

EHRC Response

# SFC Call for Evidence: A Review of Coherent Provision and Sustainability in Further and Higher Education

August 2020

Laura Hutchison

# Contents

Introduction ..... 1

The PSED ..... 2

How SFC’s funding and accountability frameworks should ensure equality and wide access to educational opportunity ..... 3

References ..... 6

---

## Introduction

The Equality and Human Rights Commission (the Commission) is the National Equality Body for Scotland, England and Wales. We monitor, promote and enforce compliance with the Equality Act 2010, including the public sector equality duty (PSED).

We are an “A Status” National Human Rights Institution and share our mandate to promote and protect human rights in Scotland with the Scottish Human Rights Commission (SHRC).

Earlier this year the Commission signed a memorandum of understanding (MoU) with the Scottish Funding Council (SFC). This MoU set out an agreement for cooperation and communication between us, particularly in relation to compliance with the PSED in the university and college sector.

We welcome the opportunity to submit evidence to help inform and shape your review into the provision and delivery of teaching and research activity across the college and university sector, and how this is funded.

## The PSED

The Equality Act 2010 prohibits discrimination on the basis of nine protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and includes measures to advance equality for protected groups, including the PSED.

The broad purpose of the PSED is to integrate consideration of equality into the day-to-day business of public authorities, including SFC. It requires public bodies when they are exercising their functions to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010,
- Advance equality of opportunity between people who share a protected characteristic and those who do not, and
- Foster good relations between people who share a protected characteristic and those who do not.

The Scottish Government passed The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 - the specific equality duties - to help listed authorities better perform their PSED. These include duties on listed authorities, such as SFC, colleges and universities, to:

- Report progress on mainstreaming the equality duty
- Publish equality outcomes and report on progress
- Assess the impact of new or revised policies and practices against the needs in the PSED (an equality impact assessment) and publish the results

Detailed guidance to help Scottish public authorities meet their equality duties is available on [our website](#).

## **How SFC's funding and accountability frameworks should ensure equality and wide access to educational opportunity**

Now more than ever it is critically important that equality is central to decision making. This is recognised by the Scottish Government in its Framework for Decision-Making, which outlines the approach and principles that will guide the Scottish Government through the current pandemic. This recognises that the harms caused by coronavirus do not impact everyone equally and so our response must recognise these unequal impacts. This means that as we develop ways to reconstruct our lives, we must ensure that we do not entrench existing inequalities further, and wherever possible we must take steps to meet the different needs of people with protected characteristics and tackle the disadvantages they face. We have provided some examples of the differential impact coronavirus is having on protected groups below.

### **Women, work and caring responsibilities**

There is concern that the coronavirus response is entrenching gendered patterns of labour market inequality and adding to the demands on women's capacity and time. Engender (2020) has found that the response to coronavirus has seen a significant displacement of care and childcare from services to households, with an increase in home-schooling, childcare, care for disabled and older people and other unpaid work predominantly done by women such as housework and household management.

Polling from Fawcett/ Ipsos Mori (Siddique, 2020) found that six in ten women are "finding it hard to stay positive." Data from ONS (2020) shows that 32.9% of women reported high levels of anxiety during lockdown compared with 27.4% of men. Mental health experiences differ between men and women; more women experience anxiety disorders, and depression in women is significantly higher among those with caring responsibility (Mental Health Foundation, no date).

### **Access to online learning**

The response to the current pandemic has seen a move to more services being provided online. However, some 13% of adults (aged 16 or over) never go online, a figure that Ofcom (2020) say has remained broadly consistent since 2014. In addition, disabled people are less likely to use the internet compared with non-disabled people (EHRC, 2018). Services must be accessible and colleges and universities have a legal duty to anticipate the needs of disabled people and make reasonable adjustments to ensure they can access services as close as possible to the standard normally offered. Disabled people are less likely to have a degree-level qualification compared with non-disabled people (EHRC, 2018). Therefore, it is important to remember that if the right technology and support is provided, online learning may allow more disabled people to access colleges and university, and this could be an opportunity to advance equality.

### **Racial harassment**

The Commission's Inquiry into racial harassment in universities found that racial harassment is a common experience for a wide range of students and staff. Around a quarter of students from an ethnic minority background (24%) and 9% of white students, said they had experienced racial harassment since they had started their course. This equates to 13% of all students. International students told the Inquiry about feeling unwelcome, isolated and vulnerable (EHRC, 2019).

Over half of staff who responded to the Inquiry described incidents of being ignored or excluded because of their race. More than a quarter said they experienced racist name-calling, insults and jokes. Much of this harassment took place in office environments, frequently in plain sight of their colleagues (EHRC, 2019).

In response to our Inquiry, SFC committed to take a range of actions to support colleges and universities, staff and students to tackle racism. We welcome and support the way SFC has understood the seriousness of the problem and has sought to identify solutions with the direct involvement of ethnic minority staff and students. It is important that this work continues, and that institutions are held accountable for their actions to tackle racism.

## **Equally Safe in colleges and universities**

The Outcome Agreement Guidance for 2019-22 requires colleges and universities to include information in their Outcome Agreement about how they are responding to the Scottish Government Equally Safe strategy. In the 2019-20 Outcome Agreements, 74% of universities and 57% of colleges were implementing the Equally Safe Toolkit, or had developed localised interventions. Universities and colleges are also working in partnership with student, staff and local organisations in the development of their responses to gender based violence (GBV). 93% of universities and 65% of colleges had set up GBV working groups or were consulting with staff, students and local partners about their approach to tackling GBV (SFC, 2019).

There is evidence that this approach has driven positive progress in its first year. However, it is also acknowledged that, “it is clear that more work is needed to build on this, and momentum must be maintained...and it may be the case that more time is needed for the systems to become fully developed and embedded” (SFC, 2019).

## **MoU to enhance equality in education in Scotland**

Although at an early stage, it seems that the approach of including requirements to take action to address deep-rooted structural inequalities, such as GBV, in the Outcome Agreement accountability frameworks is an effective way to drive action and monitor progress.

This approach is being developed further in our joint work to enhance equality in further and higher education in Scotland as part of the MoU between the Commission and SFC. The MoU is the first of its kind for both organisations with a focus on working in partnership to strengthen compliance with the PSED through the SFC and Scottish Government accountability frameworks, with the primary aim of achieving substantive equality.

Through the MoU we are supporting Scotland’s colleges and universities to meet the requirements and achieve the aspirations of the PSED.

We are helping to focus efforts and resources on taking action over the next PSED statutory reporting period (2021-2025) to tackle the most pressing inequalities, which the evidence suggest are most relevant to the sector.

Our approach is aligned with the Scottish Government’s National Performance Framework, focused on a strategic and co-ordinated approach to tackling inequality and involves:

- Agreeing what the most significant inequalities are and where action should be prioritised to tackle them. The requirement to set equality outcomes that will drive action to address these inequalities will be included in the Letter of Guidance,

- Supporting colleges and universities to set their equality outcomes and identify the action needed to achieve them,
- Identifying the most effective ways to integrate statutory equality reporting requirements and SFC accountability frameworks,
- Identifying how SFC will monitor and publish information about the impact of the action taken by the sector to achieve the equality outcomes, and
- Establishing a framework for the future delivery of SFC annual thematic reviews to inform and direct improvement and identify areas of good practice.

The work being done as part of our MoU shows real promise to deliver change that will result in greater equality for protected groups. We have received support from the Scottish Government and the sector, as well as gaining interest from the college and university sector in England and Wales and in other parts of the public sector in Scotland. In our view, continuing this approach and integrating it within the review will ensure that equality and wide access to educational opportunity are promoted as key elements of the recovery.

---

## References

EHRC (2018) Is Scotland Fairer available [here](#)

EHRC (2019) Tackling racial harassment: universities challenged available [here](#)

Engender (2020) Gender & unpaid work: the impact of COVID-19 on women's caring roles available [here](#)

The Mental Health Foundation (no date) Women and Mental Health available [here](#)

Ofcom (2020) Online Nation Summary Report available [here](#)

ONS (2020) Coronavirus and anxiety, Great Britain: 3 April 2020 to 10 May 2020 available [here](#)

SFC (2019) Gender Based Violence in Outcome Agreements 2019-20 available [here](#)

Siddique, H (2020) UK women bear emotional brunt of Covid-19 turmoil – poll The Guardian available [here](#)