

Scottish college board members' role in equality and diversity

All colleges in Scotland are required to comply with equality legislation that impacts on the day to day work of the college, its strategic direction and how its board diversifies its membership.

Board members play an integral role in supporting equality and diversity in Scottish colleges as part of creating and driving the colleges' strategic aims, by ensuring the college meets its legal responsibilities, and in helping to build a diverse and representative governing body.

This briefing explains the role of boards in overseeing the embedding and implementation of equality law within college processes, but also focuses on what it means for boards themselves.

ECU's Scotland team have published this briefing to support college board members to fulfil their responsibilities in relation to equality and diversity. It will also be useful for board secretaries due to the support that they provide to the boards of colleges.

This briefing considers two key aspects of a college board's equality responsibilities:

- = **Section 1: assuring the college's compliance with equality law**
- = **Section 2: planning to improve board diversity**

Extend your knowledge

ECU (2016) *Governing bodies, equality and diversity: A handbook for governors of Scottish higher education institutions*.

www.ecu.ac.uk/publications/equality-handbooks-governors/

Section 1: assuring the college's compliance with equality law

Boards play a key role in embedding and safeguarding equality and diversity in the college mission, strategy and culture.

- = **Shape approach:** boards can go beyond assuring legal compliance of equality law to define and shape the college's approach to equality.
- = **Embed equality and diversity:** periodically, board members will be involved in developing new college strategies and approving policies and college wide operational plans. At this point, board members can ensure that equality and diversity are appropriately embedded and appropriate key performance indicators (KPIs) are in place.
- = **Ensure accountability:** board members will be involved in the annual review of KPIs, including those on equality and diversity, as part of ensuring the college is delivering on its strategy.
- = **Champion equality and diversity:** through championing equality, diversity and an inclusive culture from the top of the organisation, board members can help to foster a culture of equality and diversity that supports the college's strategy.

Why is this important?

= A culture of equality and diversity

As the body that safeguards the college strategy and culture, boards should in a broad sense be seen as embodying that culture. To the extent that the college's strategy includes equality and diversity, board members also need to embody those qualities personally. What is valued at board level is valued throughout the college.

= Relationships with staff

Improving the diversity of your staff at all levels ensures you have diversity of thinking which will have a positive impact on college development and the teaching process, including modernising delivery of the curriculum. By showing that you treat staff fairly you recruit the best talent and by having fair opportunities for development and progression you keep your best staff and maximise their potential. This can lead to increased staff engagement and ultimately, an improvement in the student learning experience.

= Support for students

Colleges want to attract the best and broadest range of students they can. They also have a role to play in widening access and releasing potential of disadvantaged students and both of these can have a positive impact on the student experience and learning experience. This in turn can increase student satisfaction with their experience.

= Connection to other high level strategies

Equality and diversity should be a key feature within several other strategic and operational documents the college is required to produce, such as its outcome agreement and access and

inclusion statements. Ensuring compliance with the law overall and being able to demonstrate this supports the development of these high level documents.

= **Impact on society**

Colleges are an integral part of their local communities, working with other organisations and businesses. They can help release the potential from disadvantaged communities and can act as an agent for regeneration and social mobility.

= **Importance of assuring legal compliance and risks of not doing so**

Claims can be made by individuals, or organisations, against the college, or against the board on behalf of the college. Any person or group who has worked in or with the college may raise a claim and this can include, for example, staff, students, service users, businesses and contractors.

Failure to comply with equality law may be investigated by the Equality and Human Rights Commission (EHRC), and/or challenged through an employment tribunal or the courts. Unlawful discrimination and inequalities can impact on staff and campus relations, undermine the recruitment of the best staff and students, lead to negative media, and have a pervasive impact on a college's reputation.

= **The Code of Good Governance for Scotland's colleges**

The Code of Good Governance for Scotland's Colleges reasserts the obligations of the college board to ensure both compliance and good practice in relation to equality and diversity.

See: **A.12 The board must provide leadership in equality and diversity.**

Along with this statement, the code advocates the improvement of economic, cultural and social well-being and having regard to social needs and social inclusion, which can be underpinned by adequate consideration of equality and diversity.

What does the law say?

Issues of equality and diversity are underpinned by a mandatory legal framework, extending to a college's relationship with both staff and students, as well as visitors and contractors. Colleges in Scotland are considered to be public authorities by the Equality Act 2010 and as such they must fulfil the requirements set for all public authorities by the Act and the accompanying Scottish specific duties. The college board is expressly listed as accountable for compliance with the legislation.

The Equality Act

The Equality Act 2010 is the main piece of anti-discrimination legislation in Great Britain. It covers nine protected characteristics:

- = age
- = disability
- = gender reassignment

- = marriage and civil partnership (in employment)
- = pregnancy and maternity
- = race (includes nationality)
- = religion and belief (includes no religion or belief)
- = sex
- = sexual orientation

Public sector equality duty

Within the Act, the public sector equality duty (PSED) requires colleges, when carrying out their functions, to give due regard to the need to:

- = eliminate unlawful discrimination, harassment and victimisation
- = advance equality of opportunity between people who share a protected characteristic and people who do not
- = foster good relations between people who share a protected characteristic and people who do not

The Scottish specific duties

The Scottish specific duties are designed to help public authorities demonstrate how they are meeting their responsibilities under the PSED. The specific duties require colleges to:

- = report on progress towards mainstreaming the equality duty, including a breakdown of employee information and how this is used to inform progress.
- = publish equality outcomes and report progress
- = publish gender pay gap information
- = publish statements on equal pay in relation to disability, gender and race
- = equality impact assess and review policies and practices

Duty	When	Due
Mainstreaming report	every 2 years	April 2017
Equality outcomes	every 4 years	April 2017
Gender pay gap report	every 2 years	April 2017
Equal pay statements for gender	every 4 years	April 2017
Equal pay statement for disability and race <ul style="list-style-type: none"> - for colleges with 20 - 149 staff - for colleges with 150+ staff 	every 4 years	April 2021 April 2017
Equality impact assessments	ongoing	Ongoing

What does this mean for you?

Boards should have oversight of the college's work towards complying with its specific duties and are responsible for ensuring accountability with them. You should seek assurance that your college has appropriate infrastructure and resources to enable compliance with the Equality Act and the Scottish specific duties. As a minimum, the board should review and approve any reports, strategies and policies that are the product of the specific duties prior to the publication dates.

Board members can influence how equality is embedded across the college, for example, by checking that equality has been embedded into college strategies and plans and outcome agreements with the Scottish Funding Council (SFC), or in the development of their college's equality outcomes.

Section 2: planning to improve board diversity

Governing bodies are seeking to increase their diversity to strengthen their governance, and board members can play a vital role in this work.

Board members can support the board to achieve greater diversity, for example through raising awareness of the role of college board members across a variety of settings.

- = **Shape the approach:** board members should be involved in determining the college's policy and goals on board diversity.
- = **Ensure accountability:** board members should scrutinise college action and hold the executive to account for its progress on increasing board diversity.
- = **Champion diversity:** board members can participate in equality monitoring and encourage other board members to do the same and be advocates for board diversity, within and outside of the college.

Why is this important?

= Broader awareness of issues

A diverse board can draw on a diverse range of views, experiences and backgrounds which will enable them to consider issues in the broadest way it can. The board will be better informed and in touch with social and commercial concerns and be able to interrogate the issues and their context in a robust way.

= Enhanced decision making

Similarly, diversity can improve decision making by bringing a range of experiences and views to the process resulting in a more inclusive approach better enabled to help the college improve performance.

= Representative of the local community

A board that reflects the local community (and is representative of the staff and student population) will be better equipped to make decisions that support the college's place within that community, which will benefit the college and possibly also the wider community.

= The Code of Good Governance for Scotland's Colleges

The Code states the college's commitment to a diverse board.

See: **A.13 The board must seek to reflect in its membership, the make-up of the community through offering maximum opportunity of membership to a range of potential members and removing potential barriers to membership, in partnership with its regional strategic body, as appropriate.**

Scottish colleges are required to comply with the Code as a condition of funding.

What does the law say?

The Further and Higher Education (Scotland) Act 2005 states that college and regional boards, and regional strategic bodies must make board appointments in a manner which encourages equal opportunities and in particular the observance of the equal opportunities requirements.

The Post-16 Education (Scotland) Act 2013 legislates for college and regional boards of management. It makes provision for the composition of, and appointment to, the board.

The Scottish specific duties

The specific duties regulations include college board members within the mainstreaming duty.

Under the duty to report on progress towards mainstreaming the equality duty, the college board, as the listed authority, must include the:

- = number of men and of women who have been members of the board during the period covered by the report
- = way in which this information has been used; and how the board proposes to use the information, in taking steps towards there being diversity amongst its members so far as relevant protected characteristics are concerned

In addition to this, the Scottish government will occasionally gather all the protected characteristic data of board members. This information will be nationally aggregated and given back to colleges to use in their mainstreaming reports.

What does this mean for you?

The board can show top level leadership by modelling an inclusive approach to the way the board operates. Investing time regularly as a group to do this represents a longer term investment into the board and its diversity.

Consider undertaking a board evaluation to look at what it can do to champion equality and diversity and act as a role model for a truly inclusive organisation.

Further resources

EHRC (2016) *Assessing impact and the Public Sector Equality Duty: a guide for public authorities*.
www.equalityhumanrights.com/publication/assessing-impact-and-public-sector-equality-duty-guide-public-authorities-scotland

CDN (2016) *Code of good governance for Scotland's colleges*.
www.collegedevelopmentnetwork.ac.uk/wp-content/uploads/2016/09/Code-of-Good-Governance-for-Scotland's-Colleges-August-2016.pdf

ECU (2013) *College equality outcomes: a regional overview*.
www.ecu.ac.uk/publications/college-equality-outcomes-a-regional-overview/

Good Governance Institute (2011) *The governance of diversity and inclusion: Maturity matrix*.
www.good-governance.org.uk/wp-content/uploads/2014/02/Diversity-and-Inclusion.pdf

ECU's guidance on mainstreaming:
www.ecu.ac.uk/guidance-resources/governance-and-policies/mainstreaming

ECU's guidance and the Equality Act 2010:
www.ecu.ac.uk/guidance-resources/equality-legislation

EHRC's guidance on the Public Sector Equality Duty:
www.equalityhumanrights.com/about-us/devolved-authorities/commission-scotland/public-sector-equality-duty-scotland/non-statutory-guidance-scottish-public-authorities

ECU (2009) *Governing bodies, equality and diversity: research report*.
www.ecu.ac.uk/publications/governing-bodies-equality-and-diversity-research-report-2009

ECU (2016) *How to embed equality in outcome agreements: Toolkit for colleges*.
www.ecu.ac.uk/guidance-resources/governance-and-policies/outcome-agreements

ECU (2017) *The public sector equality duty: specific duties for Scotland (revised)*.
www.ecu.ac.uk/publications/the-public-sector-equality-duty-specific-duties-for-scotland

ECU (2014) *The rationale for equality and diversity*.
www.ecu.ac.uk/publications/rationale-equality-diversity-vice-chancellors-principals-leading-change

Scottish government (2012) *Report of the Review of Further Education Governance in Scotland*.
www.gov.scot/Resource/0038/00386490.pdf

Scottish government (2016) *Succession Planning Guidance and Toolkit*.
www.gov.scot/Topics/Government/public-bodies/BoardChairs

Women count (2016)
<https://womencountblog.wordpress.com>

Women on boards
www.gov.uk/government/collections/women-on-boards-reports

Equality Challenge Unit

Equality Challenge Unit (ECU) supports higher education colleges across the UK and in colleges in Scotland to advance equality and diversity for staff and students.

ECU provides research, information and guidance, training, events and Equality Charters that drive forward change and transform organisational culture in teaching, learning, research and knowledge exchange. We have over ten years' experience of supporting colleges to remove barriers to progression and success for all staff and students.

ECU believes that the benefits of equality and diversity and inclusive practice are key to the wellbeing and success of individuals, the college's community, the efficiency and excellence of colleges, and the growth of further and higher education in a global environment.

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