

College Development Network Equality and Human Rights Impact Assessment (EHRIA) Guidance

Expectations and requirements of the Scottish Funding Council in relation to Equality and Human Rights Impact Assessments (EHRIs)

“Since 2015, we have sought to better embed the use of EHRIs across all SFC functions, and core and strategic funding processes, supporting this effort with targeted training and development and, through the use of an internal Equality and Diversity Group, by providing departments with Equality Champions. In addition, we have used our role to promote an expectation of EHRIs from the colleges and universities that we fund. Examples of our progress are provided below: · Our expectation for EHRIs was outlined in the Financial Memorandum (FM) for Colleges. The same will apply when the University FM is revised this year. · SFC Outcome Agreement (OA) Guidance makes clear the legal requirement for EHRIs on OAs. · All Strategic Fund proposals must now include an EHRIA.

We will continue to promote the use of EHRIs across the SFC and within colleges and universities and we will improve our publication of EHRIs. We are considering how we can develop our approach, for example, through the use of the FAIR methodology to enable us continually to improve the development, use, and publication of our EHRIs. Embedding Equality and diversity in our funding decisions

Since the last Mainstreaming Report it is a requirement that any application for SFC funding includes an EHRIA. As noted above, the Outcome Agreement process (which covers all funding to institutions) now requires an EHRIA.

SFC also provides annual grants totalling over £16m to various non-institutional bodies in pursuit of sectoral objectives. SFC is either the main funder, buys specific services, or contributes a proportion of the organisation’s funding (often as part of a UK-wide arrangement). These payments are not covered by SFC’s Financial Memoranda with universities and colleges, and occur under a variety of mechanisms including Service Level Agreements and Memoranda of Understanding as well as

Outcome Agreements. Examples include our funding of Education Scotland and the Quality Assurance Agency. Since the last Mainstreaming Report we have reviewed and standardised our approach to embedding equality and diversity in these funding arrangements. This includes time-limited Strategic funds.

A standard text is now used in all letters offering funding to non-institutional bodies with an expectation that, in accepting the funds, the organisation will: · Work with accessible and diverse partner organisations. · Demonstrate how the funded project or services contributes to the delivery of the Public-Sector Equality Duty. · Be required to report on how actions arising from the EHRIA have been reflected in the use of funding.

All of the above actions mean the SFC now has a standard process ensuring EHRIs are undertaken prior to any organisation being considered for Strategic Funding and that equality is fully embedded in the reporting on the impact of this funding.

We are pleased with the progress in this area. We now want to consider how we can develop a clear internal policy on upholding the Scottish Public-Sector Duties when engaging with non-institutional bodies located out with Scotland.”

Eight Key Steps for undertaking an EHRIA

1. Screening

This is to determine whether an EHRIA is necessary, but as this is now a requirement of SFC, this stage is a given.

2. Scoping (questions that need to be asked)

- a. **Who should carry out the EHRIA?** This should be those responsible for developing or implementing the policy/plan. In CDN's case this would be Executive Team with sign off by the CEO.
- b. **Proposed policy/plan:** - a description of the policy/plan and why it has been developed.

- c. **Who is affected by the policy/plan?** : - the people and groups affected by the plan. In CDN's case it will be the colleges and other stakeholders/partners. Also, CDN staff who will carry out the plan.
- d. **Possible equality and human rights impacts of the policy/plan:** - questions should include: -
- What aspects of the plan are particularly relevant to equality and human rights?
 - Are there any areas where there is uncertainty over the equality and human rights impacts?
 - Where a potential equality and human rights impact has been identified, what are the indicators of whether there is (or will be) an impact?
 - Consider the 3 duties of the general equality duty: - eliminate discrimination, advance equality of opportunity and foster good relations
 - Consider the 10 domains of the human rights framework: - life; health; physical security; legal security; education and learning; standard of living; productive and valued activities; individual, family and social life; identity, expression and self-respect; participation, influence and voice. Are any of these relevant here?
 - Consider the human rights based approach (PANEL: - Participation, Accountability; Non-discrimination and equality' Empowerment and Legality
- e. **Evidence:** - identify the evidence and where it might be found
- f. **Timescale of the EHRIA:** -
- How does it fit in with other key CDN events and meetings?
 - Does it need to be approved by the Board?
 - When does it need to be sent to SFC?

3. Evidence gathering

What information do you need to know whether there is likely to be an equality and human rights impact?

When assessing the equality and human rights impact of a policy/plan it is important to look not only at what the intention of the plan is, but also its outcomes- both direct and indirect. A crucial part of an EHRIA is recognising where a policy/plan can impact on equality and human rights even when this was not intended when the plan was developed. A policy/plan may also have a disproportionate impact on a group because that group has needs which are distinct from the general population.

Quantitative research: hard data, statistical information about CDN events, activities, surveys and questionnaires- numbers of attendees etc, complaints etc.

Qualitative research: evaluations, interviews with college staff, case studies, development network meetings and discussions, interviews with external stakeholders, funders etc.

4. Consultation

- Have key people been consulted and their views considered?
- Key people can include: colleges, stakeholders, partners, funders, employees, visitors.
- How has the consultation taken place and over what period?
- What are the findings of the consultation?
- Have there been any barriers raised to consultation and if so, how have they been dealt with?

5. Analysis

This is the stage where a decision is taken over what the equality and human rights impact is of the proposed policy/plan. The following equality and human rights indicators should be used as the basis for analysis: -

Eliminating discrimination

- Might it result in less favourable treatment for groups?

- Might it give rise to indirect discrimination?
- Might it give rise to unlawful harassment or victimisation?
- Might it lead to discrimination arising from a disability?
- Does it build in reasonable adjustments where these may be needed?

Advancing equality of opportunity

- Does it remove or minimise disadvantage?
- Does it meet the needs of diverse groups?
- Does it encourage participation of particular groups?
- Does it consider disabled people's impairments?

Fostering good relations

- Does it help to tackle prejudice?
- Does it promote understanding?

Relevant human rights indicators

Education and Learning

- Basic skills
- Educational qualifications
- Participation in lifelong learning
- Use of the internet
- Being treated with respect in education

Productive and valued activities

- Employment
- Earnings
- Occupation
- Discrimination in employment
- Unpaid care and free time

Identity, expression and self-respect

- Freedom of religion or belief
- Cultural identity and expression

- Ability to communicate in the language of your choice
- Self-respect
- Freedom from stigma

Participation, voice and influence

- Formal and informal participation
- Perceived influence
- Being treated with dignity and respect

Human rights based approach

Participation: everyone has the right to meaningful participation in decisions which affect them

Accountability: organisations and people need to be accountable for realising human rights. This requires monitoring and remedies available to individuals.

Non-discrimination and equality: all forms of discrimination in the realisation of rights must be prohibited, prevented and eliminated and real equality should be pursued.

Empowerment: everyone should understand their rights, and be fully supported to take part in developing policy and practices which affect their lives.

Legality: approaches should be grounded in the legal rights that are set out in domestic and international laws.

6. Conclusions and recommendations

There are four types of conclusions that can be reached: -

1. No major change (when assessment has not identified any potential for discrimination or adverse impact and all opportunities to advance equality have been taken)
2. Adjust the policy/plan to remove barriers to better advance equality and protect human rights
3. Continue the policy/plan despite identifying potential for adverse impacts or missed opportunities to advance equality.

4. Stop and remove the policy/plan due to actual or potential unlawful discrimination.

7. Publication

CDN is not classified as a public authority under the Equality Act Scottish Specific Duties and therefore there is no legal requirement to publish any EHRIAs. We are required to send our EHRIA to the Scottish Funding Council, as part of their Outcome Agreement process and they may disseminate and publish this as appropriate.

If we publish our Strategic Framework on our website we may also consider in the interests of transparency to publish the EHRIA of that framework.

In addition, individuals may at any time request access to our EHRIAs.

8. Monitoring and Review

An EHRIA should not be a one-off event but an ongoing and dynamic process. This means that at the end of any assessment process a procedure should be put in place for how and when impacts should be assessed again in the future.

Procedures should specify: -

- Who is responsible for monitoring the policy/plan
- The date(s) when it will be reviewed and what evidence would trigger an early review
- If there is any data which needs to be collected and how often it will be analysed
- How to continue to involve relevant groups, organisations and individuals in the implementation and monitoring of the policy/plan.