

Public Sector Equality Duty and Procurement:

Retaining and winning public sector contracts.

What is the risk for your organisation?



helping build inclusive organisations



Equality Act 2010

The Equality Act 2010 brought together a number of laws that streamlined and clarified previous equality legislation.

The majority of the Act came into force on 1 October 2010



helping build inclusive organisations



Public Sector Equality Duty (PSED)

In addition to the requirements of the Equality Act, most public bodies have a 'General Duty' which covers all the protected characteristics. This is often referred to as the PSED or Public Sector Equality Duty.

The General Duty came into force on 5 April 2011



helping build inclusive organisations



PSED - so what?

- the PSED places general duties on Public Authorities
- there is a vicarious liability often passed onto contractors
- the PSED duties cannot be delegated by the Public Authority and they must ensure compliance
- you may have to pass these down in your supply chain
- the requirement to comply with the PSED applies to all procurement regardless of the value
- the value of the contract may impact upon the relevance and proportionality of equality considerations



Implementation of the PSED

The PSED is not prescriptive so there is no commonality in approach but it will be passed down through the tender or performance requirements.



helping build inclusive organisations



What does that mean in winning or maintaining a contract?

EHRC guidance states that, as a minimum, contract conditions are likely to include requirements which:

- prohibit the contractor from unlawfully discriminating
- require them to take all reasonable steps to ensure that staff, suppliers and subcontractors meet their obligations under the Equality Act
- you will need evidence to back-up your claims



What this means for your organisation

- you will be asked how you will meet the PSED requirement
- you can be excluded if you have been found by a court or tribunal to have breached equality law, and if you are unable to provide evidence of how you have taken remedial steps to prevent this occurring again
- Public Authorities will set out how the ability to meet any relevant equality related matters will be assessed in the competition
- should you win, you will have to provide evidence of performance
- the performance of your supply chain counts too



Proof of practice

So how do you prove that you act inclusively in a way that is likely to satisfy all Public Authorities and at the minimum cost?



helping build inclusive organisations



It's about:

- reducing the risk of discrimination
- examining what you do, not what you say
- aligning your processes
- building skills and knowledge
- measuring progress
- independent validation



helping build inclusive organisations



How the UKCAE Pathway helps

- Step 1 - Builds and retains knowledge and skills
- Step 2 - Guides through a template
 - examines process, not policy
 - identifies risk and aligns processes
 - recognises good practice
 - provides solutions and information in one place
 - allows individual solutions, not one size fits all
- Step 3 - Records and measures change
- Independently audited



helping build inclusive organisations



Supply chain management

The UKCAE Pathway can be used to provide evidence of inclusive behaviour in the supply chain, or used in conjunction with other schemes to manage the supply chain.

UKCAE can, using an accreditation programme:

- manage the programme on your behalf
- prepare an initial report
- arrange appropriate support and training
- report back and review progress
- manage your suppliers' equality duties
- independently accredit and provide a Supply Chain Equality Management Certificate

Suppliers will pay for their own support and accreditation



helping build inclusive organisations



Recognition

- UKCAE is working towards recognition by UKAS
- UKCAE is a founder member of the Association of Equality Scheme Providers (AESP)
- The AESP maintain standards and ensure quality by regulating its members
- The AESP maintains the National Equality Register which records the equality performance of UK organisations
- The National Equality Register can be accessed and used to verify and confirm the Equality Status of a Supplier or any organisation and ensure that their equality practices are transparent



helping build inclusive organisations

