



Tackling persistent inequalities together



Equality and Human Rights Commission



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Comhairle Maoineachaidh na h-Alba

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SUMMARY:	This report outlines the persistent inequalities in the tertiary system and asks institutions to address them by contributing to a set of National Equality Outcomes (NEOs) as part of their Public Sector Equality Duty.
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Tackling persistent inequalities together

Introduction

1. The Equality and Human Rights Commission (EHRC) and SFC are proud to be working together to enhance our leadership and oversight role in tackling persistent inequalities in the tertiary system. We believe that this partnership is the first of its kind in the UK.
2. This report outlines the persistent inequalities in the tertiary system and asks institutions to address them by contributing to a set of National Equality Outcomes (NEOs) as part of their Public Sector Equality Duty. It also confirms a new SFC Strategic Equality Outcome and requests notes of interest for a collaborative event to be held later in the academic year to enable wider discussion.
3. The main focus of this publication is student inequalities but because students are part of a tertiary system the equality of their experience also relates to the diversity of staff and Boards/Courts for their institution as well as the representation within their student cohort. For this reason, some of the NEOs for some of the protected characteristics include staff and Court/Board membership.
4. The Equality Act (Scotland) 2010 defines equality as nine protected characteristics, these are: Age, Disability, Gender Re-Assignment, Pregnancy & Maternity, Marriage & Civil Partnership, Race, Religion or Belief, Sex and Sexual Orientation. The Act does not specifically define access groups such as students living in deprived communities, carers, care experienced and estranged students. This document focuses on equality and the protected characteristics. SFC remains committed to progressing improvements for access students through its existing policy work and engagement with institutions.
5. The EHRC and SFC recognise the existing commitments of institutions, including those of Student Associations, to equality and the financial pressures of institutions at this time. This approach does not expect institutions to invest more; rather it outlines the persistent inequalities across the tertiary system and seeks a collective response, with the support of SFC and EHRC.

Progress update

6. In 2019 the EHRC and SFC entered into a strategic partnership to explore mutual benefits to the organisations working together and, in the case of SFC, the sector it has oversight of. A [Joint Memorandum of Understanding](#) (MoU) and an action plan was developed, agreed and published in March 2020.
7. Our progress was unfortunately impacted by the pandemic, including through a purposeful decision to enable institutions to focus on their students and staff. We have provided a progress report and agreed an updated action plan in Annex A.

8. As we committed to in our Memorandum of Understanding with the EHRC, SFC have set an equality outcome specifically about our oversight role. This is additional to the set of equality outcomes already outlined in our [PSED equality report](#). We believe that this ground-breaking strategic approach to tackling significant inequalities in our society through sector specific NEOs will help the tertiary system make real improvements for the people who work and study in Scotland. This equality outcome is outlined below:

The tertiary system will make progress on the National Equality Outcomes through our support, monitoring and reporting.

9. More details on how that will be achieved are provided in Annex A. The next section provides more details on NEOs and guidance to institutions on how to evidence their contribution.

What are National Equality Outcomes?

10. A key priority in the EHRC/SFC action plan was to agree the most pressing inequalities that the sector should be acting on and to set NEOs. NEOs are focused on inequalities which are evidenced to be persistent at a national scale. To address these issues we need institutions to work with and for students to contribute towards a set of outcomes to make the tertiary system fairer and equitable.
11. The NEOs are provided in Annex B and were developed with a Persistent Inequality and Outcomes Group. This included the EHRC, SFC, Equality leads and planners from the sector and charities. It also includes input from those with lived experience. The evidence considered was based on published reports and data and the NEOs strongly align to the data provided in SFC statistical publications including the Report on Widening Access.
12. The NEOs include consideration of:
 - Success and retention rates of students and seeks improvements, at a national scale, for older students in the university sector and younger students in the college sector.
 - Satisfaction levels of disabled students in relation to the reasonable adjustments put in place to support their learning and student experience.
 - The imbalance on courses by sex.
 - The mental health of staff and students and seeks improvements in student learning outcomes and assurances of access to mental health support.

- The safety of students and staff and steps taken to address harassment particularly in relation to disability, race, sexual orientation, trans identity and religion and belief.
 - Responding to the [Scottish Government's Equally Safe strategy](#) particularly in relation to prevention, support and response mechanisms.
 - Proportionate representation of staff, Boards and Courts particularly in relation to race and disability.
13. To reduce reporting this will be part of institutions' already in place legal reporting duties. SFC will not seek any other equality reporting in relation to inequalities (more detail on this is provided in the next section). SFC, in partnership with the EHRC, will review the NEOs as part of their PSED reporting. This will include progress reporting and the need to update the NEOs. Any update to the NEOs will be done in consultation with students with lived experience and the tertiary sector.
14. NEOs do not prevent institutions from setting other equality outcomes or continuing with existing equality outcomes that directly relate to their institution; nor do we expect an institution to contribute to a NEO where the issue does not apply to them, but where this is the case, we ask for the rationale and evidence behind this decision.
15. This approach will reduce the need for additional reporting and is intended to sit as the key source of truth on the persistent inequalities (at this time) and therefore prevent the need for additional asks.
16. This approach does not replace the legal duties placed on institutions (and public bodies like SFC) to have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Equality Act 2010.
 - Advance equality of opportunity between people who share a relevant protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not.
17. The EHRC and SFC also expect institutions to demonstrate good practice by undertaking equality impact assessments and publishing their findings as outlined in [regulation 5 of the Specific Duties in the Act](#).

National Equality Outcomes: ask of institutions

18. Institutions are asked to:
 - Consider the NEOs outlined in Annex B and outline their contribution, where appropriate, towards them as part of the 2021-25 Public Sector Equality Duty reporting cycle (more details on what this means in relation to the forthcoming report are outlined in the next section).
 - Work with their students and Student Association to address the inequalities and contribute to the NEOs.
19. The move towards NEOs means that institutions do not need to report separately to SFC on equality issues and can signpost their contribution to the NEOs in their Outcome Agreements. The EHRC and SFC will use institutions' Public Sector Equality Duty reports as the key source of information on institutions' equality response. In many instances the NEOs will reflect the outcomes set by institutions.
20. The NEOs are based on evidence but some of the outcomes are more qualitative in nature. This is either because the sector data sources are not considered to be advanced enough yet to enable quantitative national reporting or that the issue does not lend itself to quantitative reporting.
21. We will keep these outcomes under review and will work with institutions on how we can work together to report national progress for future iterations of this work. The next phase of our joint work is outlined in Annex A and includes a measurement framework to support national reporting. This work will also enable SFC to consider the outcomes of the NEOs in relation to our work on the National Impact Framework and our Assurance and Accountability Framework.
22. In setting NEOs, we hope that institutions will be encouraged to collaborate to make real impact for the benefit of staff and students. We also want to encourage institutions to try new approaches and where possible take positive action to address inequalities. The EHRC and SFC would like to discuss how we might support and achieve that at a national event (more details are provided in the next section).
23. We recognise that some of these issues are societal and deeply embedded. For example, official hate crime statistics for Scotland show high levels of hate crime by race and increasing levels of hate crime on the basis of religion, sexual orientation, disability and trans. We are not expecting the sector to solve these issues but we are asking that they are recognised and institutions put steps in place to tackle prejudice and discrimination, advance equality and foster good relations in the tertiary system.

What does this mean for the 2023 Public Sector Equality Duty Report?

24. SFC and EHRC recognise that institutions will:

- Begin to prepare these reports shortly and that they need to be considered by various governance groups and senior colleagues within institutions before they can be published. This leaves limited time for institutions to fully adopt the NEOs (as outlined above) and demonstrate progress.
 - Already have committed to a set of their own equality outcomes in their 2021 PSED reports and will want to report progress against those outcomes.
25. We see this upcoming report as an opportunity for institutions to reflect and move towards the NEOs outlined in this report and begin to work towards, where appropriate, their adoption. We do not expect to see progress against each NEO but we do want to see how institutions intend to adopt them into their approach and future PSED reports. For example, this could include a consideration of how institutions are likely to adopt the NEOs and evidence of the initial collating and interrogation of data to begin to establish baselines from which to report progress in future reports.
26. Institutions should consider the NEOs in relation to their existing set of outcomes in April 2023, and either continue or discontinue the existing equality outcomes. In responding to the NEOs institutions can also set short, medium or long-term equality outcomes or a mixture of all of these. Depending on the progress made to achieve existing equality outcomes, institutions may also want to continue some outcomes if not enough progress has been made or if more could be achieved.
27. Should an institution determine that any of the NEOs are not relevant they should set out why this is and ensure that there is a clear evidence base for the equality outcomes set for the period 2023-2025. SFC will work with the EHRC to review the Equality Outcomes set by each institution.
28. The EHRC and SFC are keen to prevent additional reporting requirements. We are therefore asking that, from 2023 you consider including evidence of the impact you are making against your equality outcomes in your Annual Reports. This relates to [Regulation 10 of the Specific Duties](#), which specifies that equality outcome reporting should be done, as far as practicable, through existing means of public performance reporting.
29. We are hopeful that this will negate the need to include this information in a separate Public Sector equality duty update report going forward as you can sign post it, however you can of course continue to provide updates in a separate PSED update report if you so wish. However, if institutions choose not to report through existing means of public performance reporting, then they should assure themselves of their rationale as to why this is not practicable.
30. We would encourage each institution to ensure that the outcomes set meet the [guidance set out by the EHRC](#) on the principles of effective outcome setting, i.e. that they address a known inequality and have a measurable impact.

Working together to make impact

31. The EHRC and SFC intend to hold a free in person sectoral event to discuss the NEOs and how we can work together to maximise national impact. This event will be particularly relevant to staff members and students who work in equality roles and/or are responsible for equality reporting. We would be grateful if you could forward relevant contact details to fburns@sfc.ac.uk to help us engage with staff and set up an event. We will also ensure that the event is promoted via relevant digital channels.

Next steps

32. We want to thank the members of the Persistent Inequality and Outcomes Group and the Equality Leads from the sector for their thoughtful contributions to developing these NEOs.
33. We ask institutions to consider how they can contribute to the NEOs and adopt them into their PSED reports.
34. The EHRC and SFC thank institutions for their ongoing commitments to advance equality and we look forward to working with you as we make progress tackling the most persistent inequalities in our sector.

Further information

35. Please contact Fiona Burns, fburns@sfc.ac.uk or 0131 313 6517.



James Dunphy

Director of Access, Learning and Outcomes

Annex A – EHRC/SFC updated action plan

What we have achieved

1. Since the Memorandum of Understanding (MOU) and action was published in March 2020, the EHRC and SFC have:

Set equality outcomes to tackle the most significant inequalities

- Set up an evidence group to help identify the significant inequalities and priority equality issues relevant to the sector.
- Identified ways to integrate reporting on the PSED within existing outcome and reporting systems.
- Provided sectoral guidance and workshops to support universities and colleges set and achieve their equality outcomes.
- Reviewed university and college equality outcomes for 2021-25 against the requirements of the specific equality duty to set outcomes and EHRC good practice guidance.

Strengthened SFC performance of PSED

- Delivered development sessions and training on the Equality Act 2010 to SFC directorates to help them build equality into their day-to-day work.
- Agreed SFC equality outcomes.

Publish national equality outcomes

- Agreed the most pressing inequalities that the sector should be acting on.
- Integrate reporting on PSED into existing performance reporting systems.

What we still want to achieve

2. We have reflected on the progress made over the last two years and identified where we need to do more over the next phase of this action plan. We will:

Support universities and colleges

- To contribute to achieving the NEOs.
- Offer development sessions to leadership groups in the sector.

- Agree a national measurement framework to understand the impact of actions and progress.
- Integrate NEOs into our national performance frameworks.

Further strengthen SFC performance on PSED

- Identify how SFC will monitor and publish information about progress on NEOs.
- Develop a set of SFC annual thematic reviews to inform and direct improvement.

Evaluate the effectiveness of our work

- By April 2023, evaluate the work we have done to date, identify lessons learned and next steps.

Annex B – National Equality Outcomes

- These NEOs have been developed using the following principles.
 - All nine protected characteristics outlined in the Equality (Scotland) Act 2010 should be included – Age, Disability, Gender Re-Assignment, Pregnancy & Maternity, Marriage & Civil Partnership, Race, Religion or Belief, Sex, Sexual Orientation.
 - The focus of this work is student inequality but consideration has been given to staff inequality as it directly impacts on students in relation to their experience and the representation of the tertiary system.
 - The NEOs should be evidence based and based on significant inequalities.
- As outlined in Annex A - we intend to work with the sector to support their actions and measure progress at a national scale.

Protected Characteristic	Persistent Inequality	National Equality Outcome	Additional notes
Age	The outcomes of students, as evidenced by SFC and HESA data, by age group shows consistent under-achievement for students aged 25 and over in the university sector and for students under 19 in the college sector.	<p>The retention outcomes for university students aged 25 and over will improve.</p> <p>The success rates for college students aged under 19 will improve.</p>	
Disability	<p>The outcomes of students, as evidenced by SFC and HESA data, shows consistent under-achievement for students who declared a mental health condition. The numbers of students disclosing this information is also increasing.</p> <p>Feedback from students to Lead Scotland, input from students into the SG/SAAS Disability</p>	<p>The success and retention rates of college and university students who declare a mental health condition will improve.</p> <p>Disabled students report feeling satisfied with the overall support and reasonable</p>	During the development of these NEOs, the Persistent Inequality and Outcome Group discussed specific issues relating to student neurodiversity. It has not been possible to set a specific NEO on this

Protected Characteristic	Persistent Inequality	National Equality Outcome	Additional notes
	<p>Related Student Support Review and input into the Disabled Students Employment Action Plan all outline issues from disabled students in relation to the access and implementation of reasonable adjustments.</p> <p>Scottish hate crime statistics evidence increased harassment to people with a disability</p> <p>Disabled people are under-represented in College Boards and Courts</p> <p>The proportion of disabled staff are not always in line with the local travel to work population (outlined in the 2022 Census) and are not in line with the national census.</p>	<p>adjustments received, including from teaching staff, while on their course</p> <p>Disabled staff and students report feeling safe in the tertiary system</p> <p>Where representation is not proportionate to the relevant population, increase the representation of disabled staff in the workforce and on college Boards and university Courts.</p>	<p>at this time but it is recognised that more work is needed to ensure the needs of this group are being met.</p>
Gender Re-Assignment	<p>There is limited quantitative data about the outcomes for trans staff and students. Research from Stonewall and TransEdu suggests that Trans people face harassment on account of their trans status.</p>	<p>Trans staff and students report feeling safe to be themselves in the tertiary system</p>	
Marriage & Civil Partnership	<p>PSED only relates to employment and no evidence of inequalities</p>	<p>NA</p>	
Pregnancy & Maternity	<p>No evidence of inequalities.</p>	<p>NA</p>	
Race	<p>As outlined in the EHRC Racial Harassment Inquiry</p>	<p>Staff and students feel supported and safe and are</p>	<p>Actions should include the</p>

Protected Characteristic	Persistent Inequality	National Equality Outcome	Additional notes
		<p>confident that complaints of harassment or bias on the grounds of race will be dealt with appropriately because complaints procedures are fit for purpose and offer effective redress.</p> <p>Institutions should also have regard to attainment levels by racial group and ensure that their curriculum is diverse and anti-racist.</p>	<p>recommendations from EHRC racial harassment inquiry (p15 & 16).</p>
	<p>Staff data and student data from both sectors and data on representation at Court level outlines under-representation issues.</p>	<p>Where representation is not proportionate to the relevant population, increase the racial diversity of Court members and address any racial diversity issues in college Boards.</p> <p>Where representation is not proportionate to the relevant population, increase the racial diversity of teaching and non-teaching staff to align with student representation in the sector.</p>	<p>During the assessment of data and discussions with the Persistent Inequality and Outcomes Group several race related issues were raised. The NEOs have been based on the actual data at National level but institutions should consider issues relating to racial diversity in depth across their institution.</p>
Religion or Belief	<p>There is limited quantitative data about outcomes based on religion and belief. We have used research presented by the Jewish Union of Students, and the lived experiences of people of faith in the development of</p>	<p>Students and staff report that they have confidence in institutional report and support mechanisms because they are fit for purpose.</p>	<p>Institutions should note the intersectionality outlined under the race NEO.</p>

Protected Characteristic	Persistent Inequality	National Equality Outcome	Additional notes
	the race equality project.		
Sex	<p>Evidenced from the Scottish Government's Equally Safe strategy including issues, predominately from women, relating to accessing support and reporting issues.</p> <p>Statistical data outlines that men in society are three times more likely than women to die by suicide. Men are less likely to access mental health support.</p> <p>Statistical data shows that course choice and sex imbalance on courses remain an issue. However, the specific targets of the past have not had the required impact. Institutions have asked for flexibility to focus on key subjects where they could make an impact.</p>	<p>Staff and students know how to access support about violence, harassment and abuse, report their experience and feel properly supported in doing so because the services are fit for purpose.</p> <p>Institutions can evidence approaches that prevent and respond to violence, harassment and abuse.</p> <p>Men (staff and students) know how to access mental health support (recognising intersectionality within that group).</p> <p>Institutions will have regard to significant imbalances on courses and take action to address it.</p>	
Sexual Orientation	Stonewall Research suggests some LGB students hide their identities in universities and that staff experience barriers that prevent them from being out at work.	Lesbian, Gay and Bisexual staff and students report that they feel safe being 'out' at university and college.	