

Memorandum of understanding between the Scottish Funding Council and the Equality and Human Rights Commission

4 March 2020

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Memorandum of Understanding between parties:

THE SCOTTISH FUNDING COUNCIL whose office is at Ground Floor, Apex 2, 97 Haymarket Terrace, Edinburgh, EH12 5HD (“SFC”)

THE COMMISSION FOR EQUALITY AND HUMAN RIGHTS (known as the Equality and Human Rights Commission) whose office is at 2nd Floor, 151 West George Street, Glasgow, G2 2JJ (“EHRC”)

Introduction and background

1. EHRC is responsible for enforcing the Equality Act (EA) 2010, including the public sector equality duties (PSED). It safeguards and enforces the laws that protect people’s right to fairness, dignity and respect. It uses its unique powers to challenge discrimination, promote equality of opportunity and protect human rights across Great Britain.
2. SFC was established by the Further and Higher Education (Scotland) Act 2005. The purpose of SFC is to create and sustain a world-leading system of tertiary education, research and innovation that changes lives for the better, enriches society and supports sustainable and inclusive economic growth.
3. SFC is committed to inclusion and achieving equality of outcomes for all learners. Beyond this legislative requirement, equality, diversity and inclusion are central to SFC’s mission and values. The SFC strategic framework supports SFC to contribute to a more equal society by embedding equality and diversity across all its functions, supporting participation, tackling prejudice, and by placing good relations at the heart of the organisation.
4. Furthermore, the Further and Higher Education (Scotland) Act 2005 requires that, “Every post-16 education body and regional strategic body must, when making appointments to its governing body or exercising any of its other functions, do so in a manner which encourages equal opportunities and in particular the observance of the equal opportunities requirements.”
5. The main purpose of this Memorandum of Understanding (MoU) is to advance equality for college and university students and staff by strengthening joint working between EHRC and SFC.
6. This MoU sets out a framework agreement for co-operation and communication between EHRC and SFC. It is intended to increase the effectiveness of both organisations through the development of a strategic partnership.

7. The MoU clarifies the current working relationship and ongoing cooperation and collaboration between both organisations, particularly in relation to compliance with the Public Sector Equality Duty (PSED) in the university and college sectors.
8. SFC is subject to the PSED and the requirements of the EA 2010. In carrying out its functions, SFC has a role to ensure universities and colleges are complying with the PSED, reducing inequalities and working towards achieving equality. EHRC enforces compliance with the PSED.
9. The MoU and joint action plan (Annex 1) outlines how we will help universities, colleges, and SFC better meet the PSED.

Scope and status

10. Nothing in this MoU fetters or interferes with the separate statutory duties and powers of either organisation, even when they have decided to work collaboratively. This MoU is not intended to be legally binding, and no legal obligations or legal rights shall arise between the organisations from this MoU. The organisations enter into the MoU intending to honour all their obligations.
11. Nothing in this MoU is intended to, or shall be deemed to, establish any partnership or joint venture between the organisations, constitute either organisation as the agent of the other organisation, nor authorise either of the organisations to make or enter into any commitments for, or on behalf of, the organisation.
12. In operating within the terms of this MoU, each organisation will continue to work within their respective operating procedures at all times.

Principles

13. This MoU creates an equal partnership for the mutual benefit of EHRC, SFC and Scotland's Colleges and Universities.
14. The working relationship between SFC and EHRC will be characterised by:
 - Respecting and valuing the contribution made by each party.
 - Listening and communicating effectively with each other and with stakeholders who will be affected by the outcomes of this partnership.
 - Developing a positive, constructive working relationship.
 - Sharing knowledge and expertise.
 - Regular contact and open exchange of information, including formal and informal meetings at all levels.
 - Joint external communications to promote our work under this MoU.

Joint activities

15. The overarching aim of this MoU is to improve equality of outcomes for people who are working or studying at Scotland's colleges and universities.
16. To meet this aim, EHRC and SFC have agreed an action plan that sets out the activities that will be delivered to support Scotland's colleges and universities tackle the most significant and persistent inequalities in the sector.
17. The joint action plan is in Annex 1 of this MoU.

Information sharing

18. EHRC has statutory powers of investigation and enforcement under the Equality Act 2006. Decisions about whether or not to exercise these powers are made on a case by case basis following the EHRC Compliance and Enforcement Policy. SFC and EHRC aim to cooperate by sharing information where it is judged to be helpful to one another in fulfilling their respective functions, subject to any restrictions on disclosure of information and in compliance with the law.
19. SFC and EHRC will ensure timely and focused exchange of relevant information that enables effective coordination and cooperation. Information available to one organisation that is materially relevant to the responsibilities of the other will be proactively shared, subject to any legal restrictions on disclosure of information (confidentiality or otherwise).
20. Annex 2 sets out the arrangements for sharing data in accordance with the General Data Protection Regulations (GDPR) and Data Protection Act 2018 (DPA).

Monitoring and Evaluation

21. All parties commit to ongoing monitoring of this MoU, with the aim of ensuring accountability and performance.
22. In the event of either SFC or EHRC identifying a problem in the operation of the Memorandum they will seek to resolve it quickly and informally. If this is not possible the Chief Executive of SFC and the EHRC Executive Director for Scotland will take responsibility for achieving a mutually acceptable solution.
23. SFC and EHRC will evaluate the action plan and review this MoU by July 2023.
24. This MoU may only be varied by written agreement of both organisations.

Designated leads

25. Each organisation will appoint a senior member of staff to lead on the work detailed in this MoU and action plan. The respective staff members are:

SFC: Director, Access, Learning & Outcomes, Apex 2, 97 Haymarket Terrace, Edinburgh, EH12 5HD

EHRC: Compliance Scotland Principal, 2nd floor 151 West George St, Glasgow, G2 2JJ

Publication

26. SFC and EHRC agree the other may publish this MoU on their respective websites.

Date of coming into force

27. This MoU shall commence on the date of signature by both organisations.
28. Either organisation may terminate this MoU by giving at least three months' notice in writing to the other organisation at any time.

Duly authorised on behalf of **THE COMMISSION FOR EQUALITY AND HUMAN RIGHTS**

SIGNED BY  Date 4/3/2020

Name REBECCA MILSER Position CEO

Duly authorised on behalf of **THE SCOTTISH FUNDING COUNCIL**

SIGNED BY  Date 4/3/20

Name KAREN WATT Position CEO