



Briefing 17/27 – August 2017

## **Scottish Government - The Socio-Economic Duty Consultation**

To: All Chief Executives, Main Contacts and APSE Contacts in Scotland  
For information only to England, Northern Ireland and Wales

### **Key issues**

- **Feedback required for the definitions of Key Terms**
- **Local Authorities will be bound by the duty. An Audit-Trail will be required showing compliance**
- **Socio-Economic Duty will be considered in conjunction with other duties**
- **The deadline for responding is Tuesday 12 September 2017.**

**Link to Consultation** - <https://consult.scotland.gov.uk/social-justice/the-socio-economic-duty/>

**Link to Consultation Paper** -

<http://www.gov.scot/Publications/2017/07/8131/downloads#res522478>

## **Scottish Government Consultation**

The Socio-Economic Duty aims to address issues of inequalities of outcome that are the result of socio-economic disadvantage. The focus in particular is to improve strategic decision making in public sector bodies.

The duty is built upon legislation introduced in the [Equality Act 2010](#), brought forward by the then Labour Government that sought to address the same issues. This was in conjunction with an Equalities Duty and a Child Poverty Duty. Subsequent legislation by the coalition and Conservative governments mean that currently, only the Equalities duty still stands.

The Scottish Government, following advice from the Smith Commission and as part of the [Fairer Scotland Action Plan \(October 2016\)](#), seek to implement and improve on all three duties, and this consultation is part of this effort.

Four pillars are guiding the Scottish Government approach to Public Service Reform. These are:

- Reforms must empower people and communities
- Providers must work closely in partnership to integrate service provision
- Expenditure should be prioritised to prevent negative outcomes
- System of public services must become more efficient

## Key Terms

The first section of the bill sets out the definitions of key terms that will be used in proposed legislation. This has been developed using guidance from other Scottish Duties and the guide published alongside the UK Government's original Equality Bill.

### **Socio-economic disadvantage**

"Being 'socio-economically disadvantaged' means living in less favourable social and economic circumstances than others in the same society. Features of socio-economic disadvantage can include low income and living in a deprived area."

The paper also mentions that disadvantage is not limited to "neat concentrations of people in recognisable communities", providing the statistic that two thirds of people who are income deprived do not live in deprived areas. Therefore, it argues that public authorities should focus both on disadvantaged places and on disadvantaged communities of interest.

### **Inequalities of outcome**

"By inequalities of outcome, we mean any measurable differences in what happens to people through their lives – for example, in relation to their health and life expectancy, or their educational attainment. Socio-economically disadvantaged households have a higher risk of experiencing poor outcomes."

An example of this given is that 81% of School leavers are qualified to at least Higher level in affluent areas, compared with 43% in deprived areas.

Three interlinking factors are given that relate to inequalities of outcome:

*Existing Institutional, cultural and market structural factor e.g. unemployment levels education etc.*

*Availability of Goods and Services e.g. how money is spent locally and availability of affordable quality housing.*

*Equality Considerations e.g. age, sex, disability, sexuality etc.*

### **Decisions of a strategic nature**

"These are the key, high-level decisions that determine how an organisation goes about its business and many of these decisions may be made in the context of reform and improving outcomes for service users. In general, they will be decisions that affect how the public authority fulfils its intended purpose, over a significant period of time."

The consultation sets out the following examples for local authorities:

- Preparation of the Local Development Plan<sup>1</sup>
- Production of a housing strategy or business plan
- Economic development/ regeneration strategy
- City deals or other major investment plans
- Cross cutting or specific policies which address issues which impact on deprived communities. For example, for groups (the Race Equality Framework and Disability Delivery Plan) or for sectors (regional transport strategies).

### **Due Regard**

"Commonly, legislation places a duty on somebody (an individual or a body corporate) to "have regard" to certain considerations when making a decision. In order for somebody to "have due regard", not only must they consider the issue but it must be given weight which is proportionate to its relevance."

The Scottish Government recognise that there must be a balance, and it is their intention that the duty is not too prescriptive, and that it is implemented alongside a local authorities' other objectives. They claim that this does not necessarily mean local authorities will need to spend additional resources or rework existing projects.

<b>Q1</b>	<p>The key terms defined in this section are:</p> <ul style="list-style-type: none"><li>• Socio economic disadvantage</li><li>• Inequalities of outcome</li><li>• Decisions of a strategic nature</li><li>• Due regard</li></ul> <p>Do you agree that the definitions of these terms are reasonable and should be included within the Scottish Government's forthcoming guidance on the socioeconomic duty?</p>
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<sup>1</sup> The duty would only apply to the preparation of the local development plan by the planning authority. Not its legal status or for individual planning decisions.

## Public Authorities Covered

Public authorities covered by the duty in Scotland must be similar to those outlined in the original Equalities Bill. The consultation offers this list of public authorities to be bound by the duty.

- Scottish Ministers<sup>2</sup>
- Local Authorities
- NHS Health Scotland
- Integration Joint Boards
- Regional Health Boards
- The Scottish Police Authority
- Highlands and Islands Enterprise
- Scottish Enterprise

<b>Q2A</b>	Do you agree that the socio-economic duty should apply to the Scottish public authorities named here? If not, please specify which authority you <u>do not think</u> it should apply to and why?
<b>Q2B</b>	Do you think the duty should apply to any other public authorities, similar to those listed in the Equality Act 2010? If so, please name them and explain why you think the duty should apply.

## Meeting the Requirements

The Consultation outlines a 4-step process to meet the requirements of the duty.

### Step 1: Identifying which strategic decisions public authorities take

This work may already be done with regard to community planning and setting out Local Outcome Improvement plans. Budget Setting would fall under this step, and the Scottish Government publishes impacts of its draft budget. As this is high level, feedback is sought from public authorities on how they consider issues of socioeconomic inequality when setting annual budgets.

### Step 2: Identifying inequalities of outcome caused by socio-economic disadvantage

The paper offers recommendations for ways to achieve this. Analysis of Quantitative Data and other evidence, such as the Scottish Index of Multiple Deprivation or Council Tax Reduction data can be used to build awareness. A specific body could be set up to identify inequalities and the consultation also recommends to engage with affected communities themselves.

### Step 3: Exercising the duty during decision-making

There must be evidence of how a public authority is meeting requirements. There must be an audit trail, which could take the form of a write-up as a component of the decision-

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<sup>2</sup> The Scottish Government, Accountant in Bankruptcy; Disclosure Scotland; Education Scotland; Scottish Prison Service; Scottish Public Pensions Agency; Student Awards Agency for Scotland; Transport Scotland. The new Scottish Social Security Agency, once established, will also be subject to the duty.

making process or as an annual report on how the authority has complied. Modifying current impact assessment procedure may also achieve this goal.

#### **Step 4: Monitoring the Impact over the longer term.**

There are a number of frameworks that already exist (such as the Scottish Government’s National Performance Framework) that can be used to measure the Duty’s impact. Following a period of considering the evidence, the Duty may be rolled out further in the public sector, and the provisions may be given a broader scope. This would however require new Scottish Legislation.

<b>Q3A</b>	Do you have any comments on the steps set out in SECTION 3?
<b>Q3B</b>	What other actions could public authorities take to demonstrate that they are meeting the duty?
<b>Q3C</b>	Could you offer suggestions as to how public authorities could improve budgetary analysis and reporting so as to take better account of inequalities related to socio-economic disadvantage?
<b>Q3D</b>	Can you offer examples of how public authorities and others have made best use of the expertise of people with direct experience of poverty?
<b>Q3E</b>	What kind of guidance and support on meeting the duty would be most useful for public authorities?
<b>Q3F</b>	Do you have a view on whether public authorities should use existing monitoring frameworks to track whether the socio-economic duty is making a difference to outcomes over the long term?

#### **Links to other Duties**

There is a number of other pieces of legislation that should be considered alongside the Socio-economic duty.

- Child Poverty (Scotland) Bill
  - Local Authorities and health boards to publish Local Child Poverty Action Reports
- Children and Young People (Scotland) Act 2014
  - Relevant National outcomes and Objectives (e.g. Child Poverty Strategy) reflected in Children’s service plans
- Education (Scotland) Act 2016
  - Schools are required to reduce inequalities of outcome caused by socio-economic disadvantage
- Community Empowerment (Scotland) Act 2015
  - CPP required to act with view to reduce inequalities of outcome.
- Equalities Act 2010
  - Considerable Crossover between Equality and Socio-economic issues
  - Strategic decisions should be assessed against both
- Human Rights Legislation
  - Socio-Economic Duty was recommended by UN Committee

<b>Q4A</b>	Once the socio-economic duty is introduced, the Scottish Government is keen for public authorities to look strategically across all planning processes in place to maximise their impact. What could public authorities and the Scottish
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	Government do to make sure that the links between the different duties are managed effectively within organisations?
<b>Q4B</b>	Can you offer examples of good practice in taking an integrated approach to issues such as poverty, equality, and human rights?

## APSE Comment

APSE recognise the importance of reducing inequality in all its forms and welcomes efforts by the Scottish Government to address this challenge. However, it is also the case that local authorities already struggle with tightening budgets, and requiring them to do additional work in this area without increasing their funding could prove problematic. The Fairer Scotland Action Plan mentions additional funding to tackle Poverty and other issues, but it is not clear if any of this will be given to local authorities.

It should also be noted that local authorities are already going to great lengths to tackle the issues this duty aims to address. There are many examples of projects local councils are undertaking that aim to reduce inequality in its various forms. For example, [Stockport Homes](#) created an apprenticeship and skills program to help those in the unemployed priority group. There are various schemes aimed at reducing fuel poverty, including Councils that have set up energy companies like [Robin Hood Energy](#) and [Aberdeen Heat and Power](#). The [Derbyshire School Holiday Food Programme](#) is an example of efforts local authorities are going to tackle 'holiday hunger', where school pupils from disadvantaged backgrounds face poor nutrition during school holidays.

APSE will continue to provide support and share information on projects and ideas that will help local authorities tackle inequality, and should it be introduced, meet the Socio-Economic duty. The [APSE website](#) details the various resources and services available to our members.

## Response Details

If you wish your comments to be included in an APSE response to this consultation paper, please send them to Garry Lee at [glee@apse.org.uk](mailto:glee@apse.org.uk) by Tuesday 5<sup>th</sup> September 2017. Alternatively, you can submit your response online directly by [clicking here](#). The closing date for responses to this consultation is Tuesday 12<sup>th</sup> September 2017.

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