

Equality and Human Rights Impact Assessment (EHRIA)

EHRIAs support SFC to meet the statutory duties stipulated under the Equality Act 2010 and support Public Bodies in Scotland demonstrate that Equality and diversity is at the heart of their policies, practices and decisions are fair. EHRIAs are the thorough and systematic analysis of a new or revised policy to determine whether they have a differential impact on a particular group in relation to equality, diversity and human rights.

In our strategic plan 2015-18, we commit to a system of further and higher education which will be accessible and diverse. We will contribute to a more equal society by embedding equality and diversity across all our functions, supporting participation, tackling prejudice, and by placing good relations at the heart of our organisation.

The process can be seen as a quality control mechanism which SFC can use to evaluate new or revised policy and best meet the equality, diversity and human rights needs of staff and students in the institutions that we fund, our stakeholders, and for SFC staff as an employer. In Scotland, the specific duties require us to assess and review new and revised policies and practices against the three needs of the Public Sector Equality Duty (PSED), use evidence, act on the results and publish the EIA accessibly.

'Policy' needs to be understood broadly to embrace the full range of functions, practices, activities and decisions for which the Scottish Funding Council is responsible: essentially everything the Scottish Funding Council does. This includes both current policies and new policies under development.

SFC has developed an equivalent Equality and Human Rights Impact Assessment model to incorporate equality, diversity and human rights considerations, referred to here as an 'EHRIA'.

Guidance on how to complete an EHRIA can be found in the Annex section of this document.

Template to be completed by the person leading the EHRIA

Policy Owner	Dr Stuart Fancey, Director
SFC Directorate	Research and Innovation
EHRIA Commenced	August 2016
Version number	1
EHRIA Completed	February 2017
Revised policy signed off by Management	20 April 2017
EHRIA actions due for review on:	June 2019
Quality Assessed	20 April 2017
Publication	18 June 2018

Equality and Human Rights Impact Assessment Publication Document

Our intention is that this template will support you to complete an Equality and Human Rights Impact Assessment (EHRIA) and for us as a collective organisation to complete our statutory requirements.

Prior to the publication on the SFC's website, every EHRIA will be assessed by the Equality & Diversity Group who will be responsible for displaying the publishing document on the SFC external website. Guidance on how to complete an EHRIA can be found in the Annex section of this document.

Stage 1: Background information

Title of Policy:	University Innovation F	iund 2017 18	
EHRIA Lead Person:	Fiona Bates, Policy/Ana		
Who else is involved in the EHRIA?	Please list all colleagues who will support the development of this assessment Keith McDonald, Assistant Director Hazel McGraw, Policy/Analysis Officer Sophie Lowry, Senior Policy/Analysis Officer Halena McNulty, Senior Policy/Analysis Officer		
Date EHRIA completed:		Is this a new or	New
Date EHRIA published and where:	Comms will complete this section	revised policy?	Revised ⊠
Review date and frequency:	AY 2019-20		

Stage 2: Scoping and evidence gathering

Why are you introducing the new policy, or why are you	The University Innovation Fund (UIF) was introduced in Academic Year 2016-17. The grant includes baseline support for
revising an existing policy?	institutions' core KE staff and activities (Platform Grant) alongside a national programme of structural change, process improvement, and university cultural change defined by agreed outcomes (national priorities) and agreed contributions to these outcomes. Participation in this programme justifies the delivery of the Outcome Grant. At the time of its introduction it was concluded that, at the level of policy, the UIF could not be
	In October 2016, universities were asked to agree overarching UIF outcomes for AY2017-20 and discuss the development of a framework for monitoring and evaluating these outcomes. The

	revision of elements of this policy was intended to ensure that the UIF would continue to effectively support and incentivise innovative new approaches to exploiting the research base that will lead to a significant positive change in Scotland's already good performance.
What is the intended outcome(s) and impact of the new policy, or making the changes to an existing policy?	To support greater innovation in the economy
What quantitative and/or qualitative evidence as well as case law relating to equality and human rights have you considered when deciding to develop new or revise current policy?	 Information and advice provided by members of Universities Scotland Research and Commercialisation Directors Group (RCDG). Advice provided by the Equality Challenge Unit (ECU).
Who did you consult with?	 Members of Universities Scotland Research and Commercialisation Directors Group Ruth Meyer, Senior Policy Officer, Research and Innovation, Universities Scotland Ellen Pugh and Anne Ireson, Equality Challenge Unit
What did you learn?	At the level of policy, revisions to the UIF cannot be predicted to favour or disadvantage any particular group. In delivering UIF funded activity, institutions will be required to meet the statutory obligations set out in the Equality Act 2010. On this basis, UIF supported activity should be made available to all, regardless of their personal characteristics. For example, a student's age should not affect their eligibility to participate in entrepreneurial training; the sexual orientation of a member of staff should not affect their eligibility to participate in development opportunities; and the martial status of a university member of staff should not affect their eligibility to work in collaboration with a business.
	However, whilst the policy itself cannot be predicted to favour or disadvantage any particular group, consultation with US RCDG, ECU and other key stakeholders indicated that the further development of the UIF represented an opportunity to promote equality and diversity through awareness raising, data collection and the sharing of good practice, thereby embedding equality and diversity in the delivery of the UIF going forward.
	Specific issues/ opportunities related to advancing equality and diversity through the UIF included:

	 The current diversity of knowledge exchange staff – anecdotal evidence suggests that a gender imbalance exists among knowledge exchange staff, with men outnumbering women in senior knowledge exchange roles. Data needs to be collected to evidence this, establish baselines and identify future actions related to any issues raised; The beneficiaries of opportunities provided through UIF e.g. students/staff; The design of UIF 'activities'; University interactions with businesses - ensuring that businesses are supporting staff and students appropriately and in accordance with their and the HEIs responsibilities under the Equality Act; and The sharing and reporting of good practice through the developing UIF monitoring and evaluation framework.
How did the consultation shape the policy?	It was agreed that a specific equality and diversity outcome should be included in the revised outcomes for UIF 2017-20 with a view to ensuring a high profile commitment to ensuring the positive promotion of equality and diversity in staff and all who are affected by the use of the UIF. In addition to this, institutions will be expected to demonstrate a commitment to advancing equality and diversity in support of all other UIF outcomes/objectives where this is appropriate. The sector, with SFC, will develop a framework to evaluate the overall UIF approach which will include good practice in relation to equality and diversity.

Stage 3: Identifying outcomes and impact

Delivering on the SFC's Public Sector Equality Duty		
Consider the equality risk assessment within the context of broader staff or studen	t journey wh	nich
includes recruitment, retention, progression, promotion, training etc.		
1. How does your policy contribute to eliminating discrimination, harassment	Positive	\boxtimes
and victimisation? Please describe.	B1 11	
Awareness raising	Negative	Ш
Sharing good practice	No effect	
2. State how your policy advances equality of opportunity between those who	Positive	

share a protected characteristic and those who do not? Please describe.	egative	
N	o effect	\boxtimes
3. In which ways does this policy fosters good relations between those who	ositive	
share a protected characteristic and those who do not? Please describe.	egative	
e.g.	o effect	\boxtimes
Tackle prejudice		
Promote understanding		
4. Does your policy ensure Human Rights articles compliances?		
Compliant ⊠ Breach □		
5. Please indicate which articles your policy relates to:		
Consider:		
Article 1 - Free and equal ⊠		
Article 2 - Right to life □		
Article 3 - Prohibition of torture \square		
Article 4 - Prohibition of slavery & forced labour □		
Article 5 - Right to liberty & security \square		
Article 6 - Right to a fair trial (e.g. disciplinary procedures) \square		
Article 7 - No punishment without law (e.g. disciplinary procedures)		
Article 8 - Right to respect for private & family life \square		
Article 9 - Freedom of thought, conscience & religion □		
Article 10 - Freedom of expression □		
Article 11 - Freedom of assembly & association (e.g. trade union recognition)		
Article 12 - Right to marry □		
(N.B.) Article 13 has been removed		
Article 14 - Prohibition of discrimination (e.g. people part of protected characteristic gro	🗆 (zgud	
Protocol 1 Article 1 – Protection of property □	- 17	
Protocol 1 Article 2 – Right to education □		
3 ************************************		
Detail the positive impact here:		
Through awareness raising activities and the sharing of good practice, the UIF has the po	tential to)
have a positive impact on all protected characteristic groups.		
Please select which group(s) will be affected by the positive impact:		
Age (e.g. older people or younger people)	\boxtimes	
Race (e.g. people from black or any minority ethnic groups)	×	
Gender (e.g. women or men)	\boxtimes	
Disability (e.g. people with visible or non-visible disabilities, physical impairments or	\boxtimes	
mental health conditions)		

Gender Identity (e.g. people who will change/have changed/ are changing their gender from that assigned at birth)	×
Religion or Belief (e.g. belonging to a particular religion, holding a particular belief, or have no affiliation to any particular religion or belief)	×
Sexual orientation (e.g. lesbian, gay, bisexual or heterosexual)	×
Maternity and Pregnancy (e.g. women who are pregnant/on maternity leave/breastfeeding)	×
Marriage and civil partnership	×
Socio-economic groups	×
Human rights compliance (e.g. civil, political, economic, social, and cultural rights)	\boxtimes

Stop check

If you identify all positive impacts, please move to	In Stage 4 please detail positive impacts
Stage 4.	
If you identify any negative impacts that require	In Stage 4 please detail negative impacts
mitigation please complete Stage 4.	
When considering all your responses to Stage 3 if	Please justify your conclusions here and move
you selected no effect for ALL areas	directly to Stage 5.

Stage 4: Analysis of impact/outcomes

You have indicated that this new or revised policy will have an impact/outcome on one or more of the 3 main duties of the Public Sector Equality Duty and Human Rights articles for staff or students. Use these sections below to indicate whether the impact is positive or negative, and justify your assessment using the data and evidence you have already gathered (via statistics, consultation, etc.)

Detail the negative impact here:		
Potential impact:	Mitigating response:	
Potential impact:	Mitigating response:	
Please select which group(s) will be affected	by the negative impact:	
Age (e.g. older people or younger people)		
Race (e.g. people from black or any minority ethnic groups)		
Gender (e.g. women or men)		
Disability (e.g. people with visible or non-visib	ole disabilities, physical impairments or mental	

health conditions)	
Gender Identity (e.g. people who will change/have changed/ are changing their gender from	
that assigned at birth)	
Religion or Belief (e.g. belonging to a particular religion, holding a particular belief, or have	
no affiliation to any particular religion or belief)	
Sexual orientation (e.g. lesbian, gay, bisexual or heterosexual)	
Maternity and Pregnancy (e.g. women who are pregnant/on maternity leave/breastfeeding)	
Marriage and civil partnership	
Socio-economic groups	
Human rights compliance (e.g. civil, political, economic, social, and cultural rights)	

Stage 5: Identifying options and course of action

Select a recommended course of action:	
Outcome 1: Proceed – no potential for unlawful discrimination or adverse impact or breach	\square
of human rights articles has been identified.	<u>,,</u>
Outcome 2: Proceed with adjustments to remove barriers identified for discrimination,	
advancement of equality of opportunity and fostering good relations or breach of human	
rights articles.	
Outcome 3: Continue despite having identified some potential for adverse impact or missed]
opportunity to advance equality and human rights (justification to be clearly set out).	
Outcome 4: Stop and rethink as actual or potential unlawful discrimination or breach of	
human rights articles has been identified.	

Outline plans to action and review the impact of the new or revised policy

- Note: any evidence that raises concern would trigger an early review rather than the scheduled date
- Indicate if there is any data which needs to be collected as part of action to be taken and how often it will be analysed
- Indicate how the person responsible will continue to involve relevant groups and communities in the implementation and monitoring of the new or changed policy

WHAT	WHY	WHO	WHEN	REVIEW POINT
Review UIF submissions	Ensure all institutions have equality impact assessed their contribution to the delivery of UIF outcomes	Research and Innovation Team	February 2017	NA

WHAT	WHY	WHO	WHEN	REVIEW POINT
	and a commitment to advancing equality and diversity in relation to specific outcomes is included where this is appropriate. Identify any proposed collaborative activity/sharing of good practice.			
Ensure future commitment to advancing equality and diversity is reflected in the UIF Monitoring and evaluation framework	Support the inclusion of equality and diversity in the UIF monitoring and evaluation framework.	Research and Innovation Team	June 2017	
Review UIF monitoring and evaluation framework	Monitor progress and support sector identify future actions related to E&D going forward where appropriate.	Research and Innovation Team	February 2018	Review annually
Review University Outcome Agreements	UIF is to be aligned with OA process from AY 2017-18. Work with OAMs to monitor progress/ambitions in respect to equality and diversity as part of the OA process.	Research and Innovation Team/Outcome Agreement	January 2018	Review annually as part of OA process

Summary of results, including the likely impact of the proposed policy advancing-equality and human rights

At the level of policy, revisions to the UIF cannot be predicted to favour or disadvantage any particular protected characteristic group. The SFC will expect institutions to deliver UIF supported activity supported in accordance with the statutory obligations set out in Equality Act 2010. However, it is anticipated that efforts to embed equality and diversity in the policy development process, will ultimately serve to advance equality and diversity. Whilst it is not possible to quantify the impact of future actions at this time, the sector's high profile commitment to advancing equality and diversity through the inclusion of a specific equality and diversity UIF outcome (Outcome 7) and desire to monitor progress/share good practice through the UIF evaluation framework, suggests that future impact is likely to be positive. The SFC will work with the sector over AY2017-20 to support the collection of equality and diversity data which will allow the impact of future activity to be measured where specific equality and diversity issues are identified. In turn this will support SFC evidence based decision making in relation to the development of the UIF and advancement of equality and diversity going forward. The SFC will specifically continue to encourage the sharing of good practice in relation to equality and diversity through the Outcome 7 working group.

Finally, it is important to note that the UIF sits within the broader research and innovation landscape. Therefore, the positive impact of the UIF in relation to equality and diversity should not be considered in isolation. The identification of equality and diversity issues, the delivery of initiative to address these and the sharing of good practice through the UIF approach will have a broader impact on the advancement of equality and diversity through policy and practice more generally.

Next Steps

Review UIF submissions, including EIAs. Work with the sector to support the inclusion of equality and diversity in the UIF monitoring and evaluation framework. Monitor reporting via Outcome Agreement process.

Stage 6: Publishing

The completed EHRIA and Publishing Document must:

- Be sent to the Equality and Diversity Lead at <u>e&d@sfc.ac.uk</u>
- Please note that the final EHRIA, or reference to it may be published on the SFC staff intranet and / or website

Annex: Guidance to support completion of EHRIA What is an EHRIA?

The integrated approach of looking at equality and human rights together in SFC reflects the statutory requirements of the Public Sector Equality Duties set out in the Equality Act (2010) underpinned by the priority to human rights and FAIR process. Through completion of the EHRIA, SFC ensure that policies, and the ways we carry out our functions, do what they are intended to do and for everybody. The Scotland Act 1998 established the Scottish Parliament and the Scottish Government. It ensures that the Scottish Parliament can only pass laws that are compatible with human rights. This means that human rights must be respected and realised at all levels of governance in Scotland. SFC considers that an inter-disciplinary approach to assessing new or revised policy ensures that we are able to inform decision making relating to both under-representation and socio-economic disadvantage.

Why do we carry out EHRIA?

The main reasons for carrying out EHRIAs are to ensure fairness, ensure compliance with legislation, and improve SFC effectiveness. They are a tool for meaningful and informed decision making for new or revised practice. The process helps to identify and measure their effect in terms of equality, diversity and human rights on relevant groups.

They permit impacts and outcomes to be predicted, monitored and, if necessary, avoided or mitigated. When undertaken and led by the decision or policy maker, EHRIAs serve to raise awareness of sector, staff and our stakeholder's interests and ensure they are factored into policy development at the earliest possible stage.

The legislative requirements that are met when carrying out EHRIA are the <u>Public Sector Equality Duties</u> from the Equality Act 2010. <u>The Scotland Act (1998)</u> makes provisions for the protection of human rights within Scotland and when any subordinate legislation is made it must not be incompatible with any of the <u>Human Rights Legislation</u>. The consideration of socio-economic factors included in the EHRIA is part of our contribution to achieving relevant government objectives for fairness, participation and tackling inequalities set out in the <u>Programme for Government</u> and <u>Post-16 (Scotland) Act 2014</u>, although is not a <u>protected characteristic</u> under the Equality Act 2010. There is a statutory duty to promote and safeguard the rights of <u>children and young people</u>, in particular those with the poorest outcomes and this should be taken into account with carrying out EHRIA.

Delivering on SFC'S Public Sector Equality Duties

Under Public Sector Equality Duties, SFC is required to have due regard to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010
- Advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it
- Foster good relations between people who share a relevant protected characteristic and people who do not share it

Across all aspects of any SFC decision-making process we need to be consciously thinking about the three aims of the Public Sector Equality Duties. This means that consideration of equality issues must influence the decisions reached by SFC – such as in how we act as employers; how we develop,

evaluate and review policy; how we design, deliver and evaluate services, and how we commission and procure from others.

The Public Sector Equality Duties require consideration of how new or revised policy will eliminate discrimination, harassment, and victimisation, advance equality of opportunity and foster good relations in relation to eight of the nine protected characteristics within the Equality Act 2010:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

The ninth protected characteristic, marriage and civil partnership, is not covered by the Public Sector Equality Duties. However when carrying out EHRIAs you will be asked to consider how this policy/practice will impact on or what outcomes are there for people belonging to a protected characteristic group, including the ninth protected characteristic. SFC supports individuals who are care experienced, to support those who achieve the lowest educational outcomes, as if a protected characteristic group.

Within the Scottish Specific Duties of the Public Sector Equality Duties, SFC is required to demonstrate how we have considered evidence of the impact that key policy will have on equality and diversity.

SFC must:

- Consider relevant evidence relating to people with protected characteristics, including any evidence received from those people
- Take account of the results of any assessment
- Publish the result of any assessment within a reasonable time period

When do you carry out EHRIA?

When the decision is made for a need for a new or revised policy or procedure you should develop your EHRIA.

There are 6 stages have to be followed when carrying out EHRIAs



The Equality and Diversity Lead is there to support if there is anything that is not clear but they are not able to develop the EHRIA as they will not be the decision makers or implementers of the proposed changes. When completed the Equality and Diversity Group are responsible for the overall quality assessment of the EHRIA by peer review.

The process of developing an EHRIA may be a one off meeting with relevant people or an ongoing process over time depending on time it takes to develop the new or revised policy.

How do you carry out EHRIA?

Stage 1: Background information

A clarify whether the policy is new or revised. If the policy is revised the original impact assessment must be used to build on the previous findings.

Identify the Lead Author/Policy Owner of the EHRIA with consideration to balancing 'ownership' of the process and deciding who is best able to lead the work.

The Lead Author/Policy Owner must select a team of contributors who have a thorough understanding of the policy and its context as this is vital to being able to undertake a proper EHRIA and to the ability to suggest appropriate alternative policies where negative impacts are identified.

Stage 2: Scoping and evidence gathering

All EHRIAs should include a description of the policy and its aims, why it has been developed and what the intended outcomes/impact. Some of the questions that might be asked include:

- Who initiated the policy?
- Who has responsibility for implementation of the policy?
- What is the legal, policy and practice context of the proposal?
- How does it relate to other policy?
- Does it seek to fulfil any targets set, for example, by Scottish Government?
- What are the resource implications of the policy?
- · Who do we need to gather information from?

Identifying the evidence that might be needed, and where it might be found is a key part of the scoping stage. This may involve highlighting gaps in existing evidence and possibly commissioning research to fill the gaps (depending on the scope, scale and severity of impacts).

The Lead Author/ Policy Owner must evidence impacts on the equality, diversity and human rights that the new or revised policy may have. This is the information that will inform analysis of the policy. The types of evidence are qualitative, quantitative and case law. The qualitative and quantitative evidence can be internal and/or external. An example of external benchmarking and information that needs to be considered at this stage is the Scottish Government Equality Toolkit and SFC's Learning for All publication, Scotland, HESA.

Consultation ensures the voices of those (likely to be) affected by the policy are heard and taken into account in the EHRIA process

Stage 3: Identifying outcomes and impact

The options provided for the Public Sector Equality Duties and Human Rights articles should be used to consider the outcomes and impact.

If the policy has no effect on the Public Sector Equality Duties and does not breach human rights then justification must be provided for this decision.

Equality and Diversity is included within the SFC Improvement schedule of work in 2016-18.

Stage 4: Analysis of impact

The details of the positive impact on the groups identified must be listed at this stage.

The negative impact must be mitigated to a reasonable, objective justifiable level or the policy must be abandoned if this is not possible as it would be illegal.

Stage 5: Identifying options and course of action

A decision has to be made from a choice of the 4 options for the outcome of the EHRIA and a summary why the decision has been made with any other recommendations must be provided. The options are:

Outcome 1: Proceed – no potential for unlawful discrimination or adverse impact or breach of human rights articles has been identified.

Outcome 2: Proceed with adjustments to remove barriers identified for discrimination, advancement of equality of opportunity and fostering good relations or breach of human rights articles.

Outcome 3: Continue despite having identified some potential for adverse impact or missed opportunity to advance equality and human rights (justification to be clearly set out).

Outcome 4: Stop and rethink as actual or potential unlawful discrimination or breach of human rights articles has been identified.

The planned actions to be taken and how the impact of the new or revised policy must be detailed and include the lead person who will ensure this will be done in the timescales set. This is to make sure that the EHRIA is not a one off process but an on-going cycle of <u>review of policy</u>.

Stage 6: Publishing

This stage is a summary of the EHRIA and should be filled in using the information from the above stages. The Lead Author/Policy Owner should then:

1. Policy Owner completes the six-stage EHRIA template and save draft to Links http://links.sfc.ac.uk/livelink/livelink.exe?func=ll&objld=245261663&objAction=browse&viewType=1 2. Policy Owner sends notification and a link to the completed form to e&d@sfc.ac.uk 3. The form will be checked, process will be evaluated and the policy owner notified 4. The Policy Owner will locate the finalised form in the completed folder on Links http://links.sfc.ac.uk/livelink/livelink.exe?func=Il&objId=243024477&objAction=browse&viewType=1 5. A peer review of the EHRIA will be made by the EDG **6**. A log of completed EHRIAs will be published on the SFC website

Queries

If you have any queries regarding the process please contact Halena Gauntlett, hgauntlett@sfc.ac.uk or Julia Murphy, jmurphy@sfc.ac.uk