

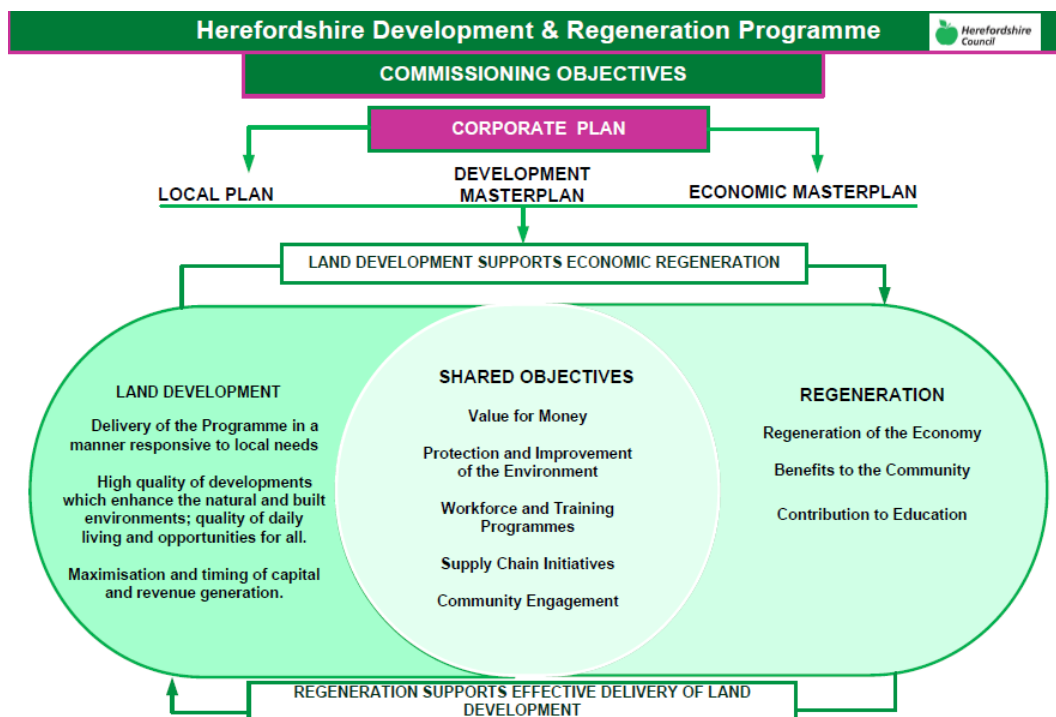
EQUALITY IMPACT ASSESSMENT – HEREFORDSHIRE COUNCIL DEVELOPMENT AND REGENERATION PROGRAMME PROCUREMENT

CABINET REPORT JULY 2017

DEVELOPMENT AND REGENERATION PROGRAMME PROCUREMENT

This report gives an overview of equality impacts of the procurement of a provider for Herefordshire Council’s development and regeneration programme. The procurement will establish a long term relationship between Herefordshire Council and the developer. The developer will support the council to optimise the use of its property assets by developing a range projects from housing for private market sale to civic buildings. The contract will also be open for use by the council’s partner organisations in the public and third sector. The contract will be let for an initial 10 years with the potential to extend for a further 10 years.

As a key long term ‘partnership’ for the council the procurement, which has been done in line with the council’s Equality Policy 2017 – 2019 (extracts included in Appendix A), will aim to i.a. maximise the social value achieved through the partnership. The commissioning objectives of the procurement are illustrated in the following diagram:



EQUALITY DUTY

The Equality Act 2010 established a positive obligation on local authorities to promote equality and to reduce discrimination in relation to any of the nine 'protected characteristics' (age; disability; gender reassignment; pregnancy and maternity; marriage and civil partnership; race; religion or belief; sex; and sexual orientation). In particular, the council must have 'due regard' to the Public Sector Equality Duty when taking any decisions on service changes.

Where a decision is likely to result in detrimental impact on any group with a protected characteristic it must be justified objectively. This means that attempts to mitigate the harm need to be explored. If the harm cannot be avoided, the decision maker must balance this detrimental impact against the strength of legitimate public need to pursue the service remodelling to deliver savings.

PROCUREMENT APPROACH

SOCIAL VALUE

The procurement will include a number of specific questions to encourage the bidders to make specific commitments on benefits to the community in line with the commissioning objectives. The sustainable communities team have been involved in developing these questions, providing feedback to the bidders through the rounds of competitive dialogue, and marking the bidder responses.

The procurement is seeking to maximise the provider commitments to social value during the competitive stage of the process. The implementation of these commitments will be managed, monitored and reported as part of the contract management regime. The performance framework will include KPIs that measure the provider's achievements against these obligations.

The final social value commitments will be available at contract award and will be listed in the Cabinet report at that point.

EQUALITY REQUIREMENTS

The overarching agreement places sufficient obligations on the provider to ensure that they support the council in fulfilling its duties under Equality Legislation.

Appendix B lists the Equality Requirements as specified in the current draft overarching agreement. This is the main contract underpinning the 'partnership'. The terms have been shared with the bidders and these aspects of the agreement have been accepted and will form part of the final agreement.

APPENDIX A – HEREFORDSHIRE COUNCIL’S EQUALITY POLICY 2017 – 2019

This policy sets out the council’s duties under the Equalities Legislation and identifies its priorities. The policy identifies six key equality principles:

Principle 1: Promote our values and acceptable standards of behaviour for members and employees

Principle 2: Make fair and equitable decisions

Principle 3: Recruit fairly and support our workforce

Principle 4: Make our services accessible

Principle 5: Understand the needs of the community that we serve

Principle 6: Provide tailored support to vulnerable groups

Specifically Principle 2: Make fair and equitable decisions, provides guidance on

a) Equality Impact Assessments: As a council, we must have due regard for advancing equality (see “The Legal Requirement”). Producing equality impact assessments (EIAs) is one way that we can demonstrate we are meeting this requirement. An EIA is a risk assessment focused on fairness, access and inclusion. It is a way of considering a policy, service or process in terms of how it might impact differently on different groups protected in law. We use EIAs to find and remove barriers in services which might stop people knowing about the service, using it, and getting the best from it. EIAs also help us to open services up to new groups and make services better. Internal procedures require that consideration is given to equality impacts and the equality duty when policies, services or functions are undergoing change, and we provide a copy of any EIA to decision makers before decisions are made. We will provide access to an EIA for anyone who wants to see it.

b) Procurement and contracting: As a council, we aim to commission the right services, from the right provider, at the right price. We embrace the objectives of the Social Value Act and are working to embed social value in all commissioning and procurement practices, and in the direct delivery of services. We will only award contracts to organisations who can evidence that they are fully compliant with the Equality Act, and our terms and conditions stipulate this.

APPENDIX B – OVERARCHING AGREEMENT EXTRACTS

DEFINITIONS

2010 Act means the Equality Act 2010;

Equality Requirements means the requirements set out in Section 149 of the Equality Act 2010 and Schedule 10

Section 149 imposes a duty on ‘public authorities’ and other bodies when exercising public functions to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

EXTRACTS FROM THE OVERARCHING AGREEMENT

Personnel policies and procedures to be put in place by the Developer

6.6 The parties acknowledge that, as at the date of this Agreement, the Council has entered into the Council Policies (including but not limited to those affecting diversity, cohesion, equality, anti-bullying, work life balance and part-time working which for the avoidance of doubt shall for the purposes of this Agreement also include associated codes and guidelines). Without prejudice to the generality of this clause 1 the Developer shall procure that (where not already existing) there are set up and maintained by it, and by all Service Providers involved in the provision of Services, personnel policies and procedures (which the Council acknowledges may not be as extensive or are not as beneficial to any employee of the Developer and/or Service Provider as the Council Policies) covering all matters relating to employees and other Developer personnel (including discipline, grievance, equal opportunities, health, education and safety). The Developer shall procure that the terms and the implementation of such policies and procedures comply with Law and Good Industry Practice and that they are published in written form and that copies of them (and any revisions and amendments to them) are (once published) forthwith issued to the Council.

Compliance with anti-discrimination legislation

37.11 The Developer shall, throughout the term of this Agreement, ensure that the Services are provided in such a manner as to comply with the 2010 Act and shall also ensure that no breach of the terms of Schedule 10 (*Equality Requirements*) shall occur.

SCHEDULE 10 – EQUALITY REQUIREMENTS

Schedule 10

Equality Requirements

1 Discrimination and the promotion of equality

1.1 The Developer (including its agents and employees) shall not, and shall procure that Developer Parties shall not:

- (a) discriminate directly or indirectly or by way of victimisation or harassment against any person on Prohibited Grounds; and/or
- (b) contravene the 2006 Act or the 2010 Act,

where appropriate.

1.2 The Developer (including its agents and employees) shall, and shall procure that Developer Parties shall, for purposes of ensuring compliance with paragraphs 1.1(a) and 1.1(b) above, in relation to staff engaged in the provision of Works, Services or Developer Obligations observe as far as possible the provisions of:

- (a) the Equality and Human Rights Commission Code of Practice on Employment;
- (b) the Disability Rights Commission's Statutory Code of Practice on Employment and Occupation and the Code of Practice on the Disability Equality Duty; and
- (c) any other relevant code of practice introduced by a commission or other body set up by Parliament to promote, monitor and enforce Equalities Legislation,

including, but not limited to, those provisions recommending the adoption, implementation and monitoring of an equal opportunities policy.

1.3 The Developer shall, and shall procure that Developer Parties shall, in performing its/their obligations under this Agreement, comply (to the extent permitted by law) with the provisions of the 2006 Act and the 2010 Act.

1.4 Where in connection with this Agreement the Developer (including its agents and employees) or any Developer Party are required to carry out work on the Council's premises or alongside the Council's employees on any other premises, they shall comply with the Council's own employment policy and codes of practice relating to racial discrimination and equal opportunities.

1.5 The Developer shall, and shall procure that Developer Parties shall, notify the Council Representative forthwith in writing as soon as it becomes aware of any investigation of or proceedings brought against the Developer or any Developer Party under the Equalities Legislation.

1.6 Where any investigation is undertaken by a person or body empowered to conduct such investigation and/or proceedings are instituted in connection with any matter relating to the Developer's performance of its obligations under this agreement being in contravention of the Equalities Legislation, the Developer shall, and shall procure that the Developer Parties shall, free of charge:

- (a) provide any information requested in the timescale allotted;

- (b) attend any meetings as required and permit any of its staff to attend;
- (c) promptly allow access to and investigation of any documents or data deemed to be relevant;
- (d) allow itself and any of its staff to appear as witness in any ensuing proceedings; and
- (e) co-operate fully and promptly in every way required by the person or body conducting such investigation during the course of that investigation.

Schedule 13 – Council Policies

Schedule 13

Council Policies

EQUALITY AND DIVERSITY

<https://www.herefordshire.gov.uk/government-citizens-and-rights/equality-and-diversity/equalities-and-diversity-assessment-and-consultation>