



The Equalities Review

Interim report for consultation

Response from the University and College Union (UCU)

UCU represents 120,000 lecturers and academic-related staff in further, adult and higher education.

UCU welcomes the chance to respond to the second stage of this consultation process, and in particular the fact that an open-ended response, not limited to restrictive questions, is invited. We recognise that The Equalities Review is a serious and considered attempt to look at the causes of continuing inequality, and to consider possible solutions, and we see some of the findings as illuminating and useful. However, there are many elements of the approach taken which we find problematic, and not likely to lead to the best possible outcome.

In raising our concerns, we will go through the Interim report referring to specific points, and conclude by answering the three specific questions you ask.

Introduction

On page 5, you say 'Today we are far less likely to be trapped by the accident of our birth...' It is true for example, that a far higher proportion of young people now go to university than ever before. But within those larger numbers, the proportion of those coming from a disadvantaged background has not improved. Patterns within the overall sector show that the 'elite' universities such as the Russell group continue to educate disproportionately from elite social groups. The patterns of entrenched privilege represented by who is where in the higher education sector can only be addressed by much stronger levers from Government, addressing funding mechanisms. Widening participation should carry rewards, not penalties.

On page 8, you quite rightly refer to the unevenness of the data available. In relation to sexual orientation, it would hardly be an over-statement to say there is no data at all. This is of great significance when it comes to the measuring approach you set out in Chapter 5. Such an approach would lead to a situation where a group on whom there is lots of data would have their inequalities addressed, while groups on whom there is little data would

not. Incidentally, we can give examples of the problems with incomplete and misleading data. The Higher Education Statistics Agency does publish figures on staff employed, which gives some information on gender, race and disability (but of course none on sexual orientation or on religion or belief). But this information is highly unreliable in relation to academic staff, as it leaves out anyone who is employed for less than 25% of the hours in a full-time contract. As this is likely to be overwhelmingly women and BME staff, the inequalities are probably much worse than the figures suggest. The HE sector perceives the gender pay gap as being 14%, but if lifetime earnings are used as the basis, the figure is more like 30% in HE and a staggering 57 % in FE.

In both FE and HE there is likely to be massive under-declaration by disabled staff. Our own experience of our members suggest that the proportion of disabled staff is likely to be in the region of 10-20%, but only 1-2% declare themselves to be disabled in both sectors.

In FE, it is appallingly difficult to find any information about staff. There is no clear picture about the number of BME staff, no reliable statistics on disabled staff and none on LGBT staff. Part-time staff are again largely excluded. We know that there are massive inequalities at work, but we don't have the reliable statistics to prove it.

We have major problems with your adoption of the concept of capability, vulnerability and trigger episodes, which we will address in more detail later.

On page 9, your rejection of the 'strand' approach causes us major problems. Of course it is true that there are major differences within groups, but it remains the fact that some disadvantages apply to anyone who is a woman, or anyone who is black. They arise from prejudice and discrimination, and must be addressed from that basis. Certainly we should not be trying to pander to the anti political-correctness lobby. Groups who experience disadvantage do not have to experience 'a demoralising sense of victimhood.' In recognising the unfair disadvantage they face, the appropriate response is anger, organisation and campaigning. You pay lip service to 'the vital effort of hundreds of campaign groups' but you vastly underestimate the importance and significance of equality activists. The simple truth is there would be no anti-discrimination law without the passionate campaigning of women, black people, disabled people and LGBT people down the decades. We do agree with your statement that policy cannot be determined by who shouts loudest, because this would leave the most vulnerable groups severely disadvantaged. But the truth remains that most people who experience unfair disadvantage do so because they are female, or black, or disabled, or gay, or old (and any combination of those) and it is the fundamental causes of the unfairness which we must address – and which this Interim Report does not attempt to do.

Chapter 1. Background to the review.

The section on data on page 15 sets out clearly the problematic inconsistent nature of the evidence we have. As you say, there are 'data deserts' in relation to sexual orientation, transgender status and religion or belief. This being so, basing priorities on the

measurement approach set out in Chapter 5 is a non-starter unless and until we have more comprehensive evidence to work on.

Chapter 2. The 100 year frame, part one: the last 60 years

The evidence given on page 17 that climbing out of poverty is now harder than it was fifty years ago demonstrates that redistributing income and lifting more people of poverty must be a priority if inequality is ever to be addressed. The three levers of changes you describe (legislation, social policy, cultural change) have all played a part, but you leave out the most crucial lever of all – the campaigning activities of the groups which have faced oppression and discrimination. Relating the whole question to socio-economic factors is very problematic. For example, on page 18, we would take issue with the statement that ‘Measures of poverty, therefore, provide the only reliable historical account of inequality over time.’ If we look at the development of legislation relating to women, very clear inequalities which had absolutely nothing to do with socio-economic status once existed in law, relating for example to rights to property, divorce, voting and freedom from domestic violence (when men were allowed to beat their wives, and there was no concept of marital rape before 1991). Today, lesbians and gay men may suffer no economic disadvantage, but huge social disadvantage from the level of homophobic bullying and harassment. The fact that Section 28 was in place as recently as 2003 entirely inhibited schools from dealing with the issue.

Chapter 3. Emerging findings

While it is clearly the case that laws which a majority of the population disagree with will prove impossible to uphold, the section on public attitudes comes dangerously close to saying that we must go along with public opinion, even though you make it clear that public opinion is confused and ill-informed. The fact that most people believe that ‘levels of discrimination associated with gender and disability are in decline, but those associated with ethnicity and religion remain more pervasive’ is symptomatic of how dangerous it would be to base actions on public opinion when your own evidence in later pages shows how mistaken this belief is. Public opinion, about immigration for example, is hugely influenced by right-wing propaganda in newspapers, and not by the economic and demographic facts which make welcoming immigrants a necessity. If people are constantly fed mis-information they will believe it e.g. surveys show that most of the population think that asylum seekers receive four times as much benefit as they actually do. Education has a big role to play here.

In the section on equality gaps and penalties, we find the language far from helpful. Explaining inequality in terms of ‘vulnerability, trigger episodes and the field in which a penalty operates’ is well-nigh incomprehensible. The emphasis on vulnerability does run the risk of making those facing discrimination appear as victims. The ‘trigger episodes’ you refer to nearly all seem to be traumatic and distressing events, so it is strange to see ‘birth of a child’ included in the list. Only in a society with so much built-in injustice for

mothers could the birth of a child, which for most is a joyful event, be described as a trigger episode leading to disadvantage.

The problem with this approach is that it focuses on the life stories of individuals, who become exposed to disadvantage when certain events happen to them.

The fundamental problem with the approach throughout the report is that it nowhere addresses the underlying cause for the persistence of inequality. The fact is that a particular group of people within our society have almost sole power in almost all areas of public life. That group is white, straight, non-disabled men. People who have power for any length of time (and this group has had it for centuries) become almost incapable of giving it up voluntarily. So all our institutions – Parliament, the media, the universities, the police, big businesses, etc – are institutionally racist, sexist, ableist, and homophobic. The basic problem we have to confront is how to change the nature of institutions so the power group is no longer allowed to enjoy unfair advantage. Stories of trigger episodes in the lives of disadvantaged individuals will do nothing to address this issue.

We have no particular issues to raise in the section on early years, but obviously the section on school age and young adults is of key importance to our members.

Our first comment is that it is astonishing that in this whole section, there is no reference to further education. FE colleges play an absolutely key role in addressing disadvantage and in widening participation. These are some of the key facts. According to a recent report for the Government's own 'Success for All' plan for FE, 60% of FE students are female, 41% of teenagers in FE are from the bottom three social and economic groups, compared with 31% in sixth-form colleges and 22% in school sixth-forms. Ethnic minority students make up at least 14% of the FE student population, compared with about 8% of the general population.

This section constantly refers to 'school-leavers' or 'staying on at school', which hardly reflects the reality of life for the majority of 16-18 year olds, 727,000 of whom study in FE, compared to 439,000 in schools. The ethos of FE has always been profoundly egalitarian, and the FE sector, if not too hampered by the strange vagaries of government funding, can continue to be a major force in combating inequality.

There are a few specific issues to address. On page 36 you refer to a 'capability threshold'. You seem to suggest that anyone not capable of attaining GCSE Grades A* - C is not capable of working or effectively participating in society. This is a profoundly shocking statement to make. Most students with learning difficulties will not be able to pass this 'threshold'. Are we to exclude them all from work and society? The terminology is also of concern, in that 'capability' is used here in its normal sense i.e. whether an individual is or not able to perform certain actions, whereas later you use it as one of your key equality terms, seeming to refer to people being enabled to participate. No such enabling will be possible if we start with the idea that everyone must have five good GCSE's before they are worth anything.

We are pleased that you give some prominence to the seriousness of the problem of homophobic bullying in schools, but would point out that there is no hermetic seal

between what happens in schools and in post-school education. Homophobic bullying and harassment happens in colleges and universities too. And it is not only students who suffer. A number of surveys have found that lesbian and gay teachers and lecturers have been harassed by pupils and students.

On page 42 you give a few facts about the student population in Higher Education. Long term, the fact that women are now more likely to go to university than men is likely to be one of the most significant factors in moving towards greater gender equality. On the surface it looks as if BME students are not disadvantaged, as overall they are not under-represented. Yet the elite universities remain relentlessly white and middle-class, and until this is addressed, there will be no real parity of access in higher education.

It is strange in a section of this kind to find virtually no reference to gender segregation in the curriculum. A series of findings, for example from the Equal Opportunities Commission and the Women and Work Commission show that one of the greatest causes of the gender pay gap is that women overwhelmingly work in low-paid jobs, a process which begins in the subject choices they make at school, then most particularly in the vocational courses they take up in FE colleges, and carrying on into their choices of degree courses. It could be argued that the need is not to change the choices that girls make, but to pay more for the types of jobs that flow from those choices. But any examination of causes of inequality for young adults must address the issue of gender segregation in the curriculum.

In the section on working ages, the material on employment gaps and penalties is very interesting. The evidence here that the group facing by far the biggest disadvantage is mothers with small children, and that becoming a father produces no employment disadvantage at all points to one major priority. Women will never achieve equality in the workplace until childcare is shared equally between men and women. This would require not only major changes to legislation on paternity leave, but a shift in employers' attitudes to how they expect fathers to behave. In the meantime, the single change which would reduce gender inequality the most is comprehensive provision of affordable childcare.

This section makes no mention of education or training for adults. In our view, the current Government policy of focusing funding for FE on 16-19 year olds, or on adults needing basic skills is profoundly misguided, not to say deeply ageist. In a fast-changing technological society, training for new skills is a necessity. Mothers who have been at home for some time often find an education course a helpful way back into work. A society which was truly trying to meet the needs of all its citizens would value education for adults which went beyond equipping them with the skills they need to work.

These comments carry over into the last section of this chapter, on older people, which focuses on isolation. One of the traditional routes out of isolation for pensioners was adult education classes. These courses, which were of enormous social value, are disappearing all round the country because of Government spending priorities.

Chapter 4. A stronger case for equality

On page 68, your refusal to take sides because it might be controversial is far from brave. The issue seems simple – more equality would lead to a greater sum of human happiness overall. What is controversial about that?

Chapter 5. Defining and measuring equality

We find the concept of ‘capabilities’ set out here as the preferred approach to equality to be a confusing one. Although you say the focus is on ‘what people are able to be or do in their lives’ and on the removal of barriers, we do think there is slippage into the more usual meaning of capabilities, based on an individual’s personal qualities. As we said earlier, this approach is particularly problematic when applied to people with certain types of disability.

The section on Measuring Equality presents a number of problems. If the setting of priorities for action is to be based on what can be measured, there is one overwhelming drawback. There are many statistics available in relation to race, gender and age, and, in a less coherent way, in relation to disability. As you have said yourselves earlier, there is a ‘data desert’ in relation to sexual orientation, religion and transgender. So if we are to put right only what we can measure, three of the seven ‘strands’ start out from a position of monumental disadvantage. Also, not all forms of inequality are subject to exact measurement. We can measure the gender pay gap fairly accurately. There is no evidence that lesbians and gay men earn less on average than heterosexual men and women. But how do you measure the cumulative effect of a life-time of low-level harassment, social exclusion and ridicule? With issues such as these, a question such as ‘How large is the measured equality and fairness gap?’ has no meaning.

The statement that the first priority is to ensure everyone has ‘certain basic provisions and capabilities’ reveal the problem of the capability approach. To imply that everyone needs a basic level of education, cultural competence and social participation is problematic when applied to, for example, someone with profound and complex learning difficulties, or severe autism.

The reference to limited resources is concerning. One could argue that no resource is limitless, but a statement such as this usually implies that little extra money will be made available. An issue such as the gender pay gap cannot be resolved without a very large amount of money being made available.

We do however agree with you that priorities cannot be decided on the basis of which group has the most political clout.

Chapter 6. The 100 year frame part two: the next 40 years

The main assumptions here are that immigration will increase, and the population will continue to age. These seem reasonable predictions to make, but it is astonishing that in the whole report, there is not one single reference to the issue of asylum seekers, or the whole vexed question of Government's approach to immigration. Often this is more influenced by the need to assuage the paranoia induced in large sections of the population by the popular press than it is by the needs of the economy. The attitude to foreign students, and whether they are encouraged to come and to stay can also fluctuate alarmingly, given how important an element they now are in the higher education sector.

More immigrants often means more people for whom English is not their first language. Much more attention needs to be paid to building up a sufficient supply of trained ESOL teachers. More immigrants is also likely to mean a greater number of adherents to a religion other than Christianity. The report is generally very silent on the issue of the religious hostility raised by recent world events. It would be another reasonable prediction that in the future, issues of conflict and discrimination in relation to religion or belief are likely to grow.

The section on novel categories of inequality raises the interesting question of genetic testing. We agree this is a risk, but there are other 'novel categories of inequality' which are not mentioned. The most obvious is size. Increasing hysteria about 'obesity' means that the fat have become the group it is currently acceptable to stigmatise, abuse and discriminate against in terms of employment or health care. Physical appearance generally has become more and more of an issue. Some employers make no secret of their desire to have an 'aesthetic workforce'.

Chapter 7. Levers for Change

We agree that the 'positive duty' developments for race, disability and gender are a big step forward, and very much welcome your view that the positive duty should be 'extended to all other domains of equality as quickly as possible.' However, we simply cannot accept your view that the equality duties should continue to apply only to the public sector. It is not justifiable to continue to require a higher standard of fairness, equity and justice from public sector employers than from private sector ones. To say that the CBI is hostile does not give sufficient reason for perpetuating this gross dichotomy.

One lever for change that you don't mention is enforcement of the law. It is to be hoped that that the new Commission for Equality and Human Rights will be more robust in this respect, both in relation to the positive duties and the discrimination legislation, than the existing Commissions have been.

The questions you raise about extending the use of positive action are interesting ones. It is true that the symmetrical nature of the Race Relations Act and the Sex Discrimination Act can often be a barrier to reducing the disadvantage experienced by particular groups. Gender segregation in the curriculum might certainly be reduced if positive action for

boys, or for girls was far less fraught with potential legal difficulties. The new gender equality duty is so determined to reflect the rights of men as well as women that it runs the risk of refusing to acknowledge at all that women suffer systematic disadvantage. We would hope that when the single Equality Act comes to be written (a development we will very much welcome) it will reflect more of the spirit of the Disability Discrimination Act than of the race and sex legislation.

Finally, we would certainly agree that discriminatory statements and language directed against groups should be subject to complaints to the Press Complaints Commission. People with mental health problems are certainly one target, but expressions such as 'dumbing down' have come to be too widely accepted and used.

We think we have largely answered the three specific questions you ask in the body of our response, but we will summarise now.

'Has the analysis addressed the factors that are most important for life chances across the life-cycle?'

It makes some valid points. But it fails to make clear that life chances for everyone else will never be equal while all the reins of power remain in the hands of white, straight, non-disabled men. It also fails to acknowledge the crucial importance of the campaigning activities of women, black people, disabled people and LGBT people.

'Do you agree with the priorities for action set out in the Interim Report? If not, why not?'

We assume this refers to the list on page 62. Although no-one could disagree that these represent worthy targets for attention, the list seems to be somewhat arbitrary and random. Without much more comprehensive data across the spectrum, it is in fact bound to be arbitrary to pick out specific targets of this kind. Two incontestable truths stand out from your evidence. Firstly, poverty is the biggest cause of disadvantage, and reducing the gap between the rich and the poor would be the biggest lever of all in reducing inequality. Secondly, mothers will always be at an enormous disadvantage until society finds fairer ways of dealing with childcare. Beyond that, we must find ways to moving power away from one specific group, and of combating prejudice and discrimination. Those are the fundamentals. The list you give is a set of detailed targets which might seem important now, with the particular information we have, but might look completely different in five years time, with different information and shifting circumstances.

'Is the framework for defining and measuring equality, set out at Chapter 5, an appropriate way of thinking about equality? What might constitute a basket of indicators?'

We think we have already made it very clear that this approach is very problematic. The expression 'a basket of indicators' is another example of an unduly mechanistic approach to problems which are not all susceptible to measurement.