

# Public Procurement and Race Equality

## Guidelines for public authorities

The Race Relations (Amendment) Act 2000, which amended the Race Relations Act 1976, has important implications for public authorities. The amended Race Relations Act, the RRA, now outlaws discrimination in all your functions, including procurement. It also gives you a positive legal duty to eliminate discrimination and to promote equality of opportunity and good race relations. The new legislation requires you to take proactive steps to assess whether there is equality of opportunity for everyone: your staff, the public you serve, and the businesses who work for you – and to make changes where this is not the case.

Where one or more of your functions is carried out by an external supplier, you remain responsible for meeting the duty. Contractors themselves must not discriminate, but they do not have the same legal obligation to promote equality of opportunity. So you must build relevant race equality considerations into the procurement process to ensure each function meets your RRA requirements, regardless of who is carrying it out.

Promoting equality through procurement matters. All groups in our communities, whatever their ethnic origin, have a right to expect that public money is spent on services which suit their needs – and that it is spent in a way which promotes equality of opportunity and delivers high quality goods and services.

The principles and the law are clear, but putting them into practice, and working out the extent to which race equality can be promoted in procurement within wider legislation and policy, can be a challenge. This leaflet provides a summary of the main steps required to incorporate race equality into procurement, and the key outcomes you should seek to achieve. The CRE has also published a detailed guide, **Race Equality and Public Procurement**, to help you meet the duty when carrying out procurement (see the back page for ordering details). A companion guide for local government is also available.

# Achieving race equality in procurement

## Key outcomes

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

## Key building blocks

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

- Encourage contractors to agree to further voluntary steps to promote race equality, after the contract has been awarded.

## Guiding principles

- **Relevance**  
Any contract that could have a different impact by racial group is relevant to your duty. Consider all elements of the contract, not just those which are most obvious.
- **Proportionality**  
The actions you take to ensure race equality should relate to the likely impact, and size, of the contract. You cannot ignore smaller contracts, but simpler procedures may be more appropriate.
- **Accountability**  
The body or individual legally responsible for your organisation is ultimately accountable for meeting the duty. Clear lines of accountability are needed if responsibility is delegated.
- **Transparency**  
This is a principle of EC rules and UK law, and is a key element of the duty.
- **Mainstreaming**  
Race equality should be integral to corporate objectives, planning, and service provision.
- **Appropriateness**  
Authorities vary, so the CRE's recommendations need to be adapted to work for you.
- **Complying with the law**  
You must meet the requirements of the RRA when carrying out procurement, but also comply with EC and UK laws, and government policy.
- **Risk assessment**  
The more relevant the contract is to the duty, the more risk there will be in not acting. Some risk can be transferred to contractors, but responsibility stays with the authority.

# Roles and responsibilities – checklist

## Board members or governing body

You are ultimately accountable for ensuring your organisation complies with the duty in carrying out all relevant functions, including procurement.

- Does your authority's race equality scheme or policy cover procurement and identify specific actions?
- Do the authority's strategic objectives for procurement include race equality?

### Example: Extract from a public authority's race equality scheme

- Highlight information about the Race Relations Act 1976, and the authority's new legal duties to all contractors on the authority's approved list.
- Revise the standard terms and conditions to include Race Relations Act 1976 responsibilities for contractors and sub-contractors.

Brief staff involved in procurement work about the Race Relations Act 1976 and the impact of the new legal duties on their area of work.

- Do you receive reports from the chief executive and senior managers on how strategic objectives in this area are met?
- Do you require others to monitor and report to you on contractor performance relating to race equality?

## Chief officers and strategic policy officers

You are likely to have a high level of responsibility for meeting the duty and ensuring the authority acts lawfully in this area.

- Do you understand what the Race Relations Act (RRA) requires in terms of how your authority purchases goods, works, and services?
- Are you and other key staff trained on the RRA?
- Do you provide support for others carrying out procurement, including in terms of race equality?
- Do contractors delivering relevant functions meet the commitments in your race equality scheme or policy?

- Do all departments have a consistent approach to race equality, and is information shared?
- Have corporate and departmental performance indicators been set for procurement and race equality?
- Are you asked to report to board members / governing body on performance against these targets?
- Do you take ownership for procurement carried out by others, and ask them to report to you?
- Do you ensure that legal advice is available to members and relevant staff on compliance with EC rules, the RRA, and other legislation, when carrying out procurement?

The first two questions for board members, or governing body, above, also apply.

## Officers concerned with service review and improvement

You need to ensure that services meet the needs of all users, regardless of who provides them.

- Are users and potential users consulted on the form services should take?
- Are businesses involved in pre-tender discussions about how services could be delivered?
- Is race equality factored into all service review and option analysis?

## Procurement and purchasing officers, officers concerned with service delivery, monitoring officers

You need to ensure that race equality is considered at each stage of the procurement process.

- Do you consider all potential race equality elements of a contract?

**Example:** In a contract for a corporate telephone calling card service, Heriott-Watt university included in the specification a demographic breakdown of the home countries of their diverse student population. Suppliers were asked to submit prices against this list. The pricing of calls to students' home countries was a significant factor in the university's decision to award the contract.

- Do you consult with service users and providers, and liaise with equality officers before designing the specification?
- Do you build requirements relating to your authority's general and specific duties into the specification?
- Do you consider race equality at each stage of the process, as set out in the cycle overleaf?

**Example (specification):** A Scottish health board was proposing to tender for community health services, including ante-natal classes and classes on infant health and nutrition. The board is aware of high rates of infant and child ill health within the local Gypsy / Traveller community, as well as very low levels of participation in community health initiatives, including ante-natal classes. The contract specifies reduced rates of ill health of Gypsy / Traveller children as an outcome.

To achieve this, the contract requires the provider to do positive outreach work, and to consult Gypsy / Traveller families, with the expectation that this will indicate how the community health services could do more to meet the health needs of Gypsy / Traveller children and families.

**Example (invitation to tender):** A central government department has a new target for recruiting ethnic minorities into professional grades. These criteria were stated in the invitation to tender for a contract for non-manual recruitment.

- Ability to meet all the requirements of the contract.
- Price of the contract.
- Quality of the service.
- Ability to put into practice proposals for increasing job applications for posts above grade ... from ethnic minority groups that are currently under-represented.
- Ability to recruit, train, and supervise staff to meet the requirements of the contract.
- Ability to develop new measures to encourage applications from suitable ethnic minority candidates for professional grade posts.

- Do you inform unsuccessful firms, at each stage, of their weaknesses, including on issues of race equality?
- Do you monitor the ethnicity of ownership of your contractor base, identify barriers, and make changes?

**Example:** The NHS Purchasing and Supply Agency (PASA), recognising that many innovative solutions come from small businesses, is involved in a number of initiatives to help new and innovative suppliers enter the NHS market, including:

- producing booklets and information for potential suppliers, which are displayed on their website;
- setting up a web-based supplier information database to avoid the need for suppliers to provide certain information to the NHS more than once;
- supporting government and other projects to encourage innovative suppliers; and
- speaking at supplier events and industry-specific conferences.

### Equal opportunities officers

You should check that others within your organisation are adequately briefed on the RRA in the context of procurement.

- Does your race equality scheme or policy identify procurement as a relevant function?
- Are any of the functions listed in your race equality scheme or policy delivered, wholly or in part, by contractors?
- Are others in your authority aware of the relevance of the duty to procurement?
- If you have a procurement strategy, does it include race equality?
- Are you consulted when contracts relevant to race equality are designed?
- Where answers to the above questions are 'no' (excluding the second one), do you raise the issues with others?

# Race equality in the procurement cycle





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