Office for Students OfS

Annual Equality, Diversity and Inclusion Report 2018-19

Issue

1.   This paper relates to OfS's compliance with the specific duties of the Equality Act 2010 to publish equality information and objectives on an annual basis. It also relates to the OfS's general duty have regard to the equality considerations when exercising our functions, for example our function to promote equality of opportunity in relation to access and participation in higher education, pursuant to the Higher Education and Research Act (HERA) 2017.

2.   OfS's Annual Equality and Diversity Report 2018-19 describes progress towards the equality and diversity statement and objectives[1] approved by the board in July 2018. An action plan[2] for 2018-2022 was developed alongside the statement and objectives, which provides detail on how the objectives and priorities are being delivered, by which team and to what timescale. The action plan includes updates against it for the last 12 months and can be found in Annex A. Annex B presents an overview of the most recent equality data on students and academic staff.

Recommendations

3.   The board is invited to approve OfS's Annual Equality and Diversity Report 2018-19 and note the progress made towards the equality objectives.

Timing for decisions

4.   To ensure that the legal requirement to publish equality information on an annual basis is fulfilled, the Annual Equality and Diversity Report should be published on the OfS website by the end of July 2019 (i.e. no more than one year after the publication of the statement and objectives).

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[1] https://www.officeforstudents.org.uk/media/cdc6fbf2-94b9-45d4-a3b1-f1a54d8c4a8a/ofs-eandd-statement-and-objectives.pdf

[2] https://www.officeforstudents.org.uk/media/5dd6fffe-f585-401a-a8b8-d00d00c89e7e/ofs-eandd-statement-and-objectives-action-plan.pdf

Further information

Members' interests

6.   Individual board members should declare any conflicts of interest in relation to this paper.

Legal Context

7.   The Equality Act 2010 puts a general duty on public sector bodies (including the OfS and publicly-funded higher and further education institutions) to have regard to the need to:
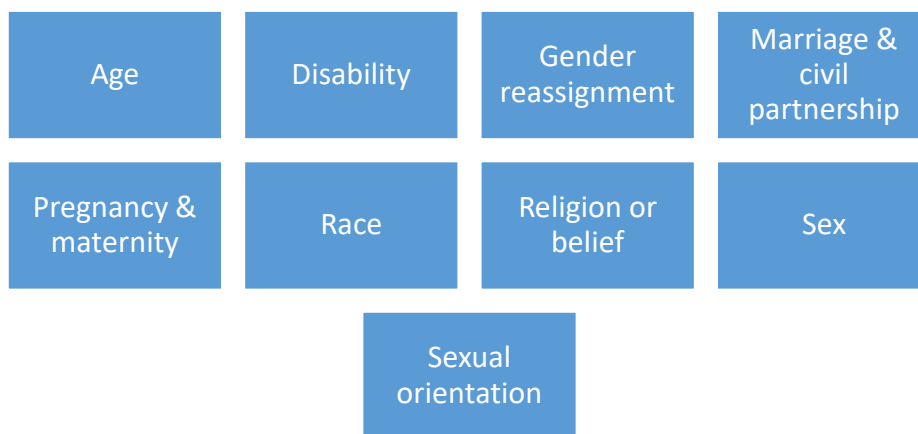
- Eliminate unlawful discrimination, harassment and victimisation
- Advance equality of opportunity between people who share a protected characteristic and persons who do not share it; and
- Foster good relations between people who share a protected characteristic and those who do not share a protected characteristic.

8.   The Equality Act does not identify what is meant by the requirement to 'have due regard', however six principles have been established through case law on the previous duties relating to race, disability and sex. The courts take these principles into account when deciding whether a public body has discharged its general duty under the Equality Act. These are:

a.   The decision maker must be made aware of their duty to have due regard to the identified needs;

b.   The duty must be fulfilled both before and during the consideration of a particular policy, and involves a 'conscious approach and state of mind';

c.   It is not a question of ticking boxes, the duty must be approached in substance, with rigour and with an open mind, and a failure to refer expressly to the duty whilst exercising a public function will not be determinative of whether due regard has been had;

d.   The duty is non-delegable;

e.   The duty is continuing;

f.   It is good practice for an authority to keep a record showing that it has considered the identified needs.

9.   Public bodies must meet this general duty both as employers and as providers of public services, and show 'due regard' to the duty across all of their functions. It is referred to as the 'public sector equality duty' (PSED).

10.   The nine 'protected characteristics' referred to are:

Age	Disability	Gender reassignment	Marriage & civil partnership
Pregnancy & maternity	Race	Religion or belief	Sex

Sexual orientation

11.   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
    i.   should include information on employees and people affected by the OfS's
    functions
    who share a protected characteristic.
  b.   To publish objectives setting out how the OfS will meet the requirements of the Act at least every four years.
  c.   To ensure that such published information is accessible to the public.

The OfS achieves this by ensuring that our Annual Equality and Diversity Report, our Equality and Diversity Statement and Objectives, and our action plan are published on our website.

12.   The OfS has an additional legal driver through the Higher Education and Research Act 2017 which states 'the need [for the OfS] to promote equality of opportunity in connection with access to and participation in HE provided by English HE providers'. There are additional aspects (sections 29 and 35) of the HERA 2017. These give the OfS the power to approve an access and participation plan and enable the OfS to issue guidance to providers about the preparation of their plans (what they must include for a plan to be assessed as appropriately credible and ambitious), together with guidance which is more supportive and offers advice and sources of information and evidence for providers to develop more effective practice in access and participation. The HERA also enables the OfS to fund eligible higher education providers and attach relevant terms and conditions to the grants that it makes. The OfS promotes equality between different socio-economic groups, as well as other groups under-represented in higher education. This is part of our access and participation strategy, as people from less privileged socio-economic groups are generally less likely to go into higher education, and experience worse educational outcomes once there.

13.   There is also a duty implemented for the first time in March 2018, which applies to all organisations employing over 250 people to publish a set of calculations and data around their gender pay gap. This applies to the OfS and the annual publication date for a public sector employer is 31 March. The OfS will publish its first set of gender pay data by 31 March 2020.

14.   The Equality and Human Rights Commission (EHRC) is responsible for monitoring and enforcing the PSED for all public authorities listed in the Equality Act 2010 and has a statutory

power to institute judicial review proceedings where a public authority may have failed to comply with the PSED. If the EHRC suspects that an authority is not complying with the PSED it has the power to conduct an assessment and, if necessary, serve a compliance notice on the authority requiring it to address the non-compliance. Separately, an aggrieved party who feels a public authority has not complied with the PSED can bring their claim by way of judicial review.

Delivering equality and diversity at the OfS

15.   An inaugural equality and diversity statement, objectives, and set of principles[3] were approved by the board in July 2018. The statement sets out how we will deliver on our equality and diversity objectives and priorities for 2018-2022. It also constitutes our formal fulfilment of the specific duties of the PSED, together with the EDI practices we are developing and implementing (e.g. impact assessment and inclusive approaches to consultation and engagement).

16.   Objectives one to five describe our priorities in terms of having regard to the need to eliminate discrimination and promote equality of opportunity, and the fostering of good relations between different people in respect of higher education providers and students. Objectives six to eight describe our internally-focussed priorities and how we plan to support our colleagues to embed EDI across the OfS, and continue on our transformation programme journey to become a fully inclusive employer and to foster an inclusive culture of leadership.

17.   An action plan for 2018-2022 was developed alongside the statement and objectives, which provides operational detail on how the objectives and priorities are being delivered, by which team and to what timescale. The action plan, including updates against it for the last 12 months, can be found in Annex A. Annex B presents an overview of the most recent equality data on students and academic staff in higher education *(NB, both annexes are available for members to view under 'other resources' in Diligent).*

18.   Our equality and diversity statement and objectives are reflective of both the OfS strategy for 2018-21 and the annual Business Plan. We have worked to align our EDI priorities with our strategic priorities and are working with both our internal Portfolio Management Office and the Chief Executive's Strategic Resource Unit to ensure that EDI is embedded across the full spectrum of our work programme.

19.   We have focussed in this report on highlights, areas of particular strength and areas where we consider the board's attention should be drawn (either because of strategic importance or risk). Following the board's discussion, comment and approval of this paper we will be publishing it alongside our EDI statement and objectives (including the action plan updates) on our website; this forms part of our PSED implementation - providing evidence to demonstrate the 'due regard' we have paid to our PSED this year.

20.   Overall, we have delivered successfully against the vast majority of the actions we set ourselves in July 2018. Where actions have not been fully delivered, it is due to dependency on external factors (e.g. the Government's independent review of fees and funding, which has affected the timescale of our own review of Access and Participation funding). The opportunities

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[3]https://www.officeforstudents.org.uk/media/cdc6fbf2-94b9-45d4-a3b1-f1a54d8c4a8a/ofs-eandd-statement-and-objectives.pdf

presented by the establishment of a new organisation with such strong drivers for equality of opportunity have been significant, and in developing and implementing our EDI objectives this report demonstrates the depth and breadth of activity which has been achieved this year. It also demonstrates the level at which it has become embedded across the organisation. Areas where we feel significant impact has been achieved at a strategic level are:

a.   **Our new approach to regulating access and participation:** We have embarked on major reforms to our provider-level regulation of access and participation in higher education, with the aim of eliminating inequalities in higher education in 20 years. We have established Key Performance Measures covering entry, continuation and outcomes for the least represented groups in HE and will be challenging providers to close these gaps, set targets appropriate for their contexts and provide credible and ambitious longer term plans (with associated evaluation and investment measures) to achieve this. EDI factors (including regard to the protected characteristics) has been woven through both sets of guidance published for providers[4] and in the APP assessment guidance and training given to assessors. The associated strategy we are developing to identify and promote effective practice will also have EDI as a strong theme. Our supporting work (e.g. National Collaborative Outreach Programme and the Addressing Barriers to Student Success Programme) aim to deliver strongly on EDI outcomes for disadvantaged and under-represented students.

b.   **Student welfare and safeguarding:** Our delivery in this area relates directly to our PSED duty to eliminate unlawful harassment and it is a significant area of sector-level regulation for the OfS. The approach we are taking was set out in the paper to the board in September 2018 and our focus since then has been on delivering key projects to catalyse step change across the sector. We have focused on addressing the significant increase in students reporting mental ill health, as well as tackling all forms of harassment, violence and hate crime affecting students in higher education, with particular focus on gender, race and religion. We have taken a sector-level regulatory approach with regards to safeguarding and welfare in order to challenge the sector to drive change, support providers in developing practical and effective approaches and champion good practice. We plan to bring a more detailed paper to the board in September 2019 setting out a comprehensive, strategic overview of our sector regulatory role with regard to student welfare and safeguarding including mental health. This will provide more detail on our objectives, priorities and critically the outcomes we are aiming to achieve, and the success measures we will use to evaluate the impact of our work.

c.   **Registration and monitoring of providers:** EDI is also firmly embedded into the OfS's approach to initial registration and baseline monitoring of individual providers against the conditions of registration, as part of which the OfS considers the outcomes of students with different characteristics. The Monitoring and Intervention team is continuing to refine its approach to data-led baseline monitoring, including how it monitors the outcomes and experiences of different student groups.

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[4] Regulatory Notice 1: https://www.officeforstudents.org.uk/publications/regulatory-notice-1-access-and-participation-plan-guidance/
Regulatory Notice 6: https://www.officeforstudents.org.uk/publications/regulatory-advice-6-how-to-prepare-your-access-and-participation-plan-effective-practice-advice/

21.   Emerging areas of strategic EDI importance or risk/opportunity, where efforts will be prioritised over the next year are:

a.   **Equality impact assessment:** We have developed a new 'making inclusive decisions' framework in line with our legal duties to show due regard to the PSED throughout our work. We will be working over the next operating year to implement this across the organisation, but further than that – to embed it within an open and inclusive culture where staff are supported to consider EDI in their work, and our leadership and board are equally supported to view the cumulative impact of the OfS's work on EDI.

b.   **Student protection and market exit:** As we expand our regulatory influence and the impact of our decisions begins to be felt, there will be impacts on providers and students in the sector. We are working to understand those impacts for all students from all backgrounds, understanding that under-represented or disadvantaged students and/or those who share protected characteristics might be adversely affected. The OfS Market Exit process has ensured that consideration of student demographic factors where data is available (e.g. disability) is built into consideration and discussion with providers over market exit (including partial exits of campus or courses). The principles that the OfS will assess market exit arrangements against include an explicit "Equality of opportunity and choice" principle, which is designed to ensure that this issue is explored in all cases and that if providers' actions are insufficient this will be highlighted.

c.   **Sexual orientation, gender reassignment and religion and belief:** These are three of the protected characteristics which are not currently featuring strongly within our approach to Access and Participation Plans, including the data dashboard, largely due to a lack of evidence around under-representation or gaps in continuation or outcome. We have included guidance and evidence in Regulatory Notice 6, which discusses the harassment and discrimination which can occur to students who share these characteristics, but it is for providers to assess their own evidence and include these groups in their activities if they have sufficient grounds to do this effectively. Data for these characteristics have been part of the HESA record since 2012-13 but the data quality prior to 2015-16 was insufficient for this information to be published. The quality has steadily improved over the years and since 2017 we have published this experimental data on our website[5]. Our hope is that the data will continue to improve for these groups, so that we will be able to identify gaps and trends across the student lifecycle. We will then be able to use this data as a driver for improving equality of opportunity, for example through including it in the access and participation data dashboard.

Objective 1

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.

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[5] https://www.officeforstudents.org.uk/data-and-analysis/equality-and-diversity/experimental-data/

22.   We developed, implemented and consulted on our equality and diversity objectives, evidence base, and action plan last during spring/ summer 2018. Our action plan is published on our website and once this annual equality and diversity report for 2018-19 has been approved by the board it will also be published on our website.

23.   Our equality and diversity success factors are woven into our Key Performance Measures (KPMs) and include protected characteristics. As our approach develops to our organisational KPMs, we will consider how EDI factors can be incorporated into the measures of our own success. KPM four focuses on decreasing the gap in degree outcomes (1sts or 2:1s) between white students and black students. KPM five highlights the gap in degree outcomes (1sts or 2:1s) between disabled students and non-disabled students[6].

24.   We are seeking to make progress against these key performance measures through the Access and Participation strategy[7] agreed by the board in December 2018, which has set targets to eliminate inequalities, including:
  - o the gap in entry rates at higher tariff providers between the most and least represented groups
  - o the gap in non-continuation between the most and least represented groups
  - o the gap in degree outcomes between white and black students
  - o the gap in degree outcomes between disabled and non-disabled students.

Objective 2

Objective two: The OfS will conduct and publish rigorous and influential analysis, research and insight into EDI (including the Protected Characteristics and socio-economic disadvantage) issues across the student lifecycle.

Centre for Transforming Access and Student Outcomes (TASO)
25.   As part of our evidence and evaluation strategy we announced funding in February 2018 for an independent centre to help universities meet challenging targets to eliminate equality gaps in higher education within 20 years. Now called the Centre for Transforming Access and Student Outcomes (TASO), this evidence and impact exchange is being established by a consortium led by King's College London, Nottingham Trent University and the Behavioural Insights Team

26.   The centre will exist as an independent hub for higher education professionals to access leading research, toolkits and evaluation techniques to help fair access and improve equality across the student lifecycle. TASO is focusing on two main themes in its first year, which are: effectiveness of common outreach activities and gaps in student experience. For more information see: http://www.taso-he.org/

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[6] https://www.officeforstudents.org.uk/about/measures-of-our-success/participation-performance-measures/

[7] https://www.officeforstudents.org.uk/advice-and-guidance/promoting-equal-opportunities/our-new-approach-to-access-and-participation/

Access and participation data dashboard

27.   In March 2019 we released an access and participation data dashboard[8]. Both national and provider specific data on underrepresentation are available through the dataset. The data provides supporting evidence for providers to identify differences (or gaps) between different groups of students, set appropriate targets and support their strategy for reducing gaps between student groups. The OfS will also use them to review submitted plans.

28.   The main dashboard shows gaps in access and participation for the following groups at each stage of the student lifecycle:
* **Participation of Local Areas (POLAR) classification** – gap between the most and least represented groups (quintiles 5 and 1 respectively)
* **Ethnicity** – gap between white and black, Asian and minority ethnic students
* **Age** – gap between young students (under 21 on entry) and mature students (21 and over on entry)
* **Disability** – gap between disabled and non-disabled students.

29.   The dataset also includes additional data tables which allow users to explore and understand a wider range of characteristics in more granular detail and to examine some intersections between different under-represented groups. The dataset will evolve over time to include an extended range of characteristics. The OfS is actively exploring the use of free school meal and household income data as well as the development of an intersectional measure of inequality.

30.   There are links here also to the Transparency Duty data which all providers must publish on an annual basis under the HERA 2017. The first set of transparency data will be received in August 2019, which is an interim year. 2020 will be the first full year and data around this will be received in April. This will be subject to review and the OfS will produce an overview report. We will also assess whether some of the data might be incorporated into the APP data dashboard. There are opportunities with this data to expand to include a greater range of protected characteristics (currently it covers socio-economic status, gender and ethnicity) and a consultation with the sector and stakeholders is planned for autumn 2019.

Data review

31.   We have a project underway (to be completed in late July 2019) to review whether we can use additional sources of data to strengthen our understanding and close the knowledge gaps previously identified. This includes a review of the Access and Participation data landscape in part to identify additional sources of data.

32.   The project aims to ensure that important OfS strategic decisions concerning improving the sector's use of appropriate data for effective targeting (including contextual admissions), monitoring and evaluation of access and participation activities are well informed by independent expert analysis.

Objective 3

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[8] https://www.officeforstudents.org.uk/data-and-analysis/access-and-participation-data-dashboard/

Objective three: The OfS will challenge the sector to significantly reduce gaps in access, success and progression for students from all backgrounds and identities[9] and across all disciplines.

Access and Participation Plans

33.   As described above, we have launched major reforms to the provider-level regulation of Access and Participation, primarily through the new approach to Access and Participation Plans (APPs) which must be approved for all providers intending to charge more than the basic fee amount (£6,000 or £6,165 with a TEF award). This is the primary way in which we will challenge the sector to significantly reduce the gaps in access, success and progression for all students, from all backgrounds and identities. The key elements to the reforms are:

- A new long-term strategic approach to the cycle of submitting and approving APPs (every five years compared with annually under the old Access Agreement regime);
- A focus on the full student lifecycle, across all characteristics and taking an intersectional approach wherever possible. This is intended to stretch beyond the traditional frontier of access to HE to include continuation, attainment and post-HE outcomes.
- The setting of ambitious and stretching targets for the whole sector (through our KPMs) and the requirement for each provider to set their own, and be ambitious with these;
- A requirement to reflect a whole-provider approach in their APPs, with all elements of the provider encouraged to work together – and with external partners - across the student lifecycle to improve outcomes;
- A requirement for student engagement in the APP (and for that engagement to be meaningful and inclusive);
- An improved approach to evaluation, with providers required to submit their evaluation strategies, and for these to be credible and high quality – demonstrating that their activities and investment are achieving positive outcomes for under-represented students.

34.   This challenge to the sector has been accompanied by a series of supportive measures, many of which are described in this report and the accompanying action plan, but include Regulatory Notice 6 (effective practice guidance for the preparation of APPs[10]), the 'A to Z of effective practice' website[11], the new centre for Transforming Access and Student Outcomes (TASO) as well as key supportive programmes we are funding such as the National Collaborative Outreach Programme (NCOP – for updates see section 3.5 of the action plan at Annex A) and the Addressing Barriers to Student Success Catalyst Programme (ABSS – for updates see section 3.13-3.14 of the action plan at Annex A).

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[9] This will include students who we determine to be under-represented in relation to access and participation, in line with the Higher Education and Research Act (2017), and students with protected characteristics under the Equality Act (2010) who are identified by data and insight as underrepresented in relation to access, success and progression.

[10] https://www.officeforstudents.org.uk/publications/regulatory-advice-6-how-to-prepare-your-access-and-participation-plan-effective-practice-advice/

[11] https://www.officeforstudents.org.uk/advice-and-guidance/promoting-equal-opportunities/evaluation-and-effective-practice/a-to-z-of-effective-practice-in-access-and-participation/

35.   The OfS adopts a holistic approach to its EDI work across the areas of Access and Participation and baseline regulation, including procedures to ensure that matters of concern which emerge through Access and Participation activities relevant to EDI can, as appropriate, lead to regulatory interventions.

<u>Supporting inclusion for disabled students</u>

36.   The development of inclusive approaches to supporting disabled students has been identified as a priority by Government since 2016, following two research studies commissioned by HEFCE ('Support for higher education students with Specific Learning Difficulties' and 'Understanding provision for students with mental health problems and intensive support needs')[12].

37.   In light of these reports, and following changes to the Disabled Students Allowance (DSA), the funding delivered to HE providers for support and provision for disabled students has been set at twice the previous amount (an increase from £20 million to £40 million annually). The purpose of the increased investment has been to support HE providers to further develop inclusive models of provision and to meet the rapid rise in students reporting disabilities. The OfS has maintained its disabled student premium funding at £40m during the 2019-20 academic year. This funding complements the commitments providers make in this area through their access and participation plans.

38.   We have commissioned a study to evaluate current levels of support and progress towards inclusivity in order to inform future investment. This is the second phase of the study, the first phase of which was commissioned by the Higher Education Funding Council for England (HEFCE), which was published in October 2017[13]. The Institute for Employment Studies have been commissioned to undertake this research. We have expanded on the first review to include student engagement and to establish the level of inclusivity in providers from the 'approved' category of the OfS Register and those who are receiving public funding for the first time. The review is due to report at the end of August 2019.

<u>Disabled Students Sector Leadership Group</u>

39.   UUK and DfE established a Disabled Students Sector Leadership Group (DSSLG) in 2016 following reforms to Disabled Students Allowance. The Group was intended to support a shift in focus away from support to individual students (funded by DSA) towards cultural change in HE providers to provide more inclusive learning environments. The DSSLG produced a report[14] highlighting examples of inclusive practice in 2017, which has been taken up across the sector.

40.   The new regulatory landscape underpinned by the HERA 2017 gives the OfS new tools and levers, and extends the 'HE sector' beyond the UUK/GuildHE groupings. We are therefore

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https://webarchive.nationalarchives.gov.uk/20180322111239tf_/http://www.hefce.ac.uk/pubs/rereports/year/2017/modelsofsupport/

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https://webarchive.nationalarchives.gov.uk/20180405122357/http://www.hefce.ac.uk/news/newsarchive/2016/Name,107598,en.html

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/587221/Inclusive_Teaching_and_Learning_in_Higher_Education_as_a_route_to-excellence.pdf

exploring the opportunities for a newly constituted leadership group to champion inclusive practice for disabled students with the ultimate aim of improving their access, experience and outcomes in higher education. We are aiming to launch the new group and announce its priorities in the autumn, in close collaboration with the DfE and other stakeholders.

Objective 4
The OfS will work to address the risk of some students not receiving a high quality higher education experience

Monitoring and Intervention
41.   The OfS assesses individual providers seeking inclusion on the OfS register, and registered providers, against a set of regulatory conditions concerned with the quality and standards of their learning and teaching provision. The 'B' conditions of registration explicitly cover aspects of 'high quality academic experience' and 'student support'. Baseline monitoring of student data for registered providers includes monitoring by student characteristics (sex, ethnicity, disability, LPN, IMD, age) across all levels of HE. Concerns about provider data can result in regulatory intervention, which may include a Quality and Standards Review focused on the support students need to succeed in and benefit from higher education.

Student Welfare and Safeguarding
42.   In relation to student mental health[15], we have developed an OfS Challenge Competition through which we are seeking to commit £6m, which will be matched-funded by successful projects, to support the sector in developing practical approaches to deliver a step-change in mental health outcomes for students. This competition call includes specific focus on co-creation with students, collaboration between providers and external agencies, and high-quality evaluation for providers to understand 'what works' and the impact of their projects. We are commissioning an independent evaluation of this round of funded projects to understand the value and impact of the wider programme. In addition, we have funded the development of guidance to help higher education leaders prevent student suicide ('Suicide-Safer Universities' which was published in September 2018 by UUK and Papyrus). In partnership with Student Minds and other sector bodies, we are supporting the development of the University Mental Health Charter, and we have membership of UUK's Mental Health in higher education advisory group and DfE's Education Transitions Network, which focuses on four key risk areas which can affect students' mental health, the Higher Education Information Sharing Taskforce, which works through issues about sharing student information in the event of mental health crisis.

43.   To tackle hate crime and harassment[16] in higher education, we have provided almost £5m funding for 119 projects through three rounds of Catalyst funding (initiated by HEFCE). An external, summative evaluation of the projects was published in June 2019 at a conference to celebrate the completion of these projects and share learning of effective practice with the wider sector. We will also be planning actions to ensure legacy of the Catalyst projects, including a series of roundtable events in 2019-20 to continue to explore effective practice in these areas. We creating an alumni network to share best practice and ongoing work, securing access to resources

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[15] https://www.officeforstudents.org.uk/advice-and-guidance/student-wellbeing-and-protection/mental-health/

[16] https://www.officeforstudents.org.uk/advice-and-guidance/student-wellbeing-and-protection/student-safety-and-wellbeing/

and tools produced by the projects and planning a concerted communications campaign to continue to promote the importance of this work.

44.   The third and final round of safeguarding catalyst funding is ongoing, and we have provided £480k (which is also 1:1 match funded) to a network of 11 projects addressing religious-based hate crime – these projects are due to complete in February 2020. The OfS facilitates regular meetings with this network to support projects in sharing learning and effective practice on a range of different themes.

45.   We have contributed evidence to the EHRC inquiry into racist incidents in higher education, which is likely to report publicly in autumn 2019.

Objective 5
Objective five: The OfS will work to reduce the risk that some students are prevented from maximising their outcomes through their higher education experience and therefore not maximise their potential in terms of employment or further study.

UK Government's Race Disparity Audit
46.   We have engaged with the Government's Race Disparity Audit – whose website 'ethnicity facts and figures'[17] features data about students in higher education. The Audit is reviewed annually by the Cabinet Office which takes the approach of 'explain or change' with regards to monitoring and accounting for progress (or lack of) in closing gaps between white and black, Asian and minority ethnic (BAME) people in all aspects of public life in the UK. We have had several strategic engagements with Government and wider stakeholders through the Audit; including round tables in Downing Street covering BAME students' attainment and the impact of league tables on BAME students' decision-making.

NUS and Universities UK report – 'Black, Asian and Minority Ethnic Student Attainment at UK Universities #closingthegap
47.   The OfS was actively engaged this year in the joint UUK/NUS research and report 'Closing the Gap'[18] which focussed on the BAME attainment gap. The research involved hearing evidence from hundreds of students, academics, professional staff and leaders in HE and culminated in a report and conference in May 2019. This report represented a genuine partnership between students and HE leaders. The OfS has a recommendation directed to us in the report, for the 'evidence and impact exchange to systematically review 'what works' (as well as what does not) as a priority, to inform universities' investment and strategies to address the attainment gap'. We welcomed the report and the recommendation and will be working with TASO to implement it.

Local Graduate Challenge Fund
48.   In 2017, 69 per cent of new graduates started work in their home region, and 45 per cent of the total graduate cohort never moved at all, choosing to stay in their home region for both study and post-study work. Those who study and work in their home regions tend to be from the most disadvantaged backgrounds, are often less mobile, and therefore less likely to secure graduate-level work away from their local area. Current evidence shows that students who are move away

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[17] https://www.ethnicity-facts-figures.service.gov.uk/

[18] https://www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2019/bame-student-attainment-uk-universities-closing-the-gap.pdf, Universities UK/NUS, 1 May 2019.

from home to study or work are more likely to find highly skilled employment compared to those who stay in their home region. At the same time, areas with the lowest productivity and growth are the places that most need to capitalise on graduate talent to succeed.

49.   To address these issues and the likelihood that disadvantaged students who remain locally are less likely to secure highly skilled employment upon graduation, the OfS has awarded grants totalling £5.6 million to 15 projects to focus one of the following priorities:

> Improving the employment outcomes of students from disadvantaged backgrounds, particularly BAME students and those with disabilities;

> Improving graduate outcomes for mature students or part-time students who plan to remain in their local area for study and post-study work;

> Addressing place-based skills gaps by ensuring graduates are well prepared to succeed in local industries.

50.   We will commission an active evaluation of the projects to run alongside them and bring the projects together in workshops to share practice during the course of the three year programme.

EDI and widening access for postgraduate research students

51.   We have identified a set of joint interests with UK Research and Innovation (UKRI) of which one is to collaborate on ensuring a healthy pipeline of talent into academia and industry at postgraduate (PG) level. A key aspect of this is the low progression rates onto PG taught courses (e.g. masters' level) and PG research courses (e.g. PhDs) among BAME students and other groups we are targeting through our access and participation strategy. Our regulatory remit does not extend to the HE academic workforce, but we know that for students, the diversity of the staff is a factor in successful access, continuation, attainment and outcomes. Actively working towards a student population and staff workforce which more adequately reflects our society at its widest is central to the whole provider approach we are advocating across the sector.

52.   Following the inclusion of EDI as a priority within the OfS/UKRI Collaboration Agreement in 2018, we are working together to improve understanding of and support interventions to improve:
a.   Progression of students from UG to PG (where and what are the gaps and barriers? What are the trends? What do we know about effective practice to widen access to PGR study?)
b.   Culture, environment and the PGR student experience (including health and wellbeing, bullying and harassment)

53.   We will agree with UKRI by the end of 2019 how best to address the challenges identified through this work.

Diversifying digital and technical provision

54.   The number of degree apprentices has grown to 17,000 since 2016 as a result of the apprenticeship levy and the Degree Apprenticeship Development Fund (DADF). Awareness is steadily increasing about how this route into higher education offers new opportunities for improved productivity and social mobility. Though it is too early to assess their impact in terms of equality and diversity, analysis of early cohorts demonstrate that degree apprenticeships are popular with young school leavers from disadvantaged backgrounds and amongst mature learners who joined

the workforce without higher education qualifications. OfS data[19] also shows that degree apprenticeships are improving the participation of women in STEM subjects and students from educationally disadvantaged backgrounds, relative to the proportions found in traditional higher education.

55.   Additionally, on behalf of Government, we provided £20 million to set up the Institute of Coding, which is a consortium of universities and employers, to develop the next generation of digital talent at levels 6 and 7. One of the Institute's main aims is to boost equality and diversity in technology-related education and careers by developing and delivering tailored workshops, boot camps, innovative learning facilities and other outreach activities to improve representation.

56.   Building on this, OfS is supporting prospective learners make to informed decisions around higher and degree apprenticeships through NCOP and through our new Information Advice and Guidance strategy. We will add to the body of effective practice in this area by publishing independent evidence on degree apprenticeship development and on the motivations of degree apprentices. Our student premium funding model has been revised to include support for apprentices in higher education, and we will continue to work with other regulators, government, universities and colleges to support consistent quality and enable smoother progression pathways so that degree apprenticeships can act as an opportunity for those intending to begin, further or redirect their careers.

Teaching Excellence Framework[20]

57.   The Department for Education in England (DfE) introduced the Teaching Excellence and Student Outcomes Framework (TEF) in 2016 and the Office for Students (OfS) adopted TEF under HERA section 25 as a sector-level intervention to promote excellence in teaching and outcomes. The OfS is responsible for implementing TEF according to the DfE's specification.

58.   The final year of provider-level TEF (TEF Year Four) took place in 2018-19 alongside, but independent of, a second subject-level TEF pilot. The design of the TEF in future will take account of the findings of the two years of subject-level TEF pilots and the outcomes of a statutory independent review of TEF and must include an assessment of equality impact. Dame Shirley Pearce is conducting the independent review to ensure that TEF is fit for purpose and is expected to report to the Secretary of State in the summer of 2019. For providers with more than 500 higher education students, participation in the next round of TEF will be mandatory under condition B6 of the OfS Regulatory Framework, the impact of which was assessed in 2018[21].

59.   The OfS implementation of TEF and piloting of subject-level TEF this year has provided opportunity to further embed EDI into TEF processes. Panel diversity was monitored from recruitment through to appointment and reported to the TEF Project Board and positive action was used where permitted to increase panel diversity. Briefing events for providers and online training resources promoted the importance of evidencing positive outcomes for all students and training

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[19] https://www.officeforstudents.org.uk/data-and-analysis/analysis-of-degree-apprenticeships/.

[20] The OfS board are also receiving a TEF update paper at this meeting, as well as an oral presentation from the Independent TEF Reviewer.

[21] Equality impact assessment Regulatory framework for higher education https://dera.ioe.ac.uk/31307/1/ofs2018_09.pdf

for TEF panellists was developed and delivered by widening participation (WP) experts to ensure EDI and widening participation (WP) were fully and consistently considered. Additional mechanisms for promoting EDI and WP were trialled in the second subject pilot, including:

- New supplementary metrics on differential degree attainment, provided by the OfS, to aid panel assessment of 'positive outcomes for all students', in addition to the existing 'split metrics' which split student outcomes by age, disability, ethnicity and gender groups.
- A new 'WP Liaison' role on each of the ten subject panels to ensure that diversity and equality issues are consistently considered across panels, in addition to the two WP expert members of the subject pilot main panel, who provide advice to the main panel, subject panels, WP Liaisons, the OfS and DfE throughout the TEF cycle.

60.   The impact, effectiveness and 'scaleability' of these new measures, which included feedback gathered from providers and panellists throughout the year, will be assessed as part of the TEF subject pilot evaluation in summer 2019.

Monitoring of student outcomes

61.   Condition of registration B3 is concerned with successful outcomes for all students. Baseline monitoring of student continuation, completion, and progression to professional employment and postgraduate study includes monitoring split by student characteristics. Monitoring of student achievement at baseline also includes consideration of gaps in performance between the provider's best and worst performing student groups. Concerns about a provider's outcomes for students, including outcomes split by student characteristics, can lead to regulatory intervention, including the introduction of enhanced monitoring or a specific condition of registration

The OfS as an employer

Objective six: Fostering inclusive leadership and an inclusive and open culture.
Objective seven: Supporting staff to build diversity and inclusion into their work.
Objective eight: Behaving as an inclusive employer which attracts and retains the widest pool of talent where all staff have the opportunity to unlock their potential.

62.   The OfS equality and diversity objectives are explicit in recognising that to be a credible and effective higher education regulator, we must challenge ourselves to at least the same standard as we challenge providers. Informed by our staff and experts in the field, we have set ambitious employment and equality objectives for the OfS. This aspiration is reaffirmed in our new organisational values, and directly from the Directors' Group.

63.   During its first year of operation the OfS began an internal transformation programme to enable staff to shape the identity of the organisation and the values and behaviours that are required across our work. This included an equality and diversity strand chaired by the Director for Fair Access and Participation, to make recommendations on the OfS's approach to organisational diversity and internal culture. The work of that group reflects the ambition of staff to drive real change in our commitment to EDI as well as tangible outcomes through positive action. Extensive staff consultation and data analysis found that the OfS had limited understanding of staff's lived experience of working for the OfS, compounded by limited disclose of diversity data. Although the quantitative data was relatively positive, it showed inconsistency across the organisation with significant room for improvement in highlighting the importance of this work and need for action. Subsequent workshops and discussion with the Student Panel enabled the group to set ambitions

for the work needed. The group provided a report and recommendations to the Transformation Group and Directors early in 2019, which has set the pattern for our subsequent work.

64.   The Transformation Group recognised the report as comprehensive and high-quality, providing a far-reaching action plan, spanning 'business as usual' and transformation activity. It provides a positive, robust platform from which to take forward the internal approach to EDI, with clear alignment to the OfS values and behaviours.

65.   As a result, the Directors' Group in March 2019 agreed a new internal Equality, Diversity and Inclusion strategy which sets out our 5 immediate priorities and identifies a senior Director sponsor for each one. The strategy focuses our positive actions into broader packages of work, from which we want to see activity embedded across the organisation and measurable progress, for which Directors will be individually and collectively accountable, establishing senior level leadership and commitment. They will be supported by a team of staff offering professional expertise and knowledge, overseen by the strategic response unit (SRU) with overall accountability for the plan. A collective effort from the Transformation group and relevant Head of functions will ensure our positive actions are delivered through 'business as usual', with the aim of embedding these actions into wider governance and assurance activity.

66.   Progress against the internal EDI strategy will be regularly monitored at the Directors' Group and subject to annual review and reporting through the formal OfS EDI action plan to ensure consistency with our external EDI ambitions. We anticipate an end of year review point, subject to wider senior management group discussions.

The OfS's internal EDI Priorities

	Owner	Measures	Communication
Priority 1 - Fostering inclusive leadership and senior accountability (Equality Objective 6) Senior leader role modelling for inclusive leadership and management to drive positive culture change Clarify specific senior accountability and governance of each agreed EDI priority Ensure accountability from managers and directors across the OfS Ensure our external EDI ambitions are consistent with our internal EDI strategy and practice	Nicola Dandridge Supported by Rachel Attwood	Establish open and ambitious qualitative and quantitative success measures. Overseen by Richard Puttock	Establish a communications strategy which promotes and advances EDI priorities and activities. Overseen by Conor Ryan. Supported by Helen Albon.
Priority 2 - Fostering an inclusive and open culture (Equality Objective 6) Harness the employee voice via the creation of staff networks to take into account staff views, experiences and build diversity of thought and perspective Introduce accountability for diversity and inclusion for all staff Promote the use of staff groups to support and drive continued commitment and action	Yvonne Hawkins Supported by Vanessa Conte		
Behaving as an inclusive employer across all protected characteristics (Equality Objective 8) Identify specific and targeted activity to address current issues: **Priority 3 - BAME profile** Improve BAME representation across the OfS workforce and throughout the recruitment and selection process, including at senior level roles	Nolan Smith Supported by Sarah De Vere		
Priority 4 - Gender equality Improve gender balance across the OfS structure and reduce the gender pay gap	Susan Lapworth Supported by Kay Howick		
Priority 5 - Embedding EDI (Equality Objective 7) Support staff to build diversity and inclusion into their work Ensure that staff at all levels have the training, tools and personal agency to contribute to positive culture change at all levels of the organisation Embed the use of equality impact assessments Ensure regular planned discussions on EDI at Directors' meetings	Chris Millward Supported by Amy Norton		

OfS equality data

67.   In line with our equality duty, the OfS is committed to publishing equality data on our workforce. Collecting, monitoring and reporting our staff data helps us ensure that equality considerations are embedded within our employment policies and practices, and that they meet our responsibilities under the duty.

68.   The OfS came into operation in 2018. The data presented here therefore provides the first overview of our equality and diversity employment monitoring covering our first year of operation to 31 March 2019. It includes sex, age, disability, race, religion or belief, and sexual orientation. The data relates only to staff directly employed by the OfS, excluding any temporary or contingent staff.

Gender pay gap

69.   Since 2018 the legal obligation placed upon public bodies with 250 or more employees is to report the 'snapshot' of pay data taken on the 31 March by the 30 March the following year. While the OfS came into existence on 1 January 2018, it had just 2 employees until 1 April 2018 when the transfer was effected, meaning there was no pay data to publish in March 2019. Nevertheless, we are monitoring our pay data on a monthly basis and this analysis will be discussed internally, and with the OfS remuneration and nominations committee, and included in an OfS people data presentation to the board in July 2019. Formal reporting with be published in March 2020 in line with our legal duty.

Staff monitoring

70.   We encourage our staff to make diversity declarations. A new integrated HR/Finance system was introduced in 2018 and we took this opportunity to review and update our monitoring form. Staff are able to input their personal data directly into the system. Throughout 2018 and early 2019 we undertook a disclosure campaign to encourage our staff to provide their data to help us gain a more complete understanding of the profile of our workforce and the potential equality issues for specific groups of staff. We have been clear that declaring this information is voluntary and individuals can choose to 'prefer not to say', however we are keen to achieve 100 per cent completion of the data form.

71.   Overall the OfS has increased its completion rate during its first year. However, with a significant number of new staff starting work during 2019 this rate has dropped more recently. In particular we have low completion rates for disability, with less than 50 per cent of staff responding. We believe this is due to staff not completing the disability section because they do not consider themselves disabled, rather than explicitly confirming they have no known impairment. We will continue to raise awareness of the importance and impact of disclosure and regularly encourage staff to review this.
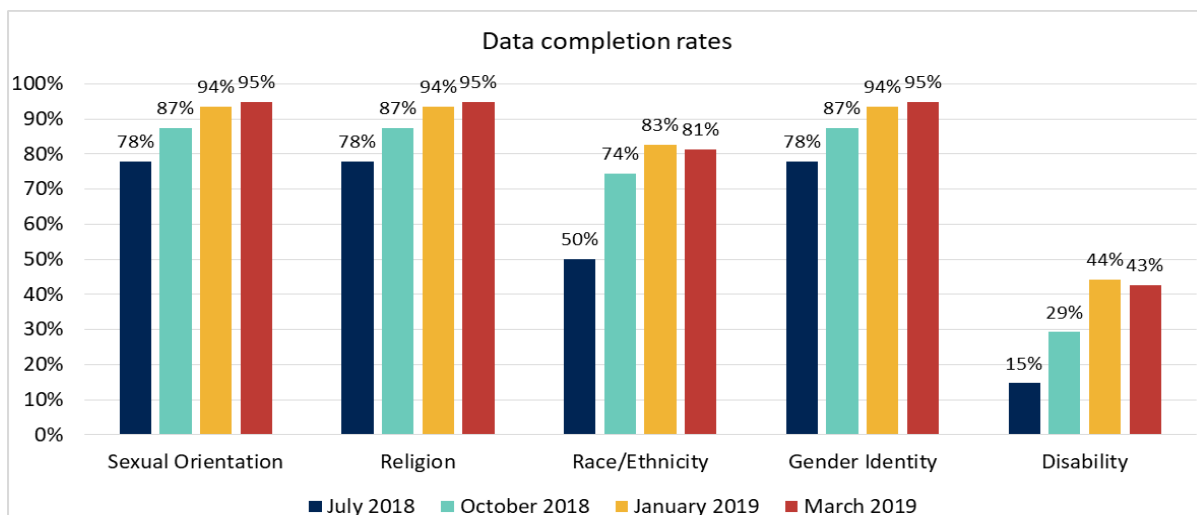
Resource implications for Office for Students

72.   There are 1.55 FTE across pay bands 8 and 10 working on EDI within the Directorate for Fair Access and Participation. There is also resource embedded within the Human Resource and Student Safeguarding and Welfare teams, plus some co-ordination work from the Strategic Resource Unit. However, the aim is for EDI to be 'everyone's business' in the OfS, with EDI mainstreamed throughout the OfS's functions and activities.

Risk implications

73.   The key risks if the OfS does not properly implement its PSED are regulatory enforcement by the Equality and Human Rights Commission and the potential for legal challenge/judicial review under the PSED if appropriate consultation and impact assessment is not carried out on policy or funding changes (especially where there is potential for adverse impact on people with protected characteristics).

74.   There is a risk of reputational damage to the OfS if our aspirations, particularly those related to embedding EDI throughout the organisation, developing and inclusive culture and making inclusive decisions are not met (for example if we do not make progress to diversify our workforce or there is a failure to adequately impact assess a key policy or decision). This could seriously damage our credibility as a regulator with such strong commitments and duties around EDI and access, success and participation for all students, whatever their background.

75.   These risks are mitigated both through the EDI statement and objectives, which constitute the formal fulfilment of the specific duties of the PSED, together with the EDI practices we are developing and implementing (e.g. impact assessment and inclusive approaches to consultation and engagement). They are also mitigated through implementation of our action plan (which spans the organisation) and effective governance and leadership by the board and Directors Group, who will challenge our practice and be accountable for our delivery. A further mitigation is our stakeholder engagement, which will help us to understand and respond to issues and have early warning about emerging issues.

Communications and engagement

76.   If the board approves this report, we will publish it on our website by the end of July 2019.

Regulation and sector impact assessment

77.   The regulatory impact of the annual EDI report is minimal as it is an update to existing work. The equality impact assessment of the equality and diversity statement and objectives was assessed as positive, with active promotion of EDI and the elimination of unlawful discrimination on the grounds of all the protected characteristics through this work. The board will continue to receive an annual report on our progress.