

Compliance with Council Policies

The Council has a statutory requirement to ensure compliance with a number of corporate considerations when providing its services. The Council is delivering its services when a supplier / contractor is delivering services on behalf of the Council. It is therefore incumbent upon the Council to ensure that these statutory requirements are carried out by any supplier / contractor that is working for the Council. Consequently, the Council is looking for a commitment from suppliers / contractors to assisting the Council in the following duties. The Council does not consider that these requirements will be onerous therefore pricing should not be affected in complying with any of these obligations but if a supplier / contractor believes there is a pricing impact, the impact of complying with these obligations should be clearly identified in their Pricing Schedule.

Offers to provide goods / services / works are deemed to have been submitted in accordance with the Council's policies described in this document. Suppliers / contractors are advised that the Council may, in consideration of their offer, and in any subsequent actions, rely upon the suppliers / contractors acceptance of the Council's policy statements detailed on this document.

1. Equality and Diversity

1.1. The Council is committed to providing its services in a way that promotes equality of opportunity at every possibility. It is expected that suppliers / contractors will be equally committed to equality and diversity in their employment practices and service provision, and will ensure compliance with all anti-discrimination legislation.

1.2 Expectation of the Tenderer:

Suppliers / contractors should note that they will be asked to contract with the Council to ensure that they adhere to these obligations. The Council will, if appropriate, monitor compliance throughout the Contract Period.

1.3 Compliance with Equality Legislation:

The Council requires suppliers / contractors to demonstrate that they comply with equality in employment legislation. The levels of compliance become more demanding depending on the number of employees employed by the organisation. Organisations employing less than 5 employees face minimum requirements, whilst organisations employing 50 or more employees need to meet more comprehensive criteria. During the Contract Period the Council may work with suppliers / contractors, who at present do not fully comply, to help them put in place policies and practices to do so.

LEVEL 1 (LESS THAN 5 EMPLOYEES)

Organisations with fewer than 5 directly employed persons will be expected to meet the appropriate level of compliance for the delivery of the Contract. Should recruitment increase the size of the organisation

to 5 or more employees the organisation will be expected to meet the appropriate level of compliance.

LEVEL 2 (5 TO 49 EMPLOYEES)

All organisations with between 5 and 49 employees must achieve criteria 1 – 4 listed below.

1. All organisations must have an equality policy in respect of race, gender, disability, age, sexual orientation and religion/belief that covers at least:

(a) recruitment, selection, training, promotion, discipline, grievance and dismissal.

(b) discrimination, harassment, and victimisation, making it clear that these are disciplinary offences within the firm.

(c) identification of the senior position with responsibility for the policy and its effective implementation.

(d) how you communicate the policy to your employees.

2. Effective implementation of the policy in the organisation's recruitment practices, to include open recruitment methods such as the use of job centres, careers service or press advertisements.

3. The policy should either be reviewed to reflect changes in legislation or within a three-year period whichever occurs first.

4. To monitor the gender, disability and ethnicity of job applicants. We would also encourage organisations to monitor in respect of age, sexual orientation and religion/belief.

LEVEL 3 (50 OR MORE EMPLOYEES)

All organisations with 50 or more employees must achieve criteria 1-4 in level 2 and the additional criteria 5-10 listed below:

5. Provide written instructions to managers and supervisors on equality in recruitment, selection, training, promotion, discipline, grievance and dismissal of employees.

6. Provide equality training for managers and any employees responsible for recruitment and selection.

7. In addition to criterion 4 (Level 2) carry out monitoring on the number of employees from different gender, disability and ethnic groups by grade when:

(a) in post

- (b) applying for posts
- (c) taking up training and development opportunities
- (d) promoted
- (e) transferred
- (f) disciplined and dismissed
- (g) a grievance is raised
- (h) leaving employment

The Council would also encourage organisations to monitor in respect of age, sexual orientation and religion/belief.

8. If the above monitoring reveals inequalities, organisations will be expected to take steps to address imbalances.

9. In respect of 7 and 8 above, annual monitoring and reporting is required regarding equality issues within the workforce.

10. Organisation's recruitment advertisements and publicity literature should state that equal opportunities practices are in place.

2. Post-Contract Monitoring

- 2.1** The suppliers / contractors will be expected to collaborate with the Council over the Contract Period to achieve continuous improvement in the quality and delivery of the Contract in accordance with the Council's obligations under Part I of The Local Government Act 1999. Suppliers / contractors are considered to have confirmed their willingness to participate in this activity in submitting their offer.

3. Environmental Issues

- 3.1** The Council is committed to continuous environmental improvement through its own services and operations, promotion of environmental management across the borough as well as the protection of the environment and the promotion of sustainable development.
- 3.2** Suppliers / contractors should note the various obligations contained within the Contract which will ensure that they will deliver the Contract in a manner that does not result in significant negative environmental impact.

4 Criminal Records Bureau Investigations

- 4.1** Where the Council considers that the Contract will be carried out in an environment in which it is necessary that some or all individuals carrying out

the Contract will be required to be subject to an **Enhanced** Criminal Records Bureau Investigation check, this will be at the expense of the supplier / contractor. The Council will insist that this is done prior to work commencing and the Council must be able to inspect the records of all relevant employees prior to work commencing.

5 Financial Probity

- 5.1 The Council, as a custodian of public funds, must adhere to the principles of financial probity at all times. To this end, it has adopted Financial Regulations which seek to ensure that financial transactions of the Council are conducted in an acceptable manner and that the financial records of the Council are maintained accurately and expediently and in accordance with current accountancy practices. Though suppliers / contractors, partners, etc have no cause to be familiar with Financial Regulations, they should be alert to any actions on the part of representatives of the Council which give rise to concerns regarding financial probity. Any concerns in this regard can be raised with the Chief Financial Officer of the Council who will be able to consider the issue in the context of the Financial Regulations

6 Civil Liberties and other legislation

- 6.1 As a public authority, Hartlepool Borough Council is subject to legislation which is designed to protect others and prevent abuse of their rights and liberties. Examples relevant to the Council's relationship with suppliers / contractors, partners etc. are –
- Health & Safety at Work Act 1974
 - Race Relations Act 1976
 - Sex Discrimination Act 1975
 - Data Protection Act 1998
 - Human Rights Act 2000
- 6.2 These, and other relevant enactments cast upon the Council an obligation not to infringe the rights and liberties of others. Certain aspects, such as health and safety, and data protection, may be dealt with specifically in contractual documentation between the Council and the supplier / contractor, partner etc. In that case, the contractual provisions will prevail but in the absence of express provisions, it is the expectation of the Council that those who discharge functions on behalf of the Council will act only in a manner which assists the Council in complying with relevant legislation and does not expose the Council to criticism or sanction for breach.

7 Notification of misconduct

- 7.1 If a supplier / contractor, partner etc. or any of their employees become aware of misconduct on the part of a representative of the Council, they are urged to bring the matter to the attention of the Council or other appropriate agency. A referral should be made as soon as evidence exists which raises a reasonable belief that misconduct has taken, or is taking, place.

7.2 The nature of the misconduct may determine whether the matter is brought to the attention of the Council or another agency. The following guidelines are offered to assist a party considering making a referral.

<u>Conduct</u>	<u>Point of referral</u>
Member misconduct, not amounting to a serious criminal offence	Managing Director, or Monitoring Officer or Director of Resources & Development
Officer (Strategic Management) misconduct not amounting to serious criminal offence	Managing Director, or Monitoring Officer
Officer misconduct, not amounting to a serious criminal offence	Managing Director
Member or officer conduct amounting to serious criminal offence	Police
Financial impropriety not amounting to fraud	Managing Director, Director of Resources & Development, or Monitoring Officer The National Audit Office
Fraud	Police

8 Protection against victimisation

A natural concern on the part of a supplier / contractor, partner etc, who might consider making a referral, is the potential for their interests to be prejudiced by doing so. The Council extends to such parties the same guarantee against victimisation as is offered to their employees making a referral under the Whistle blowing Policy – for employee purposes adopted under the Public Interest Disclosure Act 1998 – and for the purpose of the protections of the policy, extends the procedures incorporated in the policy to contractors, partners etc. as though they were employees of the Council.

8.1 Relevant addresses for referrals

Managing Director -		Denise McGuckin, Civic Centre Hartlepool TS24 8AY 01429 523001 Denise.McGuckin@hartlepool.gov.uk
------------------------	--	--

Monitoring Officer -		Hayley Martin, Civic Centre Hartlepool TS24 8AY 01429 523002 Hayley.Martin@hartlepool.gov.uk
Director of Resources & Development		Chris Little Civic Centre Hartlepool TS24 8AY 01429 523003 Chris.little@hartlepool.gov.uk
National Audit Office		(enquiries@nao.gsi.gov.uk) Whistleblowing hotline – 020 7798 7999

9 Freedom of Information Act and Environmental Information Statement

- 9.1 The Council is subject to The Freedom of Information Act 2000 (“Act”) and The Environmental Information Regulations 2004 (“EIR”).
- 9.2 As part of the Council’s obligations under the Act or EIR, it may be required to disclose information concerning the procurement process or the Contract to anyone who makes a reasonable request.
- 9.3 If suppliers / contractors consider that any of the information provided in their offer is commercially sensitive (meaning it could reasonably cause prejudice to the organisation if disclosed to a third party) then it should be clearly marked as **“Not for disclosure to third parties”** together with valid reasons in support of the information being exempt from disclosure under the Act and the EIR.
- 9.4 The Council will endeavour to consult with suppliers / contractors and have regard to comments and any objections before it releases any information to a third party under the Act or the EIR. However the Council shall be entitled to determine in its absolute discretion whether any information is exempt from the Act and/or the EIR, or is to be disclosed in response to a request of information. The Council must make its decision on disclosure in accordance with the provisions of the Act or the EIR and can only withhold information if it is covered by an exemption from disclosure under the Act or the EIR.
- 9.5 The Council will not be held liable for any loss or prejudice caused by the disclosure of information that:
- 9.5.1 has not been clearly marked as “Not for disclosure to third parties” with supporting reasons (referring to the relevant category of exemption under the Act or EIR where possible); or
- 9.5.2 does not fall into a category of information that is exempt from disclosure under the Act or EIR (for example, a trade secret or would be likely to prejudice the commercial interests of any person); or

in cases where there is no absolute statutory duty to withhold information, then notwithstanding the previous clauses, in circumstances where it is in the public interest to disclose any such information.

10 Employee Issues and the Transfer of Undertakings (Protection of Employment) Regulations 2006

- 10.1 All suppliers / contractors are required to note that the award of a Contract to a supplier / contractor may result in a transfer pursuant to The Transfer of Undertakings (Protection of Employment) Regulations 2006 (the “Regulations”) with the effect that all employees engaged in the performance of the Services will transfer to the incoming supplier / contractor on the Commencement Date. The Council further recognises that when the Contract terminates the employees employed by the incoming supplier / contractor in the performance of the Services will be likely to transfer onwards pursuant to the Regulations.
- 10.2 The Council further recognises that The Transfer of Employment (Pension Protection) Regulations 2005 (“the Pension Protection Regulations”) may apply. The Council understands that the existing service provider may offer a pension scheme and accordingly, under the Pension Protection Regulations the incoming supplier / contractor may be obliged to offer a pension provision.

11 Non-collusion and Non-Canvassing

The Council requires that in compiling and submitting their offers and in any subsequent post offer receipt activities, organisations do not canvass any member, director, employee or adviser of the Council in connection with the procurement process and the proposed award of the Contract by the Council and that no person employed by them or acting on their behalf, or advising them, has done any such act.

In addition, Organisations will not canvass any member, director, employee or adviser of the Council in connection with this procurement process and the proposed award of the Contract and no person employed by the supplier / contractor or acting on their behalf, or advising them, will do any such act. The supplier / contractor agrees that the Council may, in consideration of this bid, and in any subsequent actions, rely upon the supplier / contractor’s adherence to the policies contained in this document.

Non-collusion

The essence of the Council’s procurement processes is that the Council shall receive bona fide competitive offers from all suppliers / contractors. In recognition of this principle, suppliers / contractors are to submit bona fide offers, intended to be competitive, the amount of which has not been fixed or adjusted in accordance with any agreement or arrangement with any person (except any sub-contractor identified by the supplier / contractor).

The Council also has a policy to reject any offers from suppliers / contractors if the organisation in question has performed any of the following acts:

- 1 entered into any agreement or agreements with any other person that they shall refrain from bidding to the Council or as to the amount of any offer submitted by them; or
- 2 informed any person, other than the Council of the details of their offer or the amount or the approximate amount of their offer except where the disclosure was in confidence and was essential to obtain insurance premium information required for the preparation of the offer; or
- 3 cause or induce any person to enter into such an agreement as is mentioned in paragraph 1 and 2 above or to inform an organisation of the amount or the approximate amount of any rival offer for the Contract; or
- 4 commit any offence under the Public Bodies Corrupt Practices Act 1889, the Prevention of Corruption Acts 1889 to 1916 nor under Section 117 of the Local Government Act 1972; or
- 5 offer or agree to pay or give or actually pay or give any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other offer or proposed offer for the performance of the Project covered by the procurement process.

Offers are deemed to have been submitted in accordance with the Council's policies described in this document. Organisations are advised that the Council may, in consideration of their offer, and in any subsequent actions, rely upon the organisation's acceptance of the Council's policy statements detailed on this document.

Updated 23/11/2021