

Equalities and procurement research

Summary

The Equality and Human Rights Commission (the Commission), the Improvement and Development Agency for local government (IDeA), the Local Government Association (LGA) and the Society of Procurement Officers in local government (SOPO) conducted several pieces of research in order to understand better how local authorities procure services, works and goods, throughout the different stages of the procurement process. This was done in part to understand more fully how local authorities are taking account of their legal obligations under the public sector equality duties and also to identify what, if any, further legislation and/or guidance and support might be needed for authorities in this respect.

The research consisted of three strands:

- case studies of 10 local authorities in England, consisting of interviews with a corporate procurement officer, an equalities officer and procurement officers in two departments;
- a survey of equalities departments in all local authorities in England, to which 201 responded (52 per cent); and
- a survey of procurement departments in all local authorities in England, to which 120 responded (31 per cent).

The research findings will be used to inform the Commission / IDeA / LGA / SOPO thinking on future equalities policy developments, particularly in light of the forthcoming Equality Bill, and inform the development of any future Commission or IDeA guidance on meeting the public sector equality duties in procurement.

The main findings are summarised below.

Current practice and context

- Most procurement staff interviewed in case study authorities understood and appreciated the importance and value of equalities legislation.
- The survey showed that between 70 per cent and 90 per cent (depending on the equality duty) of procurement officers felt that they were fairly or very confident about incorporating equality considerations into procurement exercises (compared with between 56 per cent and 80 per cent of equalities officers). However, procurement staff who were interviewed observed that equalities was only one of the things they considered when letting a contract and some of them saw it as a secondary issue.
- Almost all respondents to the equalities survey (98 per cent) thought that their authority had made progress towards incorporating equality considerations into procurement over the previous three years, with a quarter saying 'a lot' of progress had been made. The

two main factors behind these improvements were thought to be the public sector equality duties (87 per cent) and the requirements of the Equality Standard for local government (80 per cent).

- More public-facing departments (for example children's and adult services) tended to be most in tune with equalities legislation as they often had a stronger procurement and equalities team and could see the relevance of equalities considerations to the service. There were also specific issues for shire districts - only around one fifth of those who responded to the survey (19 per cent) had a dedicated equalities officer responsible solely for equalities, compared with at least three-quarters of counties and single tier authorities.
- The case studies highlighted the importance of corporate commitment and leadership for establishing positive attitudes to equalities among officers. For equality issues to be fully incorporated into procurement, it was crucial that equalities policies were embraced by the authority as part of their culture and ethos. Equalities officers reported that the two main barriers to this were lack of political support and lack of knowledge of the issues.
- Frequently, there was a lack of understanding between equalities and procurement staff and within many local authorities there was little joint working. Equalities officers in some authorities reported that procurement officers were resistant to change, and procurement officers sometimes felt that equalities officers did not support them adequately. The location of the equalities department in the corporate structure, the seniority of equalities staff and the frequency of their contact with procurement colleagues often affected the extent of joint working. Around two-fifths of equalities survey respondents (45 per cent) thought that a lack of expertise in the procurement department hindered the incorporation of equalities into procurement.

Stages of the procurement process

- The extent to which equalities considerations were integrated into the various stages of the procurement process varied between authorities, and in some authorities, between different departments and services within it. There was greater consistency in the case studies in those authorities with a strong corporate approach and commitment from the authority.
- Corporate procurement staff were involved in the early stages of procurement to varying degrees and were keen for commissioners to involve them or think about procurement well before needing to start the procurement process. Around two-fifths of respondents (44 per cent) were either never involved or only sometimes involved in discussions about the potential procurement of services prior to the actual procurement process.
- Equalities staff generally stressed their role as advisors and almost all had or were in the process of drafting guidance and updating documents for internal staff and potential suppliers. The survey found that the norm was for them not to be involved in most stages of the procurement process, from framing performance conditions (14 per cent always or usually involved), establishing the weighting given to equalities in award criteria (11 per cent), through to the tender evaluation process (10 per cent).

- Equality Impact Assessments (EQIAs) had been designed mainly by equality officers, supported by corporate procurement staff, and were increasingly being used to look at demand for a service where a service needed to change or as a health-check on an existing service. However, a general lack of consistency in the use of EQIAs within departments was apparent in terms of how often they were conducted, when they were conducted and whether they were legally required. Just over a third of respondents to each of the surveys reported that their authority had carried out an EQIA of the overall procurement function, with most of the rest planning to carry one out.
- Authorities tended not to carry out an EQIA on each decision to procure services. More than half of authorities had changed their formal processes (57 per cent) as a result of carrying out an EQIA of the overall procurement function, and a similar proportion (53 per cent) had changed their pre-qualification processes.
- The case studies highlighted good use of service users in designing specifications, and EQIAs were used in some cases. However, equalities officers indicated that EQIAs carried out for services more generally (to comply with the public sector equality duties and to meet the requirements of the Equality Standard for local government) were not as a rule used to develop specifications (in only 36 per cent of authorities were they so used either always or usually).
- The pre-qualification questionnaire phase was felt by most of the case studies to be an effective stage at which to embed equalities and one which gave authorities a great deal of confidence. More than four-fifths of procurement survey respondents (85 per cent) reported that they used standard equalities pre-qualification questions, and that they were generally used for all or most contracts (72 per cent – 80 per cent depending on the type of contract). However, only around half (51 per cent) used them across the whole authority. Of those authorities using pre-qualification questions or services, 31 per cent used Constructionline and 26 per cent used the Common Standard for Equalities in Public Procurement. Equalities survey respondents reported that they were mostly either never involved (35 per cent) or only sometimes involved (37 per cent) in framing equalities pre-qualification questions.
- Just under three-quarters of procurement officers (72 per cent) reported that they used standard or model equality contract conditions for service contracts. More than 80 per cent of those used their authority's own, with about 10 per cent using each of those developed by the former equalities commissions. Just over two-thirds (68 per cent) of those using them used them for all or most service contracts. Just under a third (29 per cent) of those using them routinely cascaded them through the supply chain for all or most service contracts.
- Around three-fifths of procurement officers (59 per cent) said they included specific equalities performance conditions in at least some of their service contracts (17 per cent did for most or all contracts), and more than three-quarters (78 per cent) said that they found framing appropriate conditions for service contracts either not very easy or not at all easy.
- Various systems were described for evaluating the tender responses. Where equalities staff were involved, it usually was in evaluating a specific part of the response or in an advisory role. However, in around nine out of 10 authorities (91 per cent) who responded to the equalities survey, equalities officers were either never or only sometimes involved in the tender evaluation process.

- Monitoring the equalities aspects of contracts was the part of the process that was least often implemented and where staff felt least confident. Just over a third of procurement survey respondents (37 per cent) indicated that equalities aspects of contracts were monitored. They reported that monitoring tended to be carried out broadly equally by procurement staff, equalities staff and contractors. However, more than half of equalities survey respondents reported that they were never involved in monitoring equality considerations, and a further 38 per cent said they sometimes were. Procurement staff were unsure about what monitoring they should do and how to do it, and indicated that further support and resources would be required to implement effective monitoring.
- Just under 60 per cent of procurement respondents said that they used voluntary agreements related to equalities with suppliers once the contract had been let – most frequently getting agreement that the supplier would adopt the authority’s equalities policies and practices (63 per cent) and that they would adopt equality standards (62 per cent).

Training, advice and guidance

- Most procurement and equalities professionals in local authorities attempted to seek external advice from professional bodies. The procurement officers most commonly used guidance from the Office of Government Commerce (OGC), while equalities officers relied more extensively on the guidance from the former equalities commissions and the IDeA, the Equality and Human Rights Commission (the Commission) and the Society of Procurement Officers (SOPO). Many accessed this information online.
- Staff interviewed generally expressed a need for a single guidance document from all relevant parties. This was borne out by procurement survey respondents, almost two-thirds of whom (63 per cent) indicated that a single authoritative set of guidance in one place would help them to better incorporate equalities into procurement.
- However, procurement and equalities professionals expressed a need for simplified, practical and directorate-specific guidance rather than more general guidance or additional legislation. In their view, further legislation without more practical, focused help in how to implement it was of little use. Good practice case studies were also strongly desired. The surveys found that more than half of procurement officers (58 per cent) would like more accessible and practical guidance, whilst more than a half of equalities officers (56 per cent) thought that worked examples or case studies would help.
- Many stated that internal communication was needed in order to communicate their respective responsibilities more clearly. There was resistance to passive forms of information dissemination, such as email and e-bulletins, and instead a desire for interactive training opportunities at which participants could discuss common issues and concerns. Only 39 per cent of equalities survey respondents, and slightly more procurement survey respondents (53 per cent), had received any relevant training over the previous three years.
- When asked to rank the most important factors for gaining increased consideration of equalities in procurement, 71 per cent of equalities staff mentioned training, 56 per cent mentioned worked examples or case studies, 46 per cent mentioned stronger internal

Supplier diversity

- Only a third of respondent procurement officers (33 per cent) reported that their authority had a supplier diversity policy for minority businesses, while three-fifths (61 per cent) had a policy to support SMEs and 53% had a policy for the Third Sector.

Further information

Please contact:

- Stephen Richards at the LGA (020 7664 3256; stephen.richards@lga.gov.uk)

or visit:

- The Commission www.equalityhumanrights.com/publicsectorduties
- IDeA www.idea.gov.uk/idk/core/page.do?pagelId=5145172
- LGA www.lga.gov.uk/lga/core/page.do?pagelId=1314696