

Equality Impact Assessment

The Procurement Reform Bill

May 2022

Overview of the Procurement Reform Bill

1. The purpose of the bill is to replace the current bureaucratic and process-driven EU regime for public procurement by:
 - Creating a simpler and more flexible, commercial system that better meets our country's needs while remaining compliant with our international obligations.
 - Simplifying processes, which will make public procurement more accessible to new entrants such as small businesses and social enterprises so that they can compete for and win more public contracts.
 - Embedding transparency throughout the commercial lifecycle so that the spending of taxpayers' money can be more effectively scrutinised.
2. The Department has undertaken significant stakeholder engagement in the development of the reforms. We published a Green Paper in December 2020, which reflected engagement with over 500 stakeholders and organisations through many hundreds of hours of discussions and workshops. The consultation received over 600 responses and we published a response in December 2021 accompanied by a series of webinars which attracted 1400 attendees.
3. The bill applies to a broad range of public sector 'contracting authorities' including central government, local government, defence and most schools. It will not apply to procurement of certain healthcare services by certain NHS bodies, which will instead be regulated by health legislation, but it does apply to the remainder of NHS procurements - goods, works and non-healthcare services such as professional services.

Consideration of equality impact

4. This document records the analysis undertaken by the Department to enable Ministers to fulfil the requirements placed on them by the Public Sector Equality Duty (PSED) as set out in section 149(1) of the Equality Act 2010. It states that a public authority must, in the exercise of its functions, have due regard to the need to:
 - a. Eliminate discrimination (both direct and indirect), harassment, victimisation and any other conduct that is prohibited by the Act;
 - b. Advance equality of opportunity between people sharing a relevant protected

characteristic and people who do not. This includes removing or minimising disadvantages suffered by people due to their protected characteristic, taking steps to meet the needs of people who share a particular protected characteristic, and encouraging participation in public life.

c. Foster good relations between people sharing a relevant protected characteristic and persons who do not. This includes tackling prejudice and promoting understanding.

5. This section sets out our analysis of whether the Bill could directly or indirectly constitute conduct prohibited by the Equality Act. The protected characteristics which have been considered are:

- age
- disability
- sex
- gender reassignment
- marriage or civil partnership
- pregnancy and maternity
- race
- religion or belief
- sexual orientation
- marriage and civil partnership (but only in respect of the first aim of the Equality Duty).

6. This is a largely technical bill regulating how public procurements are undertaken. The nature of the bill means it has limited equality impacts, whether direct or indirect.

7. The bill makes provision for certain contracts to be 'reserved' so that only sheltered employment providers can participate in the procurement. Sheltered employment providers are organisations that operate for the purpose of providing employment or employment-related support to disabled or disadvantaged individuals, and whose workforce are made up of 30 percent of people who are disabled or disadvantaged. By providing for certain contracts to be protected for these organisations, the bill helps support the closing of the employment gap between workers who are disabled or disadvantaged and other workers.

8. While the bill does not make any other direct reference to any protected characteristics, contracting authorities will be required to consider how they can use public procurement to deliver additional outcomes through the procurement where doing so is in line with value for money and related to the subject matter of the contract.

9. The bill does not disadvantage some people or groups more than others.

Conclusion

1. The assessment did not identify any direct or indirect adverse impacts of the Procurement Reform Bill on people with protected characteristics. Positive benefits were identified, related to supporting the delivery of additional outcomes and the ability to reserve contracts for sheltered employment providers.

Declaration

I have read the available evidence and I am satisfied that this demonstrates compliance, where relevant, with Section 149 of the Equality Act and that due regard has been made to the need to: eliminate unlawful discrimination; advance equality of opportunity; and foster good relations.

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