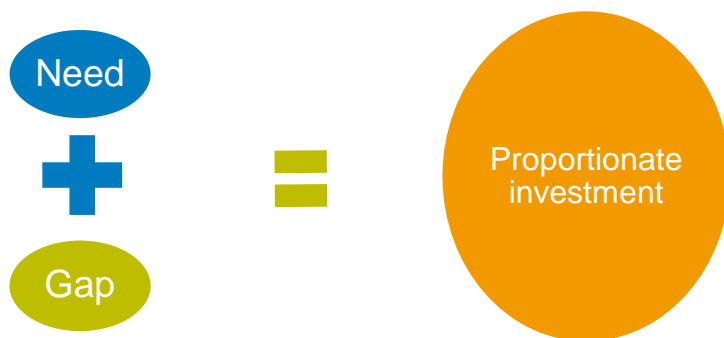
If there is strong evidence that the service set up and provided by the Voluntary and Community Sector organisation can:

- Lead to efficiency savings for public services.
- Reduce health inequalities/directly improve wellbeing or other Council priorities/statutory duties.
- Help the County Council eliminate discrimination, advance equality and foster good relations.
- Prevent harm.

Commissioners could consider whether it is necessary to procure such services either through a new contract or by re-negotiating an existing contract. However, a new contract would need to be open to the full range of potential Suppliers. This is because the County Council commissions services, not organisations, and cannot be seen to favour a particular organisation or sector as part of its commissioning process, even if that organisation raised the issue or was involved in a grant funded pilot.

It would be good practice for Voluntary and Community Sector organisations to involve the County Council when applying for major grants (that are relevant to County Council work and priorities) so that exit strategies or continuation plans can be agreed at the time of the bid.

Category Reviews



From time to time, it may be necessary for the County Council to undertake a Category Review in order to better understand the market and whether it is sustainable. For equality/community outreach organisations this would involve listing:

- Each protected characteristic group/community of interest to be reviewed.
- All known organisations providing support/services to that community.
- The type of support/services provided.
- The outcomes produced – direct and indirect benefits.
- The consequences of the organisation's failure/closure.

- Mitigations; whether there is alternative provision available (which may include improved provision).

It could also involve carrying out, reviewing or updating a Needs Assessment (Health, Joint Strategic etc).

Framework of Providers

If there is a clear need for the support of specialist organisations providing community outreach across a range of contracts/services, the County Council could consider establishing a Framework of Providers for specialist community outreach/support work. This will involve a tender exercise and establishing a list of 'preferred suppliers'.

Strategic Commissioning – Capacity Building Grants

From time to time it may be necessary for the County Council to provide capacity building/seed funding to plug gaps in the market.

Where a category review or market/needs assessment highlights that certain needs are not being met in the delivery of a contract and there is not enough capacity within the Public, Private or Voluntary Sectors, commissioners could consider providing seed funding to enable relevant/appropriate organisations to deliver/take on particular services.

This could also include working in partnership with others to find alternative sources of funding/explore match funding.

We know that budgets pressures will be with us for years to come and therefore, to survive, Voluntary and Community Sector organisations need to reduce their reliance on the County Council/Public Sector for funding.

We strongly recommend that Voluntary and Community Sector organisations explore new funding streams by marketing services to the **private sector** (e.g. producing ‘**sales brochures**’ and building **customer relations**).

We are aware of one successful community organisation that is now thriving due to private sector business and this now forms the largest part of their income stream.

Devon Provider Engagement Network

Most social care services such as care homes, home care agencies, children’s residential placements and community based services are delivered by independent providers.

Devon County Council is committed to working with these providers to help manage the social care market, whether or not we contract with them.

The Provider Engagement Network (PEN) is the way in which Devon County Council and Devon’s two NHS Clinical Commissioning Groups can bring these sectors together to engage and support them.

new.devon.gov.uk/providerengagementnetwork

Employment and Equality – Best Practice

Organisations that perform well in terms of employment equality tend to have a healthier organisational culture which leads to better equality outcomes in service delivery. The benefits of a diverse and ‘community intelligent’ workforce cannot be underestimated. Organisations whose work profile reflects the community it serves will be able to respond to needs more effectively.

Small organisations may struggle to carry out certain best practice activities around equality, but for larger organisations this should be seen as a core part of good employment practice.

Organisational culture health check for equality

The following checks can help identify areas for improvement.

Looking at the workforce gender, age, disability and ethnicity profile, who:

- Sits on your Board and Committees?
- Holds management positions compared to the rest of the workforce?
- Leaves the organisations after short service?
- Does the cleaning, catering, caring and clerical work?
- Isn’t recruited regularly despite applying for work?
- Has high levels of sickness, including stress?

Are there any underlying reasons for these differences?

Do you have any of the following in place?:

- Flexible working including homeworking.
- Maternity/paternity leave and pay.
- Prayer facilities.
- Equal pay/job evaluation scheme.
- Career progression for under-represented groups.
- Appraisal.
- Workforce diversity monitoring (where you have 150+ staff).
- Procedures for dealing with bullying and harassment.
- Equality training and competencies.
- Engagement and staff networks.
- Quality checks like Stonewall Workplace Equality Index, Investors in People, Equality Framework for Local Government.

All organisations, large and small, could consider the level of bullying and harassment in the workplace.

- Who is the target of office jokes and banter?
- Are there degrading images of men or women on the walls or left lying around (pin-ups, page 3 etc.)?
- Who is raising grievances and what are they about?

The number of Out gay or lesbian employees can indicate how safe people feel. Anonymous staff surveys can help identify issues.

Do you use email/web-blocking software? These can block words that are used in equality such as “sex” and “sexual” orientation and disadvantage staff who may want to discuss equality issues or receive equality related emails.
