



Revising Gender Equality Schemes

Introduction

This briefing is intended for senior managers, governors and human resources and equality and diversity staff. It serves to remind higher education institutions (HEIs) of their statutory obligations under the Gender Equality Duty, in particular, the essential components of Gender Equality Schemes.

The Equality Act 2006 amended the Sex Discrimination Act 1975 by placing a statutory duty – the Gender Equality Duty (GED) – on HEIs in England to produce a Gender Equality Scheme (GES) by 30 April 2007 and in Scotland by 28 September 2007. While there is no requirement under the GED for HEIs in Wales to produce a GES, both the Welsh Assembly Government and the Higher Education Funding Council for Wales recommend that they develop a GES in line with the requirements outlined in this briefing.

In addition to reporting annually on the actions taken as a result of their GES, HEIs are required to review their GES and prepare and publish a revised GES at least every three years. This means that, for HEIs in England, **a revised GES is required by 30 April 2010**. However, if for example an HEI revised its scheme in full accordance with the steps outlined in this briefing in May 2009, it will not need to revise its scheme until May 2012.

Contents

Introduction	1
Background to Gender Equality Schemes	2
Why revise the Gender Equality Scheme?	3
What information should be used to revise the Scheme?	3
What should a Gender Equality Scheme include?	4
Publication of the Scheme	7
Annual reporting	7
Enforcement of the Gender Equality Duty	8
Single Equality Schemes	9
What will happen under the Equality Bill?	9
Key resources	10

Contact details

ellen.pugh@ecu.ac.uk



For HEIs in Scotland a **revised GES is required by 28 September 2010** or three years after publishing the original scheme.

ECU recommends that HEIs read this briefing in conjunction with the statutory code of practice on the gender equality duty for England and Wales (herein referred to as 'the Code'):

www.equalityhumanrights.com/uploaded_files/PSD/gender_equality_duty_cop_england_wales.doc and the separate code of practice for Scotland: www.equalityhumanrights.com/uploaded_files/PSD/gender_equality_duty_cop_scotland.doc

For ease of navigation relevant sections of the English and Welsh Code are referenced within this briefing. Other key resources are included at the end of the briefing.

Background to Gender Equality Schemes

The GED came into force in England, Scotland and Wales on 6 April 2007 and requires HEIs to consider the impact of their policies and procedures on men and women, including transsexual people, and to take action to combat any identified areas of inequality. The GED has two components, the latter of which is the focus of this briefing:

- = a **general duty** requiring HEIs, when carrying out their functions, to have due regard to the need to eliminate unlawful sex discrimination and harassment (including that experienced by transsexual people) and to promote equality of opportunity between men and women. See **section 1.12** of the Code for an analysis of the meaning of due regard.
- = a **specific duty** requiring HEIs in England and Scotland to publish a GES, which should set out an HEI's gender equality objectives, the rationale for those objectives and the actions they will take to consult stakeholders and assess the impact of their policies and procedures on gender equality. While there is no specific duty in place for HEIs in Wales, both the Welsh Assembly Government and the Higher Education Funding Council for Wales recommend that Welsh HEIs observe the specific duty in place for England.



Why revise the Gender Equality Scheme?

Aside from meeting the legislative requirements, reviewing and revising GES is an important opportunity for HEIs to ensure that their objectives are:

- = focussed on the most relevant and important areas for promoting gender equality
- = up to date and relevant
- = reflective of current evidence and circumstances

It is also an opportunity for HEIs to identify their achievements and seek views from staff and students on the effectiveness of the first GES and priorities for the next three years.

What information should be used to revise the Scheme?

The first GES will have been in place for three years, and HEIs are likely to have accrued a range of additional information on the institutional effects of their policies and practices on men and women (including transsexual people). **Section 3.80** of the Code recommends that the revision of the GES involves a review of the progress made to date. HEIs can do this by reviewing information gathered in the past three years, for example: data sourced for the two annual reports that will have been published since the introduction of the first GES, equality impact assessments, staff and student retention data, staff promotion data, findings from consultation events/research/surveys conducted with staff and students and the local community, complaints, etc.

Section 3.80 of the Code also recommends that any feedback from stakeholders on the effectiveness of the preceding scheme is taken into consideration.



What should a Gender Equality Scheme include?

Sections 3.9–3.11 of the Code outline the components required of a GES and the subsequent sections of the Code provide detailed information on these components, as summarised below.

Gender equality objectives

Gender equality objectives are the overall objectives set by an HEI to enable it to meet the requirements of the general duty of the GED. **Section 3.36** of the Code states that HEIs should identify their equality objectives in consultation with staff, students and other stakeholders.

To set equality objectives, it is important to have an understanding of the major gender equality issues within your HEI and across higher education more broadly. In addition to consultation with staff, students and other stakeholders, the former Equal Opportunities Commission (2007) recommended that HEIs use a variety of sources to find out what the issues are, including:

- = information that you have available internally
- = national sectoral information on key gender issues, for example: ECU's *Equality in higher education statistical report 2009*, data from the Higher Education Statistics Agency and reports from organisations like the Equality and Human Rights Commission (EHRC) and the Women and Work Commission
- = information gathered from gender equality impact assessments of policies and procedures

Equality objectives should cover a three-year period and, while it is recognised that HEIs cannot address all inequalities, the requirement to have 'due regard' means that they are expected to begin to address the most significant problems. The Code also states that HEIs in England are required to consider the need to include objectives to address the causes of any gender pay gap – see **section 1.15**. (Note that HEIs in Scotland with 150 or more staff are required to publish an equal pay policy statement and report on progress every three years.)



Rationale

The rationale for the equality objectives must be included and should relate to:

- = the remit and functions of the HEI, including functions carried out through partnership and procurement
- = the major findings from information gathered internally and national sectoral information
- = the major findings from consultation with staff, students and other stakeholders
- = the ways in which consideration has been given to the need to include an equality objective on the gender pay gap. If an equality objective on the pay gap is not included you will need to state the reason why it is not included within the GES

Collection and use of information

This section should set out the actions that HEIs will take to collect information on the effect of policies and practices on men and women (including transsexual people). This should include their arrangements for gathering and interpreting information on the:

- = recruitment, development and retention of staff, including the return rate of women from maternity leave
- = educational opportunities available to, and the achievements of, students
- = extent and causes of the gender pay gap
- = prevalence of harassment and sexual harassment of staff and students
- = issues and barriers experienced by transsexual staff

HEIs should seek to collect such information on other groups who are likely to access their facilities and services, for example, governors and visitors, and take account of any other information that they consider relevant. This could include, for example, concerns expressed and evidenced by professional bodies about



the underrepresentation of men or women in particular professions.

HEIs also need to state the action that they will take to use the information collected to meet the requirements of the GED, review the effectiveness of their implementation of the GED and in the preparation of future schemes.

For further information, see **sections 3.12–3.23** of the Code.

Gender equality impact assessments

HEIs must demonstrate the actions that they have taken, or intend to take, to assess the impact of their policies and practices on gender equality. The effectiveness of an HEI's impact assessment process for ensuring gender equality must be assessed when the GES is reviewed.

For further information, see **sections 3.57–3.74** of the Code.

Consultation

The statement should set out the actions that the HEI will take to consult staff, students, visitors and other stakeholders (including trade unions) when preparing its GES. The extent of consultation should be appropriate to the size, remit and resources of the HEI.


In addition, HEIs must outline how they have consulted, or intend to consult, staff, students, visitors and other stakeholders to inform the actions that they are taking to implement the GED – for example, during the impact assessment process or when taking steps to improve data collection.

For further information, see **sections 3.24–3.33** of the Code.

Other information

While it is not a legal requirement to do so, **section 3.11** of the Code states that HEIs can also include the following information in their GES:

- = evidence of commitment from senior managers
- = evidence of the link to the HEI's strategic plan
- = identification of individuals with responsibilities for the actions

- 
- committed to within the scheme
 - = allocation of specific budgets
 - = measurable and time bound indicators of progress towards objectives
 - = measures to strengthen the capacity of the authority to meet the duty
 - = separate action plans for individual identifiable departments
 - = details of how impact assessment will be incorporated into the HEI's decision making processes
 - = details of how the duty will be met through the HEI's procurement and partnership activities

Publication of the Scheme

Section 3.8 of the Code requires HEIs to publish their GES in a readily accessible format, for example it should be accessible and downloadable from the institution's website. ECU recommends that the GES and each annual report should be publicised through internal communication mechanisms as well as published on the institution's website.

HEIs can publish their GES and annual reports as separate documents or within other published documents such as the Strategic Plan or a Single Equality Scheme, providing all of the necessary elements of a GES are included, readily identifiable and show evidence of meeting the GED.

Annual reporting

The regulations require that HEIs shall take steps as are 'reasonably practicable'¹ to publish an annual report. Annual reports are a key tool for HEIs to review progress made against their objectives, and demonstrate to students, staff and visitors the ongoing

¹ Regulation 6 of the Sex Discrimination Act 1975 (Public Authorities) (Statutory Duties) Order 2006 <http://www.opsi.gov.uk/si/si2006/20062930.htm>



commitment the HEI has to gender equality. The regulations require that HEIs include in their reports the actions that have been taken to meet the GES objectives.

Annual reports should be published to allow employees, students and the community to assess how successful the HEI is at delivering gender equality. HEIs can publish their annual reports as separate documents or within other published documents.

What is meant by 'reasonably practicable' is not defined in the Code. However, it is a legal term and if an HEI fails to meet the recommendations of the Code, it would need to be able to demonstrate to an external third party why it was not 'reasonably practicable' for it to produce an annual report.

Enforcement of the Gender Equality Duty

Where a public body fails to carry out its responsibilities under the GED, the Equality and Human Rights Commission (EHRC) has a range of powers at its disposal to enforce the GED. The powers of the EHRC include serving compliance notices, entering into formal agreements and conducting assessments.

In November 2009, the EHRC issued compliance notices against three local authorities for failing to comply with the Sex Discrimination Act by breaching the requirements of the GED. Where an HEI fails to cooperate following the issuing of a compliance notice, or to meet the requirements of a compliance notice, the EHRC can apply for a court order requiring it to comply. If the HEI does not abide by the court order, it may be found in contempt of court. Before using its enforcement powers, the EHRC is likely to engage in correspondence and communication with the HEI concerned.

Where an interested party (such as a staff member, student or other member of the HEI's local community) believes elements of the general duty of the GED are not being met, they may also be able to challenge the HEI through judicial review in the High Court.



Single Equality Schemes

Under current UK anti-discrimination law, HEIs are required to have a Disability Equality Scheme, a Gender Equality Scheme and a Race Equality Policy. Many HEIs have opted for a Single Equality Scheme (SES) combining these elements to help them streamline and develop their equality work as well as prepare for the introduction of the Equality Bill (see below). However, an SES is not essential and may not be appropriate for all HEIs.

Where HEIs do decide to develop an SES, ECU recommends that they evaluate the effectiveness of their existing schemes and ensure that their proposed structure for an SES meets both the general and the specific requirements of the Race, Disability and Gender Equality Duties.

Further information is available in ECU's briefing *The production of Single Equality Schemes* (www.ecu.ac.uk/publications/production-of-ses).

What will happen under the Equality Bill?

The Equality Bill combines the existing Disability, Race and Gender Equality Duties into a single duty; the Public Sector Equality Duty. The term 'gender' is not used within the Bill; instead the following 'protected characteristics' that relate to gender are covered by the Public Sector Equality Duty:

- = sex
- = gender reassignment
- = pregnancy and maternity

The Public Sector Equality Duty is likely to cover other equality areas including age and sexual orientation, as well as the areas of disability and race that are currently covered by their own equality duties. Marriage and civil partnership is a protected characteristic under the Bill, but it is not likely to be included in the Duty.

If the Bill is passed, the Public Sector Equality Duty will come into force at the earliest in April 2011. Until then, HEIs need to continue



to meet existing obligations and should refer to updates on ECU's website at www.ecu.ac.uk/our-projects/equality-bill.


Key resources

- = Equality Challenge Unit (2007) *Gender equality scheme: self assessment tool*
www.ecu.ac.uk/publications/files/ges-self-assessment-tool.doc/view
- = EOC² (2006) *Gender Equality Duty Code of Practice England and Wales*
www.equalityhumanrights.com/uploaded_files/PSD/gender_equality_duty_cop_england_wales.doc
- = EOC (2007) *Gender Equality Duty Code of Practice Scotland*
www.equalityhumanrights.com/uploaded_files/PSD/gender_equality_duty_cop_scotland.doc#_Toc161549185
- = EOC (2003) *Code of Practice on Equal Pay*
www.equalityhumanrights.com/uploaded_files/code_of_practice_equalpay.pdf
- = Equality Challenge Unit (2008) *Trans staff and students in higher education: guidance*
www.ecu.ac.uk/publications/trans-staff-and-students-in-he

The following publications are available to download from:
www.equalityhumanrights.com/advice-and-guidance/public-sector-duties/guidance-and-codes-of-practice/general-guidance/#2

- = EOC (2007) *Setting Objectives and Producing a Gender Equality Scheme: Guidance for GB Public Bodies'*
- = EOC (2007) *Gathering and Using Information on Gender Equality: Guidance for GB Public Bodies*
- = EOC (2007) *Guidance for GB on Procurement*

2 Equal Opportunities Commission

- 
- = EOC (2007) *Meeting the Gender Duty in Employment: Guidance for GB Public Bodies*
 - = EOC (2007) *Meeting the Gender Duty for Transsexual Staff: Guidance for GB Public Bodies*
 - = EOC (2007) *Consulting Stakeholders on Gender Equality: Guidance for GB Public Bodies*

Information on gender equality in higher education

- = Breitenbach, E. (2006) 'Gender Statistics an Evaluation' *Working Paper Series No. 51*. Equal Opportunities Commission and the University of Edinburgh
www.equalityhumanrights.com/uploaded_files/PSD/wp51_gender_statistics_evaluation.pdf
- = Equality Challenge Unit (2009) *Equality in higher education statistical report 2009*
www.ecu.ac.uk/publications/equality-in-he-stats-09
- = Equality Challenge Unit (2009) *The experience of lesbian, gay, bisexual and trans staff and students in higher education: research report*
www.ecu.ac.uk/publications/lgbt-staff-and-students-in-he
- = Equality Challenge Unit's web pages on gender:
www.ecu.ac.uk/subjects/gender
www.ecu.ac.uk/law/?browse=subject&filter=gender
- = Government Equalities Office (2010) *An Anatomy of Economic Inequality in the UK: Report of the National Equality Panel*
www.equalities.gov.uk/pdf/NEP%20Report%20bookmarked.pdf
- = **heidi equality**
www.ecu.ac.uk/our-projects/heidi-equality/?searchterm=Equality%20Heidi
- = Higher Education Statistics Agency
www.hesa.ac.uk



Equality Challenge Unit

7th floor, Queens House
55/56 Lincoln's Inn Fields
London WC2A 3LJ

T +44 (0)20 7438 1010 F +44 (0)20 7438 1011

E info@ecu.ac.uk www.ecu.ac.uk

© Equality Challenge Unit. ECU's publications are produced free of charge to the HE sector. Information can be reproduced accurately as long as the source is clearly identified. Alternative formats are available: E: pubs@ecu.ac.uk, T: 020 7438 1010