

Equality and Diversity Objectives for the Office for Students

Introduction

1. The purpose of this paper is to:
 - Inform the OfS board about the organisation's (and the board's) responsibilities under equalities legislation
 - Present for discussion some draft equality objectives and priorities for the OfS
 - Pose some strategic questions for the board to consider
 - Present (in Annex A) some key equality data about HE to set the context for the diversity of both students and staff in the higher education sector
 - Describe a timeline for presenting a finalised Equality and Diversity Scheme and Action Plan to the board later in 2018.

Legal context

2. The Equality Act 2010 puts a **general duty** on public sector bodies (including the OfS and higher and further education institutions) to:
 - Eliminate unlawful harassment and discrimination
 - Advance equality of opportunity between people who do and do not share a protected characteristic
 - Foster good relations between people who share a protected characteristic and those who do not share a protected characteristic.
3. Public bodies must meet this general duty both as employers and as providers of public services, and show 'due regard' to the duty across their functions. It is referred to as the 'Public Sector Equality Duty' (PSED).
4. The nine protected characteristics referred to are:
 - age
 - disability
 - gender reassignment
 - marriage and civil partnership
 - pregnancy and maternity
 - race
 - religion or belief
 - sex
 - sexual orientation
5. The general duty is underpinned by **specific duties**, for which there are the following requirements:
 - a) To publish annual information demonstrating compliance with the general duty. This should include information on employees and people affected by the OfS's services/activities who share a protected characteristic. We propose that the OfS

- should do this by publishing an annual Equality and Diversity Report following discussion and approval by the board.
- b) To publish objectives setting out how the OfS will meet the requirements of the Act at least every four years. We propose developing an Equality and Diversity Scheme which includes the objectives and an action plan, as well as setting out our general approach, values and principles. This would fulfil this legal obligation.
 - c) To ensure that such published information is accessible to the public. We propose that the OfS should publish the Equality and Diversity Scheme, action plan and all annual reports on our website, in a prominent place. In doing so, we should act on the Equality and Human Rights Commission’s recommendation that equality objectives and information should clearly be signposted and presented, in a way that the general public will understand).
6. As well as the PSED, the OfS has an additional legal driver through the Higher Education and Research Act, which puts a general duty on the organisation to have regard to ‘the need to promote equality of opportunity in connection with access to and participation in higher education provided by English higher education providers’¹.
 7. The Act also gives OfS the power to approve an access and participation plan setting out a provider’s provisions in relation to the promotion of equality of opportunity as set out in regulations. The access and participation regulations make clear that the plans are concerned with support for groups that are under-represented in higher education, both nationally and within each individual provider, and in relation to both access and successful participation and progression. There are important inter-sections between groups under-represented in higher education at different points of the student lifecycle and the protected characteristics identified for the PSED, but they are not synonymous. Our strategy for access and participation, which the board discussed in January, will therefore be a key contributor to the delivery of the PSED, but we will want also to be active beyond this.
 8. In addition to our legal drivers, the OfS has also framed its regulatory objectives with equality of opportunity and outcomes for students at its heart. In the Regulatory Framework we say that:

*“The OfS’s primary aim is to ensure that English higher education is delivering positive outcomes for all students – past, present and future. This ambition runs through the regulatory framework and the organisation as a whole. The OfS will seek to ensure that all students, from all backgrounds (particularly the most disadvantaged), can access, succeed in, and progress from higher education.”*²
 9. The OfS has also, through the Regulatory Framework, set out a principles-based approach to regulation, which proposes a bold new approach to promoting social mobility, and equality and diversity, through higher education. In the foreword to the Regulatory Framework, we say that:

“The new framework equips us to deploy a powerful set of regulatory levers, not only to improve access to higher education, but also to reduce the gaps in continuation,

¹ Higher Education and Research Act, Section 2, part (1)(e).

² The Regulatory Framework, Office for Students. Part 1, Paragraph 2, page 14.

attainment and progression that are currently experienced by different groups of students. The sector has increased opportunity by widening access... but has not achieved equality of opportunity. We will be radical and ambitious to make sure we deliver on the promise of higher education as an engine for social mobility, and a gateway to a better life for those who undertake it.”³

10. The Regulatory Framework positions an approved access and participation plan as the first condition of registration for providers intending to charge the higher undergraduate fee and it also sets out how we will deliver on our commitment to supporting students from all backgrounds through the other conditions and our sector-wide activities. We published an Equality Impact Assessment⁴ alongside the Regulatory Framework, which identified that we expected the Framework to have a positive impact on equality and diversity. We will update this assessment once the initial registration process has been completed.
11. In both the Regulatory Framework and the Guidance on the access and participation plans, we have committed to producing equality objectives for OfS and an action plan, which will set out how we will deliver our PSED beyond the measures set out in the Regulatory Framework and the access and participation guidance. This paper seeks the board’s views on this, with the aim of finalising the objectives, priorities and action plan at the board’s next meeting in May.

Responsibility and accountability for E&D in the OfS

12. The Equality and Human Rights Commission is the regulator and enforcement agency for the PSED for both the OfS and individual HE providers. It is the OfS board’s responsibility to ensure that the organisation complies with the PSED. It is the Chief Executive’s responsibility to put in place the equality objectives, publish equality information and report on the OfS’s progress in implementing them.

Progress to date

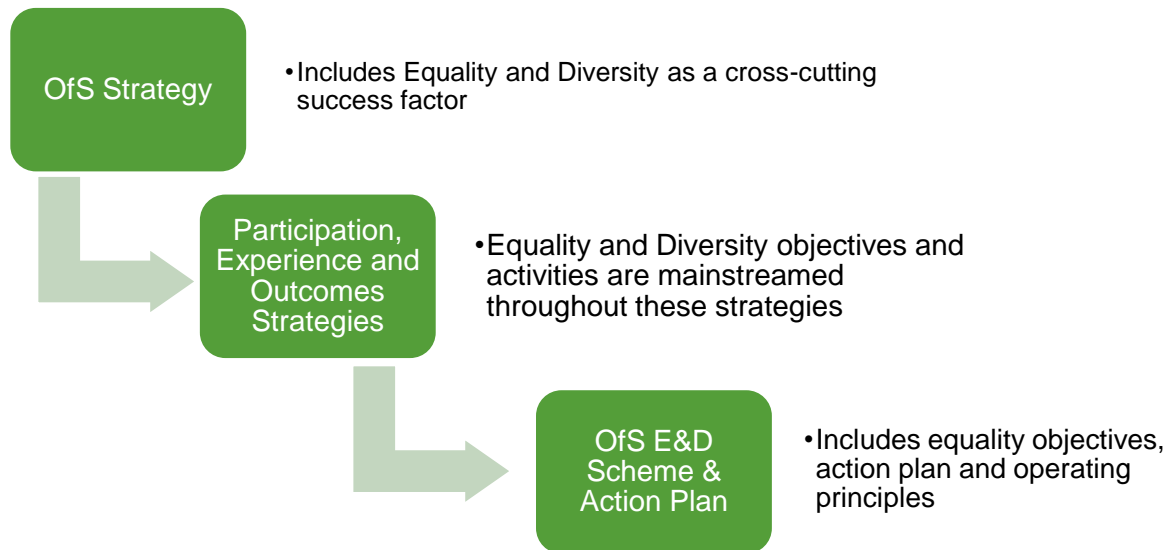
13. In preparing for ‘day one’ of the OfS, we have carried out desk research about how other regulators both implement their PSED and position their equality objectives. The approach we set out in this paper is in line with how others approach this, although there is a degree of flexibility given to us in the Equality Act 2010 in how we structure, organise and monitor our objectives and wider equality activities (which is necessary to reflect our distinct role as both a regulator and funder).
14. Specialist E&D policy advisers have worked closely with the Director for Fair Access and Participation (who has the Executive level responsibility for this area in the OfS) and reviewed relevant source material to formulate the draft objectives in this paper. There has not yet been an opportunity to consult more widely within and outside the organisation, and this should be a priority next step for the OfS following the board’s discussion.

³ Sir Michael Barber’s Forward to the Regulatory Framework, Office for Students, page 1.

⁴ Published at https://www.officeforstudents.org.uk/media/1042/ofs2018_09.pdf

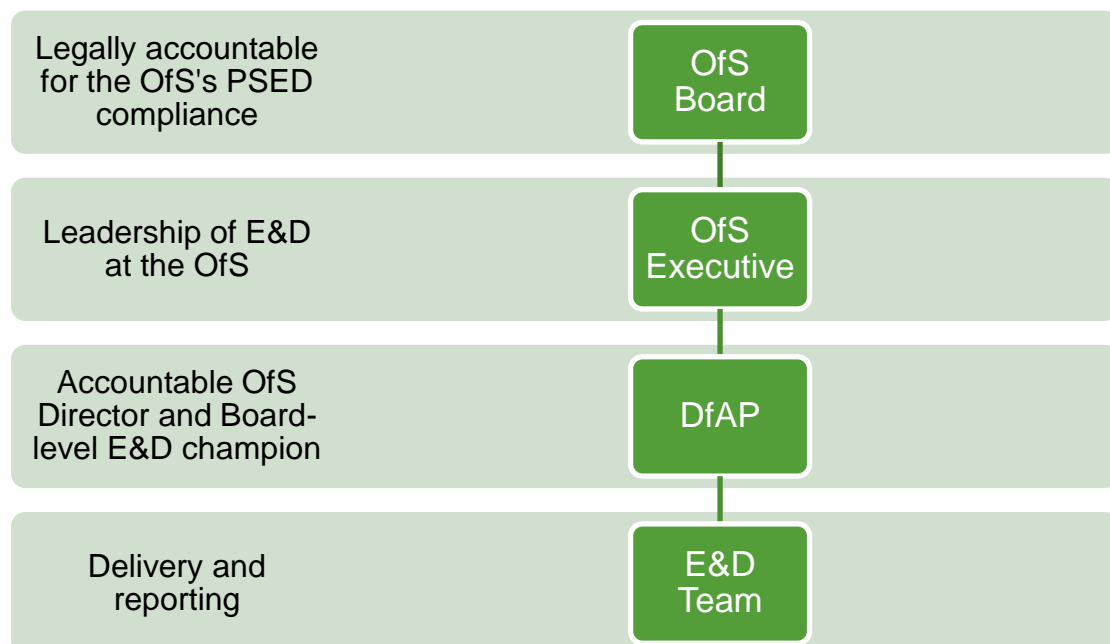
Structure and Framework for the OfS's E&D Objectives

15. The overall framework for how the OfS will implement its equality mission is suggested in the diagram below:



16. The aim is for the OfS's equality objectives and priorities to be fully reflected in our Strategy, and mainstreamed throughout our Business Plan, and the equality outcomes we are seeking to achieve should be mirrored in our organisation's KPIs.

17. The governance and leadership structure for the OfS's E&D mission is reflected in the diagram below:



Equality and Diversity Priorities for the OfS

18. The draft objectives are drawn very broadly to ensure that our PSED is mainstreamed throughout our functions as a regulator and funder of HE in England. We have identified a small number of key priorities to focus our efforts on the areas where we most want to effect change, given our strategy and the evidence available to us on the key challenges for higher education. The board is invited to comment on and discuss these. The potential key priorities are:
- a) Improving access to higher education for white males from low socio-economic groups.
 - b) Removing the degree attainment gap for black and Asian students
 - c) Reversing the decline in mature student participation in higher education
 - d) Addressing the significant increase in students experiencing mental health problems
 - e) Tackling all forms of sexual harassment, violence and hate crime affecting students in higher education.
19. We will respond to the board's feedback and conduct further consultation to test that we are focussing on the right areas. We will bring these back for the board's approval alongside our finalised objectives in May 2018. Our longer term plan would be to keep these priorities under review and revise or add to them when new evidence is available or issues come to light.

Draft E&D Objectives

20. We have structured the objectives around the three core strategic areas of the OfS Strategy (namely 'participation', 'experience' and 'outcomes') then added in objectives to ensure coverage with regard to our obligations as an organisation subject to the PSED, including as an employer, and about how we use data and evidence (which is part of our specific duty under the PSED).
21. The five draft objectives are shown below. There will be a sixth objective, which describes the OfS's aspirations to champion and foster diversity in our workforce and a seventh which covers our communications and engagement, but due to the timescales for establishing OfS we have not yet been able to engage with our staff on these. We aim, though, to include this in the final equality objectives and action plan we will submit to the board for approval in May. We have identified a key principle for this, which is that we should be as active in rigorously challenging our own practice, promoting change and judging our performance based on the outcomes we achieve, as we will be with providers through our delivery of the Regulatory Framework. We can only be a credible regulator in this area and command confidence if we are prepared to take positive action with regard to our own workforce and through our own operations.
22. Underpinning our objectives and all the work we will do to implement them, there should be a set of operating principles which mirror the OfS's values. These are still in development, but we suggest that our general E&D principles should include:
- Clarity of purpose, leadership and strategy in relation to E&D
 - Being accessible and inclusive to our stakeholders

- Being at the forefront of relevant data, evidence and insight
- Undertaking effective and efficient E&D impact assessment
- Reflecting the diversity of providers and students across English HE
- Taking an intersectional approach
- Mainstreaming E&D throughout the OfS's functions
- Working in partnership with students at all levels and from all backgrounds and other stakeholders
- Challenging our own E&D practices with the same rigour that we challenge providers

Objective one:

The OfS will develop, implement and consult on our equality and diversity objectives, evidence base, impact assessments and action plan to ensure successful implementation of our PSED.

We will do this by:

- Annually reviewing our progress and reporting this to the board, and being held to account for our performance
- Linking E&D success factors to the OfS's KPIs and outcomes
- Seeking regular engagement and feedback from our stakeholders on our PSED performance
- Undertaking impact assessments of our policies and programmes
- Having a clear linkage between our E&D strategy and OfS strategy and business plan

Objective two:

The OfS will conduct and publish rigorous and influential analysis, research and insight into equality and diversity (including socio-economic disadvantage) issues across the student lifecycle.

We will do this by:

- Building a data strategy which is capable of examining the critical gaps in outcome across the student lifecycle, takes an intersectional approach wherever possible, and extends our knowledge of groups that are currently under-reported such as postgraduate and international students.
- Working through our Regulatory Framework to improve the quality and coverage of E&D related data, including through our implementation of the Transparency Duty.
- Fostering an outward-facing approach to how we collect and analyse data, evidence and insight (for example, including 3rd party data, international and cross-sectoral data in our analysis)
- Collaborative working and strong stakeholder engagement to gather and triangulate insight and intelligence
- Taking a rigorous, responsible and ethical approach to gathering and presenting data – including innovative and mixed methods approaches to collection and presentation.
- Supporting the sector to translate evidence into effective practice within providers, for example through a new Evidence and Impact Exchange.

Objective three:

The OfS will work to reduce significantly gaps in access, success and progression for under-represented students, from all backgrounds and identities.

We will do this by:

- Delivering our access and participation strategy, which will deploy both pressure on providers through the access and participation plans and support for them through sector-wide championing of issues, the identification and sharing of innovative and effective practice, and underpinning support on data and evaluation.

- Developing and implementing our approach to Access & Participation plans. We have provided guidance on the first round of plans, which sets a requirement for continuous improvement, which is a higher baseline than in other area. Continuous improvement is defined as reducing the gaps in access, success and progression and also improving practice, in terms of both relationships with schools and employers and the use of evidence and evaluation. We are reviewing our approach during 2018, considering how the scope of the plans and how they could become more outcomes-focused and risk-based, and we will bring proposals to the board in November on this.
- Deploying our funding in a targeted way to support the access and participation strategy. We will review during 2018 our funding for collaborative outreach, the premium we provide to recognise the higher risks to success for some students, and our discretionary funding, and make proposals to the board in November on how this should be targeted into the future to deliver our E&D, access and participation objectives.
- Implementing the Teaching Excellence and Student Outcomes Framework with due regard to promoting positive learning outcomes for all students.
- Implementing the Transparency Duty and working to develop the Duty further with the aim of capturing a greater number of protected characteristics and the entirety of the student lifecycle (e.g. to include disabled students, non-continuation and postgraduate students).
- Publishing and using actively Transparency data with the aim of creating a powerful driver for change.
- Using our analytical capability and convening power to champion issues and understand where progress is being made and gaps remain.
- Developing and implementing the Evidence and Impact Exchange with the aim of identifying and disseminating 'what works' in access, success and participation and driving effective practice.
- Implementing OfS policies to remove barriers to choice for students from all backgrounds and identities e.g. encouraging new providers into the market and driving new and existing forms of flexible provision.

Objective four:

The OfS will work to address the risk of some students not receiving a high quality higher education experience, and that their interests are not sufficiently protected while they study or in the event of provider, campus or course closure

We will do this by:

- Implementing the initial and ongoing conditions of registration for quality to drive a high quality academic experience for all students, giving explicit attention to the outcomes for students from under-represented groups.
- Implementing the Teaching Excellence and Student Outcomes Framework with due regard to promoting positive learning outcomes for all students.
- Strategically reviewing our discretionary funding to lever innovation and effective practice
- Actively promoting whole institutional, inclusive approaches to both the academic and non-academic student experience (e.g. with regard to learning and teaching, access, participation, student welfare and safeguarding).
- Supporting sector-wide activity – e.g. by funding and communicating effective practice - to tackle and reduce all forms of violence and harassment on campus, including sexual harassment, violence, online harassment and hate crime.
- Supporting sector-wide activity - e.g. through funding and communicating effective practice - to enhance student welfare, including mental health and disability support.

- Promoting a more diverse higher education workforce (including senior manager and governors) to better reflect the diversity of the student population.
- Using data, analysis, research and evidence to support continuous improvement

Objective five:

The OfS will work to reduce the risk that some students are prevented from maximising their outcomes through their HE experience and therefore not achieve their full potential in terms of employment or further study.

We will do this by:

- Using our regulatory and funding levers to address long standing gaps in HE attainment for particular student groups (for example students from some ethnic minority groups).
- Working with providers, employers and other stakeholders to better understand the causes of and to address gaps in employment outcomes.
- Working with providers to promote activity that enhances employability and employment outcomes for students from under-represented groups and / or with protected characteristics, such as work-placement, community engagement and student enterprise.
- Working with UKRI to understand the patterns of progression to postgraduate study for different student groups and developing approaches through regulation, funding, and sharing of data and practice, to strengthen and diversify the post-graduate pipeline.
- Undertaking analysis to improve understanding of the benefits of higher education to graduates (beyond income measures) and how these vary between different groups of graduates.

Equality and Diversity Action Plan

23. Underpinning these equality and diversity objectives will be an Action Plan, which will set out measurable and specific actions, which will be taken by named teams across the OfS with deadlines attached. It is anticipated that the objectives will be reviewed annually by the board, with minor changes made – particularly in the first couple of operating years for the OfS - and fundamentally reviewed every four years. The Action Plan would be reviewed and updated annually, with highlights and outcomes reported to the board along with any areas which are making less progress or where actions have changed or not been achieved (along with the reasons why).

Equality and Diversity Impact Assessment

24. We have published an Equality Impact Assessment of the Regulatory Framework and we anticipate that the OfS will develop its own approach to this, which will form a key part of showing 'due regard' to our PSED and delivering our equality objectives. The results of impact assessments of new policies, major projects/programmes and processes should be reported in highlight form to both the OfS Executive and board.

Questions for the board to discuss

25. This paper represents early and emerging thinking for the OfS based on discussions around the draft strategy, business plan and the Regulatory Framework. We would welcome the board's input on some questions to help develop the next iteration of the objectives, our Action Plan and to frame the external engagement we would now like to embark on with our stakeholders.

Questions for discussion:

- How forward looking should we be at this stage? The full four years recommended by the Equality and Human Rights Commission or is a shorter time frame appropriate in the first 12-18 months as the OfS develops and refines its strategy?
- To what extent should OfS seek to provide sector-wide support in this area, for example through discretionary funding and sector-wide activity, alongside its regulatory pressure?
- We have included work to promote a diverse HE workforce, including leadership and governance as well as academic and professional/support staff. Should OfS include HE staff and governors within its remit (in the interests of creating diverse and inclusive HE providers that are more reflective of the wider population) and to what extent should we work with other bodies such as UKRI on this?
- Are the five potential key priorities we have identified the right ones and do we have the tools to address them?
- Other regulators often have an external advisory group (usually made up of their regulated market's consumers) to be consulted, to guide and to critique the organisation's equality and diversity work. Should we establish a similar body?

Timeline and next steps

26. Following the board's feedback, we will draft an Equality and Diversity Scheme and Objectives and devise a consultation and stakeholder engagement plan, in conjunction with other teams – but particularly the Access and Participation Directorate who are conducting some related consultations over the same period. We will carry out that consultation, revise and refine our objective as appropriate and bring these back to the board for final approval in May 2018. The objectives will be published on our website as 'draft' in this interim period, partly to satisfy our legal duties under the PSED but also to invite feedback and engagement from website users.

Recommendations

27. The board is invited to:
- a) Note its responsibilities under equalities legislation and request any further briefings/guidance that might be required to carry out its governance functions effectively in this area.
 - b) Discuss the draft equality objectives and priorities for the OfS and provide feedback/comments as well as suggesting additional actions or areas for consideration.
 - c) Consider and respond to the questions at paragraph 25.
 - d) Note the timeline and next steps described at paragraph 26.